

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

311-2404-02

1 A bill to be entitled
2 An act relating to powers and duties of the
3 Chief Financial Officer; creating s. 17.001,
4 F.S.; establishing the Office of the Chief
5 Financial Officer; creating s. 20.121, F.S.;
6 creating the Department of Financial Services;
7 providing for the divisions of the department;
8 specifying division directors who shall act as
9 agency head for purposes of ch. 120, F.S.;
10 establishing the manner of their appointment
11 and confirmation; providing that this act shall
12 not affect the validity of certain judicial and
13 administrative actions; transferring the
14 Department of Banking and Finance and the
15 Department of Insurance to the Department of
16 Financial Services; repealing s. 20.12, F.S.;
17 abolishing the Department of Banking and
18 Finance; providing that existing agency
19 contracts continue to be binding with the
20 successor department or agency; repealing s.
21 20.13, F.S.; abolishing the Department of
22 Insurance; redesignating the Insurance
23 Commissioner's Regulatory Trust Fund the
24 Insurance Regulatory Trust Fund; redesignating
25 the Department of Banking and Finance
26 Regulatory Trust Fund the Banking and Finance
27 Regulatory Trust Fund; amending and
28 transferring ss. 18.01, 18.02, 18.021, 18.05,
29 18.06, 18.08, 18.10, 18.101, 18.103, 18.104,
30 18.125, 18.15, 18.17, 18.20, 18.23, 18.24,
31 F.S., and amending ss. 11.12, 11.13, 11.147,

1 11.151, 11.40, 11.42, 13.05, 14.055, 14.057,
2 14.058, 14.202, 14.203, 14.24, 15.09, 16.10,
3 17.011, 17.02, 17.03, 17.031, 17.04, 17.0401,
4 17.041, 17.0415, 17.05, 17.06, 17.075, 17.076,
5 17.08, 17.09, 17.10, 17.11, 17.12, 17.13,
6 17.14, 17.16, 17.17, 17.20, 17.21, 17.22,
7 17.25, 17.26, 17.27, 17.28, 17.29, 17.30,
8 17.32, 17.325, 17.41, 17.43, 20.04, 20.055,
9 20.195, 20.425, 20.435, 24.105, 24.111, 24.112,
10 24.120, 25.241, 26.39, 27.08, 27.10, 27.11,
11 27.12, 27.13, 27.34, 27.3455, 27.703, 27.710,
12 27.711, 28.235, 28.24, 30.52, 40.30, 40.31,
13 40.33, 40.34, 40.35, 43.16, 43.19, 48.151,
14 55.03, 57.091, 68.083, 68.084, 68.087, 68.092,
15 77.0305, 92.39, 99.097, 101.151, 103.091,
16 107.11, 110.1127, 110.113, 110.114, 110.116,
17 110.1227, 110.1228, 110.123, 110.125, 110.181,
18 110.2037, 110.205, 112.061, 112.08, 112.191,
19 112.215, 112.3144, 112.3145, 112.3189,
20 112.31895, 112.3215, 112.63, 114.03, 116.03,
21 116.04, 116.05, 116.06, 116.14, 120.52, 120.80,
22 121.0312, 121.055, 121.061, 121.133, 121.4501,
23 125.0104, 129.201, 131.05, 137.09, 145.141,
24 154.02, 154.03, 154.05, 154.06, 154.209,
25 154.314, 163.01, 163.055, 163.3167, 175.101,
26 175.121, 175.151, 185.08, 185.10, 185.13,
27 189.4035, 189.412, 189.427, 190.007, 191.006,
28 192.091, 192.102, 193.092, 195.101, 198.29,
29 199.232, 203.01, 206.46, 210.16, 210.20,
30 210.50, 211.06, 211.32, 212.08, 212.12, 212.20,
31 213.053, 213.054, 213.255, 213.67, 213.75,

1 215.02, 215.03, 215.04, 215.05, 215.11, 215.20,
2 215.22, 215.23, 215.24, 215.25, 215.26, 215.29,
3 215.31, 215.32, 215.3206, 215.3208, 215.321,
4 215.322, 215.34, 215.35, 215.405, 215.42,
5 215.422, 215.44, 215.50, 215.551, 215.552,
6 215.555, 215.559, 215.56005, 215.5601, 215.58,
7 215.62, 215.684, 215.70, 215.91, 215.92,
8 215.93, 215.94, 215.95, 215.96, 215.965,
9 215.97, 216.0442, 216.102, 216.141, 216.177,
10 216.181, 216.183, 216.192, 216.212, 216.221,
11 216.235, 216.237, 216.251, 216.271, 216.275,
12 216.292, 216.301, 217.07, 218.06, 218.23,
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19 242.331, 242.341, 245.13, 250.22, 250.24,
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21 253.025, 255.03, 255.052, 255.258, 255.503,
22 255.521, 257.22, 258.014, 259.032, 259.041,
23 265.53, 265.55, 267.075, 272.18, 280.02,
24 280.04, 280.041, 280.05, 280.051, 280.052,
25 280.053, 280.054, 280.055, 280.06, 280.07,
26 280.071, 280.08, 280.085, 280.09, 280.10,
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1 287.042, 287.057, 287.058, 287.063, 287.064,
2 287.09451, 287.115, 287.131, 287.175, 288.1045,
3 288.106, 288.109, 288.1253, 288.709, 288.712,
4 288.776, 288.778, 288.99, 289.051, 289.081,
5 289.121, 292.085, 313.02, 314.02, 316.3025,
6 316.545, 320.02, 320.081, 320.20, 320.71,
7 320.781, 322.21, 324.032, 324.171, 326.006,
8 331.303, 331.309, 331.3101, 331.348, 331.419,
9 336.022, 337.25, 339.035, 339.081, 344.17,
10 350.06, 354.03, 365.173, 370.06, 370.16,
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12 374.983, 374.986, 376.11, 376.123, 376.307,
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14 376.3079, 376.40, 377.23, 377.2425, 377.705,
15 378.035, 378.037, 378.208, 381.765, 381.90,
16 388.201, 388.301, 391.025, 391.221, 392.69,
17 393.002, 393.075, 394.482, 400.0238, 400.063,
18 400.071, 400.4174, 400.4298, 400.471, 400.962,
19 401.245, 401.25, 402.04, 402.17, 402.33,
20 403.1835, 403.1837, 403.706, 403.724, 403.8532,
21 404.111, 408.040, 408.05, 408.08, 408.18,
22 408.50, 408.7056, 408.902, 409.175, 409.25656,
23 409.25658, 409.2673, 409.8132, 409.817,
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25 411.01, 413.32, 414.27, 414.28, 420.0005,
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31 440.515, 440.52, 443.131, 443.191, 443.211,

1 447.12, 450.155, 456.047, 468.392, 473.3065,
2 475.045, 475.484, 475.485, 489.144, 489.145,
3 489.533, 494.001, 494.0011, 494.0017,
4 494.00421, 497.005, 497.101, 497.105, 497.107,
5 497.109, 497.115, 497.117, 497.131, 497.201,
6 497.253, 497.313, 497.403, 497.407, 497.435,
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7 627.0651, 627.06535, 627.0915, 627.0916,
8 627.092, 627.096, 627.221, 627.311, 627.351,
9 627.413, 627.4236, 627.6472, 627.6482,
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20 633.45, 633.46, 633.461, 633.47, 633.50,
21 633.524, 634.011, 634.137, 634.151, 634.161,
22 634.221, 634.301, 634.313, 634.324, 634.327,
23 634.3284, 634.401, 634.415, 634.416, 634.427,
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25 636.047, 636.052, 641.185, 641.19, 641.23,
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28 641.511, 641.52, 641.55, 641.58, 642.015,
29 642.0475, 648.25, 648.26, 648.34, 648.355,
30 648.37, 648.386, 648.442, 650.06, 651.011,
31 651.015, 651.0235, 651.035, 651.121, 651.125,

1 655.001, 655.005, 655.057, 655.90, 657.002,
2 657.253, 658.23, 658.295, 658.2953, 658.83,
3 660.27, 660.28, 687.13, 687.14, 697.202,
4 697.205, 697.206, 713.596, 716.02, 716.03,
5 716.04, 716.05, 716.06, 716.07, 717.101,
6 717.135, 717.138, 718.501, 719.501, 721.24,
7 721.26, 723.006, 732.107, 733.816, 744.534,
8 766.105, 766.1115, 766.314, 766.315, 768.28,
9 790.001, 790.1612, 791.01, 791.015, 817.16,
10 817.234, 839.06, 849.086, 849.33, 860.154,
11 860.157, 896.102, 903.101, 903.27, 925.037,
12 932.7055, 932.707, 938.27, 939.13, 943.031,
13 943.032, 944.516, 946.33, 946.509, 946.510,
14 946.517, 946.522, 946.525, 947.12, 950.002,
15 957.04, 985.406, 985.409, F.S., to conform;
16 creating ss. 633.801, 633.802, 633.803,
17 633.804, 633.805, 633.806, 633.807, 633.808,
18 633.809, 633.810, 633.811, 633.812, 633.813,
19 633.814, 633.815, 633.816, 633.817, 633.818,
20 633.819, 633.820, 633.821, F.S.; providing a
21 short title; providing definitions; providing
22 legislative intent; authorizing the Division of
23 State Fire Marshal of the Department of
24 Financial Services to adopt rules related to
25 firefighter safety inspections; requiring the
26 division to conduct a study of firefighter
27 occupational diseases; authorizing
28 representatives of the division to enter and
29 inspect any place of firefighter employment;
30 requiring firefighter employers to provide safe
31 employment conditions; authorizing the division

1 to adopt rules that prescribe means for
2 preventing accidents in places of firefighter
3 employment and establish standards for
4 construction, repair, and maintenance;
5 requiring the division to inspect places of
6 firefighter employment and to develop safety
7 and health programs for those firefighter
8 employers whose employees have a high frequency
9 or severity of work-related injuries; requiring
10 certain firefighter employers to establish
11 workplace safety committees and to maintain
12 certain records; providing penalties for
13 firefighter employers who violate provisions of
14 the act; providing exemptions; providing a
15 penalty for the failure to implement a safety
16 and health program and cancellations; providing
17 for expenses of administration; providing
18 penalties for refusal to admit division;
19 specifying firefighter employee rights and
20 responsibilities; providing division remedies
21 for failure to comply; providing penalties for
22 firefighter employers who make false statements
23 to the division or to an insurer; providing
24 criminal penalties for false, malicious, or
25 fraudulent statements and representations;
26 specifying applicability to volunteer
27 firefighters and fire departments; providing
28 for workplace safety and authorizing the
29 division to adopt rules including federal
30 standards for assuring safe working conditions
31 for all firefighter employees; amending s.

1 633.31, F.S.; changing the name of and
2 expanding and diversifying the Firefighters
3 Standards and Training Council; amending s.
4 633.33, F.S.; providing additional duties of
5 the council; amending ss. 383.3362, 633.330,
6 and 633.32, F.S.; revising cross-references, to
7 conform; providing for legislative
8 determination of important state interest;
9 increasing membership on the board of directors
10 of the Florida Healthy Kids Corporation;
11 amending s. 288.99, F.S.; transferring certain
12 responsibilities of the Office of Tourism,
13 Trade, and Economic Development relating to the
14 Certified Capital Company Act to the Department
15 of Financial Services; prescribing duties of
16 that department; revising and adding
17 definitions; providing for additional premium
18 tax credits under the act; repealing s. 18.03,
19 F.S., relating to the residence and office of
20 the Treasurer, s. 18.07, F.S., relating to
21 records of warrants and state funds and
22 securities, s. 18.09, F.S., relating to a
23 report to the Legislature, s. 18.091, F.S.,
24 relating to employees for legislative sessions,
25 s. 18.22, F.S., relating to rules, s. 627.0623,
26 F.S., relating to restrictions on expenditures
27 and solicitations of insurers and affiliates,
28 s. 655.019, F.S., relating to campaign
29 contributions and limitations on them, s.
30 657.067, F.S., relating to conversion of credit
31 unions from federal to state charter; amending

1 s. 163.05, F.S.; transferring responsibility
2 for the Small County Technical Assistance
3 Program from the Comptroller to the
4 Commissioner of Agriculture; revising
5 legislative findings; providing criteria for
6 contracts between the commissioner and program
7 providers; deleting responsibilities of the
8 Legislative Committee on Intergovernmental
9 Relations; authorizing the commissioner to
10 award contracts to provide assistance to small
11 counties; requiring fiscal oversight and
12 performance reviews; providing an
13 appropriation; amending s. 112.313, F.S.;
14 declaring that certain relationships between
15 business entities and the Governor and members
16 of the Cabinet do not violate standards of
17 conduct; providing for construction of laws
18 enacted at the 2002 Regular Session in relation
19 to this act; providing effective dates.
20

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

23 Section 1. Section 17.001, Florida Statutes, is
24 created to read:

25 17.001 Financial Officer.--As provided in s. 4(c),
26 Art. IV of the State Constitution, the Chief Financial Officer
27 is the chief fiscal officer of the state and is responsible
28 for settling and approving accounts against the state and
29 keeping all state funds and securities.

30 Section 2. Section 20.121, Florida Statutes, is
31 created to read:

1 20.121 Department of Financial Services.--There is
2 created a Department of Financial Services.

3 (1) The head of the Department of Financial Services
4 is the Chief Financial Officer.

5 (2) The Department of Financial Services shall consist
6 of the following divisions:

7 (a) Division of Treasury.

8 (b) Division of Consumer Services.

9 (c) Division of Insurance. Division responsibilities,
10 as provided in the Florida Insurance Code, include issuing
11 certificates of authority to insurers, regulatory oversight of
12 insurer solvency, approving policy forms and rates, performing
13 market conduct examinations, and enforcing statutes related to
14 insurers.

15 (d) Division of Financial Institutions and Securities,
16 which shall consist of the following bureaus:

17 1. Bureau of Banking;

18 2. Bureau of Securities;

19 3. Bureau of Credit Unions and Finance Entities; and

20 4. Bureau of Regulation.

21
22 Division responsibilities include licensure, examination, and
23 regulation of state-chartered financial institutions, as
24 provided in chapters 655, 657, 658, 660, 663, 665, and 667;
25 enforcing chapter 517, the Florida Securities and Investor
26 Protection Act; chapter 494, relating to mortgage brokerage
27 and mortgage lending; chapter 516, the Consumer Finance Act;
28 chapter 520, relating to retail installment sales; those
29 sections in chapter 559 relating to collection agencies;
30 chapter 560, the Money Transmitters' Code; those portions of
31 chapter 497 related to the department's responsibilities with

1 respect to cemeteries and preneed services; and certifying and
2 reviewing certified capital companies, as provided in s.
3 288.99.
4 (e) Division of Risk Management.
5 (f) Division of State Fire Marshal.
6 (g) Division of Insurance Fraud.
7 (h) Division of Rehabilitation and Liquidation.
8 (i) Division of Information Systems.
9 (j) Division of Legal Services.
10 (k) Division of Financial Investigations.
11 (l) Division of Accounting and Auditing.
12 (m) Division of Insurance Agent and Agency Services.
13 (n) Division of Administration.
14 (o) The Division of Workers' Compensation.
15 (3) The Division of Financial Institutions and
16 Securities and the Division of Insurance shall each be headed
17 by a "director." The directors of these divisions shall act as
18 agency heads for purposes of chapter 120 and shall be
19 responsible for final agency action with regard to the
20 implementation and enforcement of statutes and rules under the
21 regulatory authority delegated to their divisions and
22 rulemaking under s. 120.54. The Director of the Division of
23 Financial Institutions and Securities and the Director of the
24 Division of Insurance shall each be appointed by the Governor,
25 in consultation with the Chief Financial Officer. Pursuant to
26 Art. IV, s. (6)(a) of the State Constitution, before entering
27 upon the duties of office, a director must be confirmed by all
28 three members of the Cabinet. At any time after a director
29 enters upon the duties of the office, if the Governor or Chief
30 Financial Officer so requests, in writing, for any reason, the
31 Governor shall call for a vote, within 30 days, on whether the

1 subject director will continue in office. If a director fails
2 to obtain the affirmative vote of three officers among the
3 Governor and Cabinet, the subject director is removed from
4 office, the office becomes vacant on the date specified in the
5 Governor's order, and the Governor shall appoint a replacement
6 director in the manner provided for in this subsection.

7 (a) Before appointment as director, the Director of
8 the Division of Financial Institutions and Securities must
9 have had private-sector experience working in the field of
10 financial institutions or securities or at least 5 years of
11 experience as a senior employee of a state or federal agency
12 having regulatory responsibility over financial institutions
13 or securities.

14 (b) Before appointment as director, the Director of
15 the Division of Insurance must have had private-sector
16 experience working in an area that is under the regulatory
17 jurisdiction of the Division of Insurance or at least 5 years'
18 experience as a senior employee of a state or federal agency
19 having regulatory responsibility over an area of the business
20 of insurance.

21 (c) The Division of Financial Institutions and
22 Securities and the Division of Insurance are independent
23 divisions administratively housed within the Department of
24 Financial Services. For purposes of the budget, purchasing,
25 transactions involving real or personal property, and
26 personnel and regulatory matters, the division directors shall
27 exercise exclusive control over their division. Each of these
28 divisions shall have a sufficient number of attorneys,
29 investigators, other professional personnel and administrative
30 personnel as determined annually in the appropriations
31 process. The department shall provide support services to each

1 division pursuant to an agreement entered into between the
2 Chief Financial Officer and the respective division director.

3 (d) The Division of Financial Investigations shall
4 function as a criminal justice agency within the meaning of s.
5 943.045(10)(e).

6 Section 3. The Division of Treasury, in addition to
7 other matters that may be assigned to or located within the
8 division, shall administer the Government Employees Deferred
9 Compensation Plan established under section 112.215, Florida
10 Statutes, for state employees.

11 Section 4. This act shall not affect the validity of
12 any judicial or administrative action involving the Department
13 of Banking and Finance or the Department of Insurance pending
14 on January 7, 2003, and the Department of Financial Services
15 shall be substituted as a party in interest in any such
16 action. However, if the action involves the constitutional
17 functions of the Comptroller or Treasurer, the Chief Financial
18 Officer shall instead be substituted as a party in interest.

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

23 Section 6. Any binding contract or interagency
24 agreement existing on or before January 7, 2003, between the
25 Department of Insurance or the Department of Banking and
26 Finance, or an entity or agent of such departments, and any
27 other agency, entity, or person shall continue as a binding
28 contract or agreement for the remainder of the term of the
29 contract or agreement with the successor department, agency or
30 entity responsible for the program, activity, or functions
31 relative to the contract or agreement.

1 Section 7. Sections 20.12 and 20.13, Florida Statutes,
2 are repealed.

3 Section 8. The Chief Financial Officer is authorized
4 to organize the Department of Financial Services in a manner
5 to promote efficiency and accountability, subject to the
6 provisions of this act.

7 Section 9. Section 11.12, Florida Statutes, is amended
8 to read:

9 11.12 Salary, subsistence, and mileage of members and
10 employees; expenses authorized by resolution; appropriation;
11 preaudit ~~by Comptroller.~~--

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

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

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

13 Section 10. Paragraph (c) of subsection (5) of section
14 11.13, Florida Statutes, is amended to read:

15 11.13 Compensation of members.--

16 (5)

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

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

28 11.147 Office of Legislative Services.--

29 (4) The Office of Legislative Services shall deliver
30 such vouchers covering legislative expenses as required to the
31

1 Chief Financial Officer ~~Comptroller~~ and, if found to be
2 correct, state warrants shall be issued therefor.

3 Section 12. Section 11.151, Florida Statutes, is
4 amended to read:

5 11.151 Annual legislative appropriation to contingency
6 fund for use of Senate President and House Speaker.--There is
7 established a legislative contingency fund consisting of
8 \$10,000 for the President of the Senate and \$10,000 for the
9 Speaker of the House of Representatives, which amounts shall
10 be set aside annually from moneys appropriated for legislative
11 expense. These funds shall be disbursed by the Chief
12 Financial Officer ~~Comptroller~~ upon receipt of vouchers
13 authorized by the President of the Senate or the Speaker of
14 the House of Representatives. Such ~~said~~ funds may be expended
15 at the unrestricted discretion of the President of the Senate
16 or the Speaker of the House of Representatives in carrying out
17 their official duties during the entire period between the
18 date of their election as such officers at the organizational
19 meeting held pursuant to s. 3(a), Art. III of the State
20 Constitution and the next general election.

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

23 11.40 Legislative Auditing Committee.--

24 (5) Following notification by the Auditor General, the
25 Department of Financial Services ~~Banking and Finance~~, or the
26 Division of Bond Finance of the State Board of Administration
27 of the failure of a local governmental entity, district school
28 board, charter school, or charter technical career center to
29 comply with the applicable provisions within s. 11.45(5)-(7),
30 s. 218.32(1), or s. 218.38, the Legislative Auditing Committee
31 may schedule a hearing. If a hearing is scheduled, the

1 committee shall determine if the entity should be subject to
2 further state action. If the committee determines that the
3 entity should be subject to further state action, the
4 committee shall:

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

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

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

27 Section 14. Paragraph (b) of subsection (6) of section
28 11.42, Florida Statutes, is amended to read:

29 11.42 The Auditor General.--

30 (6)

31

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

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

7 13.05 Governor's Committee on Interstate
8 Cooperation.--

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

19 Section 16. Section 14.055, Florida Statutes, is
20 amended to read:

21 14.055 Succession to office of Governor.--Upon vacancy
22 in the office of Governor, the Lieutenant Governor shall
23 become Governor. Upon vacancy in the office of Governor and
24 in the office of Lieutenant Governor, the ~~Secretary of State~~
25 ~~shall become Governor; or if the office of Secretary of State~~
26 ~~be vacant, then the~~ Attorney General shall become Governor; or
27 if the office of Attorney General be vacant, then the Chief
28 Financial Officer ~~Comptroller~~ shall become Governor; ~~or if the~~
29 ~~office of Comptroller be vacant, then the Treasurer shall~~
30 ~~become Governor; or if the office of Treasurer be vacant, then~~
31 ~~the Commissioner of Education shall become Governor; or if the~~

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

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

15 14.057 Governor-elect; establishment of operating
16 fund.--

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

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

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

9 14.058 Inauguration expense fund.--There is
10 established an inauguration expense fund for the use of the
11 Governor-elect in planning and conducting the inauguration
12 ceremonies. The Governor-elect shall appoint an inauguration
13 coordinator and such staff as necessary to plan and conduct
14 the inauguration. Salaries for the inauguration coordinator
15 and the inauguration coordinator's staff shall be determined
16 by the Governor-elect and shall be paid from the inauguration
17 expense fund. The Executive Office of the Governor shall
18 supply to the inauguration coordinator suitable forms to
19 provide for the expenditure of the fund and suitable forms to
20 provide for the reporting of all expenditures therefrom. The
21 Chief Financial Officer ~~Comptroller~~ shall release moneys from
22 this fund upon the request of the inauguration coordinator
23 properly filed.

24 Section 19. Section 14.202, Florida Statutes, is
25 amended to read:

26 14.202 Administration Commission.--There is created as
27 part of the Executive Office of the Governor an Administration
28 Commission composed of the Governor and Cabinet. The Governor
29 is chair of the commission. The Governor or Chief Financial
30 Officer ~~Comptroller~~ may call a meeting of the commission
31 promptly each time the need therefor arises. Unless otherwise

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

6 Section 20. Paragraph (f) of subsection (3) of section
7 14.203, Florida Statutes, is amended to read:

8 14.203 State Council on Competitive Government.--It is
9 the policy of this state that all state services be performed
10 in the most effective and efficient manner in order to provide
11 the best value to the citizens of the state. The state also
12 recognizes that competition among service providers may
13 improve the quality of services provided, and that
14 competition, innovation, and creativity among service
15 providers should be encouraged.

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

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

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

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

28 3. The total cost to the state agency of such state
29 agency's performance of a service, including all indirect
30 costs related to that state agency and costs of such agencies
31 as the Chief Financial Officer ~~Comptroller, the Treasurer, the~~

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

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

8 14.24 Florida Commission on the Status of Women.--

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

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

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

7 15.09 Fees.--

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

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

14 16.10 Receipt of Supreme Court reports for
15 office.--The Clerk of the Supreme Court shall deliver to the
16 Attorney General a copy of each volume, or part of volume, of
17 the decisions of the Supreme Court, which may be in the care
18 or custody of said clerk, and which the Attorney General's
19 office may be without, and take the Attorney General's receipt
20 for the same. The Attorney General shall keep the same in her
21 or his office at the capitol, and each retiring Attorney
22 General shall take the receipt of her or his successor for the
23 same and file such receipt in the Chief Financial Officer's
24 ~~Treasurer's~~ office; provided that this shall not authorize the
25 taking away of any book belonging to the Supreme Court
26 library, kept for the use of said court.

27 Section 24. Section 17.011, Florida Statutes, is
28 amended to read:

29 17.011 Assistant Chief Financial Officer
30 ~~comptroller~~.--The Chief Financial Officer ~~Comptroller~~ of the
31 state may appoint an assistant ~~comptroller~~ to hold office

1 during the pleasure of the Chief Financial Officer
2 ~~Comptroller~~.

3 Section 25. Section 17.02, Florida Statutes, is
4 amended to read:

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

11 Section 26. Section 17.03, Florida Statutes, is
12 amended to read:

13 17.03 To audit claims against the state.--

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

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

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

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

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

9 Section 27. Section 17.031, Florida Statutes, is
10 amended to read:

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

22 Section 28. Section 17.04, Florida Statutes, is
23 amended to read:

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

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

18 | Section 29. Section 17.0401, Florida Statutes, is
19 | amended to read:

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

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

23 Section 30. Subsections (1), (4), and (5) of section
24 17.041, Florida Statutes, are amended to read:

25 17.041 County and district accounts and claims.--

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

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

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

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

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

3 Section 31. Section 17.0415, Florida Statutes, is
4 amended to read:

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

21 Section 32. Section 17.05, Florida Statutes, is
22 amended to read:

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

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

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

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

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

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

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

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

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

19 Section 33. Section 17.06, Florida Statutes, is
20 amended to read:

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

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

31

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

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

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

16 17.076 Direct deposit of funds.--

17 (1) As used in this section:

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

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

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

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

6 Section 36. Section 17.08, Florida Statutes, is
7 amended to read:

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

16 Section 37. Section 17.09, Florida Statutes, is
17 amended to read:

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

24 Section 38. Section 17.10, Florida Statutes, is
25 amended to read:

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

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

3 Section 39. Section 17.11, Florida Statutes, is
4 amended to read:

5 17.11 To report disbursements made.--

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

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

26 Section 40. Section 17.12, Florida Statutes, is
27 amended to read:

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

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

7 Section 41. Section 17.13, Florida Statutes, is
8 amended to read:

9 17.13 To duplicate warrants lost or destroyed.--

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

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

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

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

14 Section 42. Section 17.14, Florida Statutes, is
15 amended to read:

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

24 Section 43. Section 17.16, Florida Statutes, is
25 amended to read:

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

29 Section 44. Section 17.17, Florida Statutes, is
30 amended to read:

31

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

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

15 17.20 Assignment of claims for collection.--

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

30 Section 46. Section 17.21, Florida Statutes, is
31 amended to read:

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

8 Section 47. Section 17.22, Florida Statutes, is
9 amended to read:

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

17 Section 48. Section 17.25, Florida Statutes, is
18 amended to read:

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

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

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

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

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

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

31

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

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

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

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

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

24 Section 51. Section 17.28, Florida Statutes, is
25 amended to read:

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

31

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

3 Section 52. Section 17.29, Florida Statutes, is
4 amended to read:

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

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

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

17 Section 53. Section 17.30, Florida Statutes, is
18 amended to read:

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

23 Section 54. Section 17.32, Florida Statutes, is
24 amended to read:

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

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

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

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

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

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

23 Section 55. Section 17.325, Florida Statutes, is
24 amended to read:

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

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

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

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

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

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

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

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

20 Section 56. Section 17.41, Florida Statutes, is
21 amended to read:

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

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

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

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

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

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

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

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

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

28 Section 57. Section 17.43, Florida Statutes, is
29 amended to read:

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

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

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

15 Section 58. Section 18.01, Florida Statutes, is
16 transferred, renumbered as section 17.51, Florida Statutes,
17 and amended to read:

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

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

6 Section 59. Section 18.02, Florida Statutes, is
7 transferred, renumbered as section 17.52, Florida Statutes,
8 and amended to read:

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

17 Section 60. Section 18.021, Florida Statutes, is
18 transferred, renumbered as section 17.53, Florida Statutes,
19 and amended to read:

20 17.53 ~~18.021~~ Chief Financial Officer ~~Treasurer~~ to
21 operate personal check-cashing service.--

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

27 (2) If a personal check is dishonored or a state
28 warrant is forged and the Chief Financial Officer ~~Treasurer~~
29 has made diligent but unsuccessful effort to collect and has
30 forwarded the returned check for prosecution by the
31 appropriate state attorney, then he or she may include such

1 amount in his or her budget request to be considered during
2 the next legislative session.

3 Section 61. Section 18.05, Florida Statutes, is
4 transferred, renumbered as section 17.54, Florida Statutes,
5 and amended to read:

6 17.54 ~~18.05~~ Annual report to Governor.--The Chief
7 Financial Officer ~~Treasurer~~ shall make a report in detail to
8 the Governor, with a copy to the President of the Senate and
9 the Speaker of the House of Representatives as soon after the
10 1st day of July of each year as it is practicable to prepare
11 same of the transactions of the Division of Treasury ~~his or~~
12 ~~her office~~ for the preceding fiscal year, embracing a
13 statement of the receipts and payments on account of each of
14 the several funds of which he or she has the care and custody.

15 Section 62. Section 18.06, Florida Statutes, is
16 transferred, renumbered as section 17.55, Florida Statutes,
17 and amended to read:

18 17.55 ~~18.06~~ Examination by and monthly statements to
19 the Governor.--The office of the Chief Financial Officer
20 ~~Treasurer of this state~~, and the books, files, documents,
21 records, and papers thereof, shall always be subject to the
22 examination of the Governor of the state, or any person he or
23 she may authorize to examine same. The Chief Financial Officer
24 ~~Treasurer~~ shall exhibit to the Governor monthly a trial
25 balance sheet from the Division of Treasury ~~his or her books~~
26 and a statement of all the credits, moneys, or effects on hand
27 on the day for which such ~~said~~ trial balance sheet is made,
28 and such ~~said~~ statement accompanying such ~~said~~ trial balance
29 sheet shall particularly describe the exact character of
30 funds, credits, and securities, and shall state in detail the
31 amount which he or she may have representing cash, including

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

4 Section 63. Section 18.08, Florida Statutes, is
5 transferred, renumbered as section 17.56, Florida Statutes,
6 and amended to read:

7 17.56 ~~18.08~~ Division of Treasury ~~Treasurer~~ to turn
8 over to the Division of Accounting and Auditing ~~Comptroller~~
9 all warrants paid.--The Division of Treasury ~~Treasurer~~ shall
10 turn over to the Division of Accounting and Auditing
11 ~~Comptroller, through the data service center,~~ all warrants
12 drawn by the Chief Financial Officer or the Comptroller and
13 paid by the Division of Treasury ~~Treasurer~~. The Said warrants
14 shall be turned over as soon as the Division of Treasury
15 ~~Treasurer~~ shall have recorded such warrants and charged the
16 same against the accounts upon which such warrants are drawn.

17 Section 64. Section 18.10, Florida Statutes, is
18 transferred, renumbered as section 17.57, Florida Statutes,
19 and amended to read:

20 17.57 ~~18.10~~ Deposits and investments of state money.--

21 (1) The Chief Financial Officer ~~Treasurer~~, or other
22 parties with the permission of the Chief Financial Officer
23 ~~Treasurer~~, shall deposit the money of the state or any money
24 in the State Treasury in such qualified public depositories of
25 the state as will offer satisfactory collateral security for
26 such deposits, pursuant to chapter 280. It is the duty of the
27 Chief Financial Officer ~~Treasurer~~, consistent with the cash
28 requirements of the state, to keep such money fully invested
29 or deposited as provided herein in order that the state may
30 realize maximum earnings and benefits.

31

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

13 (a) Direct United States Treasury obligations.
14 (b) Obligations of the Federal Farm Credit Banks.
15 (c) Obligations of the Federal Home Loan Bank and its
16 district banks.
17 (d) Obligations of the Federal Home Loan Mortgage
18 Corporation, including participation certificates.
19 (e) Obligations guaranteed by the Government National
20 Mortgage Association.
21 (f) Obligations of the Federal National Mortgage
22 Association.
23 (g) Commercial paper of prime quality of the highest
24 letter and numerical rating as provided for by at least one
25 nationally recognized rating service.
26 (h) Time drafts or bills of exchange drawn on and
27 accepted by a commercial bank, otherwise known as "bankers
28 acceptances," which are accepted by a member bank of the
29 Federal Reserve System having total deposits of not less than
30 \$400 million or which are accepted by a commercial bank which
31 is not a member of the Federal Reserve System with deposits of

1 not less than \$400 million and which is licensed by a state
2 government or the Federal Government, and whose senior debt
3 issues are rated in one of the two highest rating categories
4 by a nationally recognized rating service and which are held
5 in custody by a domestic bank which is a member of the Federal
6 Reserve System.

7 (i) Corporate obligations or corporate master notes of
8 any corporation within the United States, if the long-term
9 obligations of such corporation are rated by at least two
10 nationally recognized rating services in any one of the four
11 highest classifications. However, if such obligations are
12 rated by only one nationally recognized rating service, then
13 the obligations shall be rated in any one of the two highest
14 classifications.

15 (j) Obligations of the Student Loan Marketing
16 Association.

17 (k) Obligations of the Resolution Funding Corporation.

18 (l) Asset-backed or mortgage-backed securities of the
19 highest credit quality.

20 (m) Any obligations not previously listed which are
21 guaranteed as to principal and interest by the full faith and
22 credit of the United States Government or are obligations of
23 United States agencies or instrumentalities which are rated in
24 the highest category by a nationally recognized rating
25 service.

26 (n) Commingled no-load investment funds or no-load
27 mutual funds in which all securities held by the funds are
28 authorized in this subsection.

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

31

1 (p) Obligations of state and local governments rated
2 in any of the four highest classifications by at least two
3 nationally recognized rating services. However, if such
4 obligations are rated by only one nationally recognized rating
5 service, then the obligations shall be rated in any one of the
6 two highest classifications.

7 (q) Derivatives of investment instruments authorized
8 in paragraphs (a)-(m).

9 (r) Covered put and call options on investment
10 instruments authorized in this subsection for the purpose of
11 hedging transactions by investment managers to mitigate risk
12 or to facilitate portfolio management.

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

18 (t) Foreign bonds denominated in United States dollars
19 and registered with the Securities and Exchange Commission for
20 sale in the United States, if the long-term obligations of
21 such issuers are rated by at least two nationally recognized
22 rating services in any one of the four highest
23 classifications. However, if such obligations are rated by
24 only one nationally recognized rating service, the obligations
25 shall be rated in any one of the two highest classifications.

26 (u) Convertible debt obligations of any corporation
27 domiciled within the United States, if the convertible debt
28 issue is rated by at least two nationally recognized rating
29 services in any one of the four highest classifications.
30 However, if such obligations are rated by only one nationally
31

1 recognized rating service, then the obligations shall be rated
2 in any one of the two highest classifications.

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

7
8 These investments may be in varying maturities and may be in
9 book-entry form. Investments made pursuant to this subsection
10 may be under repurchase agreement. The Chief Financial Officer
11 ~~may~~ ~~Treasurer is authorized to~~ hire registered investment
12 advisers and other consultants to assist in investment
13 management and to pay fees directly from investment earnings.
14 Investment securities, proprietary investment services related
15 to contracts, performance evaluation services,
16 investment-related equipment or software used directly to
17 assist investment trading or investment accounting operations
18 including bond calculators, telerates, Bloombergs, special
19 program calculators, intercom systems, and software used in
20 accounting, communications, and trading, and advisory and
21 consulting contracts made under this section are exempt from
22 the provisions of chapter 287.

23 (3) In the event the financial institutions in the
24 state do not make sufficient loan funds available for a
25 residential conservation program pursuant to any plan approved
26 by the Florida Public Service Commission under the Florida
27 Energy Efficiency and Conservation Act, the board may
28 authorize the investment of state funds, except retirement
29 trust funds, in such a loan program at rates not less than
30 prevailing United States Treasury bill rates. However, prior
31 to investment of such funds, the Florida Public Service

1 Commission shall develop a plan which must be approved by the
2 Legislature before implementation.

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

8 (5) The fact that a municipal officer or a state
9 officer, including an officer of any municipal or state
10 agency, board, bureau, commission, institution, or department,
11 is a stockholder or an officer or director of a bank or
12 savings and loan association will not bar such bank or savings
13 and loan association from being a depository of funds coming
14 under the jurisdiction of any such municipal officer or state
15 officer if it shall appear in the records of the municipal or
16 state office that the governing body of such municipality or
17 state agency has investigated and determined that such
18 municipal or state officer is not favoring such banks or
19 savings and loan associations over other qualified banks or
20 savings and loan associations.

21 (6) The Chief Financial Officer ~~Treasurer~~ is
22 designated the cash management officer for the state and is
23 charged with the coordination and supervision of procedures
24 providing for the efficient handling of financial assets under
25 the control of the State Treasury and each of the various
26 state agencies, and of the judicial branch, as defined in s.
27 216.011. This responsibility shall include the supervision and
28 approval of all banking relationships. Pursuant to this
29 responsibility, the Chief Financial Officer ~~may Treasurer is~~
30 ~~authorized to~~ obtain information from financial institutions
31

1 regarding depository accounts maintained by any agency or
2 institution of the State of Florida.

3 Section 65. Section 18.101, Florida Statutes, is
4 transferred, renumbered as section 17.58, Florida Statutes,
5 and amended to read:

6 17.58 ~~18.101~~ Deposits of public money outside the
7 State Treasury; revolving funds.--

8 (1) All moneys collected by state agencies, boards,
9 bureaus, commissions, institutions, and departments shall,
10 except as otherwise provided by law, be deposited in the State
11 Treasury. However, when the volume and complexity of
12 collections so justify, the Chief Financial Officer ~~Treasurer~~
13 may give written approval for such moneys to be deposited in
14 clearing accounts outside the State Treasury in qualified
15 public depositories pursuant to chapter 280. Such deposits
16 shall only be made in depositories designated by the Chief
17 Financial Officer ~~Treasurer~~. No money may be maintained in
18 such clearing accounts for a period longer than approved by
19 the Chief Financial Officer ~~Treasurer~~ or 40 days, whichever is
20 shorter, prior to its being transmitted to the Chief Financial
21 Officer ~~Treasurer~~ or to an account designated by him or her,
22 distributed to a statutorily authorized account outside the
23 State Treasury, refunded, or transmitted to the Department of
24 Revenue. All depositories so designated shall pledge
25 sufficient collateral to be security for such funds as
26 provided in chapter 280.

27 (2) Revolving funds authorized by the Chief Financial
28 Officer ~~Comptroller~~ for all state agencies, boards, bureaus,
29 commissions, institutions, and departments may be deposited by
30 such agencies, boards, bureaus, commissions, institutions, and
31 departments in qualified public depositories designated by the

1 Chief Financial Officer ~~Treasurer~~ for such revolving fund
2 deposits; and the depositories in which such deposits are made
3 shall pledge collateral security as provided in chapter 280.

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

21 (4) Each department shall furnish a statement to the
22 Chief Financial Officer ~~Treasurer~~, on or before the 20th of
23 the month following the end of each calendar quarter, listing
24 each clearing account and revolving fund within that
25 department's jurisdiction. Such statement shall report, as of
26 the last day of the calendar quarter, the cash balance in each
27 revolving fund and that portion of the cash balance in each
28 clearing account that will eventually be deposited to the
29 State Treasury as provided by law. The Chief Financial Officer
30 ~~Treasurer~~ shall show the sum total of state funds in clearing
31 accounts and revolving funds, as most recently reported to the

1 Chief Financial Officer ~~Treasurer~~ by various departments, in
2 his or her monthly statement to the Governor, pursuant to s.
3 17.55 ~~s. 18.06~~.

4 Section 66. Section 18.103, Florida Statutes, is
5 transferred, renumbered as section 17.59, Florida Statutes,
6 and amended to read:

7 17.59 ~~18.103~~ Safekeeping services of ~~Treasurer~~--

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

13 (2) The Chief Financial Officer ~~Treasurer~~ may, in his
14 or her discretion, establish a fee for processing, servicing,
15 and safekeeping deposits and other documents or articles of
16 value held in the Chief Financial Officer's ~~Treasurer's~~ vaults
17 as requested by the various entities or as provided for by
18 law. Such fee shall be equivalent to the fee charged by
19 financial institutions for processing, servicing, and
20 safekeeping the same types of deposits and other documents or
21 articles of value.

22 (3) The Chief Financial Officer ~~Treasurer~~ shall
23 collect in advance, and persons so served shall pay to the
24 Chief Financial Officer ~~Treasurer~~ in advance, the
25 miscellaneous charges as follows:

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

28 (b) For each certificate of the Chief Financial
29 Officer ~~Treasurer~~, certified or under the Chief Financial
30 Officer's ~~Treasurer's~~ seal, authenticating any document or
31 other instrument.....\$.50.

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

4 Section 67. Section 18.104, Florida Statutes, is
5 transferred, renumbered as section 17.60, Florida Statutes,
6 and amended to read:

7 17.60 ~~18.104~~ Treasury Cash Deposit Trust Fund.--

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

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

13 Section 68. Section 18.125, Florida Statutes, is
14 transferred, renumbered as section 17.61, Florida Statutes,
15 and amended to read:

16 17.61 ~~18.125~~ Chief Financial Officer ~~Treasurer~~; powers
17 and duties in the investment of certain funds.--

18 (1) The Chief Financial Officer ~~Treasurer~~, ~~acting with~~
19 ~~the approval of a majority of the State Board of~~
20 ~~Administration~~, shall invest all general revenue funds and all
21 the trust funds and all agency funds of each state agency, and
22 of the judicial branch, as defined in s. 216.011, and may,
23 upon request, invest funds of any statutorily created board,
24 association, or entity, except for the funds required to be
25 invested pursuant to ss. 215.44-215.53, by the procedure and
26 in the authorized securities prescribed in s. 17.57 ~~s. 18.10~~;
27 for this purpose, the Chief Financial Officer ~~may~~ ~~Treasurer~~
28 ~~shall be authorized to~~ open and maintain one or more demand
29 and safekeeping accounts in any bank or savings association
30 for the investment and reinvestment and the purchase, sale,
31 and exchange of funds and securities in the accounts. Funds

1 in such accounts used solely for investments and reinvestments
2 shall be considered investment funds and not funds on deposit,
3 and such funds shall be exempt from the provisions of chapter
4 280. In addition, the securities or investments purchased or
5 held under the provisions of this section and s. 17.57 ~~s.~~
6 ~~18.10~~ may be loaned to securities dealers and banks and may be
7 registered by the Chief Financial Officer ~~Treasurer~~ in the
8 name of a third-party nominee in order to facilitate such
9 loans, provided the loan is collateralized by cash or United
10 States government securities having a market value of at least
11 100 percent of the market value of the securities loaned. The
12 Chief Financial Officer ~~Treasurer~~ shall keep a separate
13 account, designated by name and number, of each fund.
14 Individual transactions and totals of all investments, or the
15 share belonging to each fund, shall be recorded in the
16 accounts.

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

24 (3)(a) It is the duty of each state agency, and of the
25 judicial branch, now or hereafter charged with the
26 administration of the funds referred to in subsection (1) to
27 make such moneys available for investment as fully as is
28 consistent with the cash requirements of the particular fund
29 and to authorize investment of such moneys by the Chief
30 Financial Officer ~~Treasurer~~.

31

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

12 (4)(a) There is ~~hereby~~ created in the State Treasury
13 the Treasury ~~Treasurer's~~ Administrative and Investment Trust
14 Fund.

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

22 (c) The moneys so received and deposited in the fund
23 shall be used by the Chief Financial Officer ~~Treasurer~~ to
24 defray the expense of his or her office in the discharge of
25 the administrative and investment powers and duties prescribed
26 by this section and this chapter, including the maintaining of
27 an office 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 administrative and investment powers and duties imposed upon
31 and charged to the Chief Financial Officer ~~Treasurer~~ under

1 this section and this chapter. The unencumbered balance in the
2 trust fund at the close of each quarter shall not exceed
3 \$750,000. Any funds in excess of this amount shall be
4 transferred unallocated to the General Revenue Fund. However,
5 fees received from deferred compensation participants pursuant
6 to s. 112.215 shall not be transferred to the General Revenue
7 Fund and shall be used to operate the deferred compensation
8 program.

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

15 Section 69. Section 18.15, Florida Statutes, is
16 transferred, renumbered as section 17.62, Florida Statutes,
17 and amended to read:

18 17.62 ~~18.15~~ Interest on state moneys deposited; when
19 paid.--Interest on state moneys deposited in qualified public
20 depositories under s. 17.57 ~~s. 18.10~~ shall be payable to the
21 Chief Financial Officer ~~Treasurer~~ quarterly ~~or semiannually~~.

22 Section 70. Section 18.17, Florida Statutes, is
23 transferred, renumbered as section 17.63, Florida Statutes,
24 and amended to read:

25 17.63 ~~18.17~~ Chief Financial Officer ~~Treasurer~~ not to
26 issue evidences of indebtedness.--It is not lawful for the
27 Chief Financial Officer ~~Treasurer~~ of this state to issue any
28 treasury certificates, or any other evidences of indebtedness,
29 for any purpose whatever, and the Chief Financial Officer
30 ~~Treasurer~~ is prohibited from issuing the same.

31

1 Section 71. Section 18.20, Florida Statutes, is
2 transferred, renumbered as section 17.64, Florida Statutes,
3 and amended to read:

4 17.64 ~~18.20~~ Chief Financial Officer ~~Treasurer~~ to make
5 reproductions of certain warrants, records, and documents.--

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

28 ~~(1)(2)~~ Such Photographs, microphotographs, or
29 reproductions on film of such ~~said~~ warrants, vouchers, or
30 checks shall be deemed to be original records for all
31 purposes; and any copy or reproduction thereof made from such

1 original film, duly certified by the Chief Financial Officer
2 ~~Treasurer~~ as a true and correct copy or reproduction made from
3 such film, shall be deemed to be a transcript, exemplification
4 or certified copy of the original warrant, voucher, or check
5 such copy represents, and shall in all cases and in all courts
6 and places be admitted and received in evidence with the like
7 force and effect as the original thereof might be.

8 ~~(2)(3)~~ The Chief Financial Officer ~~Treasurer~~ is also
9 hereby authorized to photograph, microphotograph, or reproduce
10 on film, all records and documents of such ~~said~~ office, as the
11 Chief Financial Officer ~~Treasurer~~ may, in his or her
12 discretion, selects ~~select~~; and the Chief Financial Officer
13 ~~said Treasurer~~ is hereby authorized to destroy any such ~~of the~~
14 ~~said~~ documents or records after they have been photographed
15 and filed and after audit of the Chief Financial Officer's
16 ~~Treasurer's~~ office has been completed for the period embracing
17 the dates of such ~~said~~ documents and records.

18 ~~(3)(4)~~ Photographs or microphotographs in the form of
19 film or prints of any records made in compliance with the
20 provisions of this section shall have the same force and
21 effect as the originals thereof would have, and shall be
22 treated as originals for the purpose of their admissibility in
23 evidence. Duly certified or authenticated reproductions of
24 such photographs or microphotographs shall be admitted in
25 evidence equally with the original photographs or
26 microphotographs.

27 Section 72. Section 18.23, Florida Statutes, is
28 transferred, renumbered as section 17.65, Florida Statutes,
29 and amended to read:

30 17.65 ~~18.23~~ Chief Financial Officer ~~Treasurer~~ to
31 prescribe forms.--The Chief Financial Officer ~~Treasurer~~ may

1 prescribe the forms, and the manner of keeping the same, for
2 all receipts, credit advices, abstracts, reports, and other
3 papers furnished the Chief Financial Officer ~~Treasurer~~ by the
4 officers of this state or other persons or entities as a
5 result of their having, or depositing, state moneys.

6 Section 73. Section 18.24, Florida Statutes, is
7 transferred, renumbered as section 17.66, Florida Statutes,
8 and amended to read:

9 17.66 ~~18.24~~ Securities in book-entry form.--Any
10 security which:

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

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

16 (2)(a) Is held in the name of the Chief Financial
17 Officer, in the name of the State Treasurer, or in the name of
18 the State Insurance Commissioner; or

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

21
22 under any state law for any purpose whatsoever, may be held in
23 book-entry form on the books of the Federal Reserve Book-Entry
24 System or on deposit in a depository trust clearing system.

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

27 20.04 Structure of executive branch.--The executive
28 branch of state government is structured as follows:

29 (3) For their internal structure, all departments,
30 except for the Department of Financial Services ~~Banking and~~
31 ~~Finance~~, the Department of Children and Family Services, the

1 Department of Corrections, the Department of Management
2 Services, the Department of Revenue, and the Department of
3 Transportation, must adhere to the following standard terms:

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

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

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

10 (d) If further subdivision is necessary, sections may
11 be divided into "subsections," which are headed by
12 "supervisors."

13 Section 75. Paragraph (h) of subsection (5) of section
14 20.055, Florida Statutes, is amended to read:

15 20.055 Agency inspectors general.--

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

31

1 (h) The inspector general shall develop long-term and
2 annual audit plans based on the findings of periodic risk
3 assessments. The plan, where appropriate, should include
4 postaudit samplings of payments and accounts. The plan shall
5 show the individual audits to be conducted during each year
6 and related resources to be devoted to the respective audits.
7 The Chief Financial Officer ~~Comptroller~~, to assist in
8 fulfilling the responsibilities for examining, auditing, and
9 settling accounts, claims, and demands pursuant to s.
10 17.03(1), and examining, auditing, adjusting, and settling
11 accounts pursuant to s. 17.04, may utilize audits performed by
12 the inspectors general and internal auditors. For state
13 agencies under the Governor, the audit plans shall be
14 submitted to the Governor's Chief Inspector General. The plan
15 shall be submitted to the agency head for approval. A copy of
16 the approved plan shall be submitted to the Auditor General.

17 Section 76. Section 20.195, Florida Statutes, is
18 amended to read:

19 20.195 Department of Children and Family Services
20 Tobacco Settlement Trust Fund.--

21 (1) The Department of Children and Family Services
22 Tobacco Settlement Trust Fund is created within that
23 department. Funds to be credited to the trust fund shall
24 consist of funds disbursed, by nonoperating transfer, from the
25 Department of Financial Services ~~Banking and Finance~~ Tobacco
26 Settlement Clearing Trust Fund in amounts equal to the annual
27 appropriations made from this trust fund.

28 (2) Notwithstanding the provisions of s. 216.301 and
29 pursuant to s. 216.351, any unencumbered balance in the trust
30 fund at the end of any fiscal year and any encumbered balance
31 remaining undisbursed on December 31 of the same calendar year

1 shall revert to the Department of Financial Services ~~Banking~~
2 ~~and Finance~~ Tobacco Settlement Clearing Trust Fund.

3 Section 77. Section 20.425, Florida Statutes, is
4 amended to read:

5 20.425 Agency for Health Care Administration Tobacco
6 Settlement Trust Fund.--

7 (1) The Agency for Health Care Administration Tobacco
8 Settlement Trust Fund is created within the agency. Funds to
9 be credited to the trust fund shall consist of funds
10 disbursed, by nonoperating transfer, from the Department of
11 Financial Services ~~Banking and Finance~~ Tobacco Settlement
12 Clearing Trust Fund in amounts equal to the annual
13 appropriations made from this trust fund.

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

20 Section 78. Paragraph (g) of subsection (1) of section
21 20.435, Florida Statutes, is amended to read:

22 20.435 Department of Health; trust funds.--

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

25 (g) Department of Health Tobacco Settlement Trust
26 Fund.

27 1. Funds to be credited to the trust fund shall
28 consist of funds disbursed, by nonoperating transfer, from the
29 Department of Financial Services ~~Banking and Finance~~ Tobacco
30 Settlement Clearing Trust Fund in amounts equal to the annual
31 appropriations made from this trust fund.

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

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

9 24.105 Powers and duties of department.--The
10 department shall:

11 (4) Submit monthly and annual reports to the Governor,
12 the Chief Financial Officer ~~Treasurer~~, the President of the
13 Senate, and the Speaker of the House of Representatives
14 disclosing the total lottery revenues, prize disbursements,
15 and other expenses of the department during the preceding
16 month. The annual report shall additionally describe the
17 organizational structure of the department, including its
18 hierarchical structure, and shall identify the divisions and
19 bureaus created by the secretary and summarize the
20 departmental functions performed by each.

21 Section 80. Subsection (5) of section 24.111, Florida
22 Statutes, is amended to read:

23 24.111 Vendors; disclosure and contract
24 requirements.--

25 (5) Each vendor in a major procurement in excess of
26 \$25,000, and any other vendor if the department deems it
27 necessary to protect the state's financial interest, shall, at
28 the time of executing the contract with the department, post
29 an appropriate bond with the department in an amount
30 determined by the department to be adequate to protect the
31 state's interests, but not higher than the full amount

1 estimated to be paid annually to the vendor under the
2 contract. In lieu of the bond, a vendor may, to assure the
3 faithful performance of its obligations, file with the
4 department an irrevocable letter of credit acceptable to the
5 department in an amount determined by the department to be
6 adequate to protect the state's interests or deposit and
7 maintain with the Chief Financial Officer ~~Treasurer~~ securities
8 that are interest bearing or accruing and that, with the
9 exception of those specified in paragraphs (a) and (b), are
10 rated in one of the four highest classifications by an
11 established nationally recognized investment rating service.
12 Securities eligible under this subsection shall be limited to:
13 (a) Certificates of deposit issued by solvent banks or
14 savings associations organized and existing under the laws of
15 this state or under the laws of the United States and having
16 their principal place of business in this state.
17 (b) United States bonds, notes, and bills for which
18 the full faith and credit of the government of the United
19 States is pledged for the payment of principal and interest.
20 (c) General obligation bonds and notes of any
21 political subdivision of the state.
22 (d) Corporate bonds of any corporation that is not an
23 affiliate or subsidiary of the depositor.
24
25 Such securities shall be held in trust and shall have at all
26 times a market value at least equal to an amount determined by
27 the department to be adequate to protect the state's
28 interests, which amount shall not be set higher than the full
29 amount estimated to be paid annually to the vendor under
30 contract.
31

1 Section 81. Paragraph (b) of subsection (9) of section
2 24.112, Florida Statutes, is amended to read:

3 24.112 Retailers of lottery tickets.--

4 (9)

5 (b) In lieu of such bond, the department may purchase
6 blanket bonds covering all or selected retailers or may allow
7 a retailer to deposit and maintain with the Chief Financial
8 Officer ~~Treasurer~~ securities that are interest bearing or
9 accruing and that, with the exception of those specified in
10 subparagraphs 1. and 2., are rated in one of the four highest
11 classifications by an established nationally recognized
12 investment rating service. Securities eligible under this
13 paragraph shall be limited to:

14 1. Certificates of deposit issued by solvent banks or
15 savings associations organized and existing under the laws of
16 this state or under the laws of the United States and having
17 their principal place of business in this state.

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

21 3. General obligation bonds and notes of any political
22 subdivision of the state.

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

25
26 Such securities shall be held in trust and shall have at all
27 times a market value at least equal to an amount required by
28 the department.

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

31

1 24.120 Financial matters; Administrative Trust Fund;
2 interagency cooperation.--

3 (3) Any action required by law to be taken by the
4 Chief Financial Officer ~~State Treasurer or the Comptroller~~
5 shall be taken within 2 business days after the department's
6 request therefor. If the request for such action is not
7 approved or rejected within such period, the request shall be
8 deemed to be approved. The department shall reimburse the
9 Chief Financial Officer ~~State Treasurer or the Comptroller~~ for
10 any additional costs involved in providing the level of
11 service required by this subsection.

12 (4) The department shall cooperate with the Chief
13 Financial Officer ~~State Treasurer, the Comptroller~~, the
14 Auditor General, and the Office of Program Policy Analysis and
15 Government Accountability by giving employees designated by
16 any of them access to facilities of the department for the
17 purpose of efficient compliance with their respective
18 responsibilities.

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

21 25.241 Clerk of Supreme Court; compensation;
22 assistants; filing fees, etc.--

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

29 Section 84. Section 26.39, Florida Statutes, is
30 amended to read:

31

1 26.39 Penalty for nonattendance of judge.--Whenever
2 such default shall occur, the clerk of the court (unless such
3 judge shall file his or her reasons for such default as
4 hereinbefore provided) shall certify the fact, under his or
5 her official signature and seal, to the Chief Financial
6 Officer ~~Comptroller~~ of the state, who shall deduct from the
7 warrants ~~on the Treasurer~~, thereafter to be issued in favor of
8 the judge making such default, the sum of \$100 as aforesaid
9 for every such default.

10 Section 85. Section 27.08, Florida Statutes, is
11 amended to read:

12 27.08 State claims; surrender of papers to
13 successor.--Upon the qualification of the successor of any
14 state attorney, the state attorney going out of office shall
15 deliver to his or her successor a statement of all cases for
16 the collection of money in favor of the state under his or her
17 control and the papers connected with the same, and take his
18 or her receipt for the same, which receipt, when filed with
19 the Department of Financial Services ~~Banking and Finance~~,
20 shall release such state attorney from any further liability
21 to the state upon the claims receipted for; and the state
22 attorney receiving the claims shall be liable in all respects
23 for the same, as provided against state attorneys in s. 17.20.

24 Section 86. Section 27.10, Florida Statutes, is
25 amended to read:

26 27.10 Obligation as to claims; how discharged.--The
27 charges mentioned in s. 17.20 shall be evidence of
28 indebtedness on the part of any state attorney against whom
29 any charge is made for the full amount of such claim to the
30 state until the same shall be collected and paid into the
31 treasury or sued to insolvency, which fact of insolvency shall

1 be certified by the circuit judge of his or her circuit,
2 unless the said state attorney makes ~~shall make~~ it fully
3 appear to the Department of Financial Services ~~Banking and~~
4 ~~Finance~~ that the failure to collect the same did not result
5 from his or her neglect.

6 Section 87. Section 27.11, Florida Statutes, is
7 amended to read:

8 27.11 Report upon claims committed to state
9 attorney.--The state attorney shall make a report to the Chief
10 Financial Officer ~~Comptroller~~ on the first Monday in January
11 and July in each and every year of the condition of all claims
12 placed in his or her hands or which the state attorney may
13 have been required to prosecute and collect, whether the same
14 is in suit or in judgment, or collected, and the probable
15 solvency or insolvency of claims not collected, and shall at
16 the same time pay over all moneys which he or she may have
17 collected belonging to the state; and the Chief Financial
18 Officer ~~Comptroller~~ shall not audit or allow any claim which
19 any state attorney may have against the state for services
20 until he or she makes the report herein required.

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

23 27.12 Power to compromise.--

24 (1) The state attorney may, with the approval of the
25 Department of Financial Services ~~Banking and Finance~~,
26 compromise and settle all judgments, claims, and demands in
27 favor of the state in his or her circuit against defaulting
28 collectors of revenue, sheriffs and other officers, and the
29 sureties on their bonds, on such terms as the state attorney
30 may deem equitable and proper.

31

1 Section 89. Section 27.13, Florida Statutes, is
2 amended to read:

3 27.13 Completion of compromise.--The state attorney
4 shall, on agreeing to any compromise or settlement, report the
5 same to the Department of Financial Services ~~Banking and~~
6 ~~Finance~~ for its approval; and, on its approving such
7 compromise or settlement, the ~~said~~ state attorney, on a
8 compliance with the terms of such compromise or settlement
9 shall give a receipt to the collector of revenue, sheriff or
10 other officer, or the sureties on their bonds, or to the legal
11 representatives, which receipt shall be a discharge from all
12 judgments, claims or demands of the state against such
13 collector of revenue or other officer, or the sureties on
14 their bonds.

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

17 27.34 Salaries and other related costs of state
18 attorneys' offices; limitations.--

19 (4) Notwithstanding s. 27.25, the Chief Financial
20 Officer ~~Insurance Commissioner~~ may contract with the state
21 attorney of any judicial circuit of the state for the
22 prosecution of criminal violations of the Workers'
23 Compensation Law and related crimes and may contribute funds
24 for such purposes. Such contracts may provide for the
25 training, salary, and expenses of one or more assistant state
26 attorneys used in the prosecution of such crimes.

27 Section 91. Section 27.3455, Florida Statutes, is
28 amended to read:

29 27.3455 Annual statement of certain revenues and
30 expenditures.--

31

1 (1) Each county shall submit annually to the Chief
2 Financial Officer ~~Comptroller~~ a statement of revenues and
3 expenditures as set forth in this section in the form and
4 manner prescribed by the Chief Financial Officer ~~Comptroller~~
5 in consultation with the Legislative Committee on
6 Intergovernmental Relations, provided that such statement
7 identify total county expenditures on:

8 (a) Medical examiner services.

9 (b) County victim witness programs.

10 (c) Each of the services outlined in ss. 27.34(2) and
11 27.54(3).

12 (d) Appellate filing fees in criminal cases in which
13 an indigent defendant appeals a judgment of a county or
14 circuit court to a district court of appeal or the Florida
15 Supreme Court.

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

20
21 Such statement also shall identify the revenues provided by s.
22 938.05(1) that were used to meet or reimburse the county for
23 such expenditures.

24 (2)(a) Within 6 months of the close of the local
25 government fiscal year, each county shall submit to the Chief
26 Financial Officer ~~Comptroller~~ a statement of compliance from
27 its independent certified public accountant, engaged pursuant
28 to s. 218.39, that the certified statement of expenditures was
29 in accordance with ss. 27.34(2), 27.54(3), and this section.
30 All discrepancies noted by the independent certified public
31

1 accountant shall be included in the statement furnished by the
2 county to the Chief Financial Officer ~~Comptroller~~.

3 (b) If ~~Should~~ the Chief Financial Officer ~~determines~~
4 ~~Comptroller determine~~ that additional auditing procedures are
5 appropriate because:

6 1. The county failed to submit timely its annual
7 statement;

8 2. Discrepancies were noted by the independent
9 certified public accountant; or

10 3. The county failed to file before March 31 of each
11 year the certified public accountant statement of compliance,
12 the Chief Financial Officer ~~may Comptroller is hereby~~
13 ~~authorized to~~ send his or her personnel or to contract for
14 services to bring the county into compliance. The costs
15 incurred by the Chief Financial Officer ~~Comptroller~~ shall be
16 paid promptly by the county upon certification by the Chief
17 Financial Officer ~~Comptroller~~.

18 (c) Where the Chief Financial Officer ~~Comptroller~~
19 elects to utilize the services of an independent contractor,
20 such certification by the Chief Financial Officer ~~Comptroller~~
21 may require the county to make direct payment to a contractor.
22 Any funds owed by a county in such matters shall be recovered
23 pursuant to s. 17.04 or s. 17.041.

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

26 (a) Reimbursement to the county for actual county
27 expenditures incurred in providing the state attorney and
28 public defender the services outlined in ss. 27.34(2) and
29 27.54(3), with the exception of office space, utilities, and
30 custodial services.

31

1 (b) At the close of the local government fiscal year,
2 funds remaining on deposit in the special trust fund of the
3 county after reimbursements have been made pursuant to
4 paragraph (a) shall be reimbursed to the county for actual
5 county expenditures made in support of the operations and
6 services of medical examiners, including the costs associated
7 with the investigation of state prison inmate deaths. Special
8 county trust fund revenues used to reimburse the county for
9 medical examiner expenditures in any year shall not exceed \$1
10 per county resident.

11 (c) At the close of the local government fiscal year,
12 counties establishing or having in existence a comprehensive
13 victim-witness program which meets the standards set by the
14 Crime Victims' Services Office shall be eligible to receive 50
15 percent matching moneys from the balance remaining in the
16 special trust fund after reimbursements have been made
17 pursuant to paragraphs (a) and (b). Special trust fund moneys
18 used in any year to supplement such programs shall not exceed
19 25 cents per county resident.

20 (d) At the close of the local government fiscal year,
21 funds remaining in the special trust fund after reimbursements
22 have been made pursuant to paragraphs (a), (b), and (c) shall
23 be used to reimburse the county for county costs incurred in
24 the provision of office space, utilities, and custodial
25 services to the state attorney and public defender, for county
26 expenditures on appellate filing fees in criminal cases in
27 which an indigent defendant appeals a judgment of a county or
28 circuit court to a district court of appeal or the Florida
29 Supreme Court, and for county expenditures on court-related
30 costs of the state attorney and public defender that were paid
31 by the county, provided that such court-related costs were

1 included in a judgment or order rendered by the trial court
2 against the county. Where a state attorney or a public
3 defender is provided space in a county-owned facility,
4 responsibility for calculating county costs associated with
5 the provision of such office space, utilities, and custodial
6 services is ~~hereby~~ vested in the Chief Financial Officer
7 ~~Comptroller~~ in consultation with the Legislative Committee on
8 Intergovernmental Relations.

9 (4) At the end of the local government fiscal year,
10 all funds remaining on deposit in the special trust fund after
11 all reimbursements have been made as provided for in
12 subsection (3) shall be forwarded to the Chief Financial
13 Officer ~~Treasurer~~ for deposit in the General Revenue Fund of
14 the state.

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

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

20 27.703 Conflict of interest and substitute counsel.--

21 (2) Appointed counsel shall be paid from funds
22 appropriated to the Chief Financial Officer ~~Comptroller~~. The
23 hourly rate may not exceed \$100. However, ~~effective July 1,~~
24 ~~1999~~, all appointments of private counsel under this section
25 shall be in accordance with ss. 27.710 and 27.711.

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

28 27.710 Registry of attorneys applying to represent
29 persons in postconviction capital collateral proceedings;
30 certification of minimum requirements; appointment by trial
31 court.--

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

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

17 27.711 Terms and conditions of appointment of
18 attorneys as counsel in postconviction capital collateral
19 proceedings.--

20 (3) An attorney appointed to represent a capital
21 defendant is entitled to payment of the fees set forth in this
22 section only upon full performance by the attorney of the
23 duties specified in this section and approval of payment by
24 the trial court, and the submission of a payment request by
25 the attorney, subject to the availability of sufficient
26 funding specifically appropriated for this purpose. The Chief
27 Financial Officer ~~Comptroller~~ shall notify the executive
28 director and the court if it appears that sufficient funding
29 has not been specifically appropriated for this purpose to pay
30 any fees which may be incurred. The attorney shall maintain
31 appropriate documentation, including a current and detailed

1 hourly accounting of time spent representing the capital
2 defendant. The fee and payment schedule in this section is the
3 exclusive means of compensating a court-appointed attorney who
4 represents a capital defendant. When appropriate, a
5 court-appointed attorney must seek further compensation from
6 the Federal Government, as provided in 18 U.S.C. s. 3006A or
7 other federal law, in habeas corpus litigation in the federal
8 courts.

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

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

17 (b) The attorney is entitled to \$100 per hour, up to a
18 maximum of \$20,000, after timely filing in the trial court the
19 capital defendant's complete original motion for
20 postconviction relief under the Florida Rules of Criminal
21 Procedure. The motion must raise all issues to be addressed by
22 the trial court. However, an attorney is entitled to fees
23 under this paragraph if the court schedules a hearing on a
24 matter that makes the filing of the original motion for
25 postconviction relief unnecessary or if the court otherwise
26 disposes of the case.

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

31

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

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

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

17 (g) At the conclusion of the capital defendant's
18 postconviction capital collateral proceedings in state court,
19 the attorney is entitled to \$100 per hour, up to a maximum of
20 \$2,500, after filing a petition for writ of certiorari in the
21 Supreme Court of the United States.

22 (h) If, at any time, the Supreme Court of the United
23 States accepts for review the capital defendant's collateral
24 challenge of the conviction and sentence of death, the
25 attorney is entitled to \$100 per hour, up to a maximum of
26 \$5,000. This payment shall be full compensation for
27 representing the capital defendant throughout the certiorari
28 proceedings before the United States Supreme Court.

29
30 The hours billed by a contracting attorney under this
31 subsection may include time devoted to representation of the

1 defendant by another attorney who is qualified under s. 27.710
2 and who has been designated by the contracting attorney to
3 assist him or her.

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

11 (6) An attorney who represents a capital defendant is
12 entitled to a maximum of \$15,000 for miscellaneous expenses,
13 such as the costs of preparing transcripts, compensating
14 expert witnesses, and copying documents. Upon approval by the
15 trial court, the attorney is entitled to payment by the Chief
16 Financial Officer ~~Comptroller~~ of up to \$15,000 for
17 miscellaneous expenses, except that, if the trial court finds
18 that extraordinary circumstances exist, the attorney is
19 entitled to payment in excess of \$15,000.

20 (7) An attorney who is actively representing a capital
21 defendant is entitled to a maximum of \$500 per fiscal year for
22 tuition and expenses for continuing legal education that
23 pertains to the representation of capital defendants. Upon
24 approval by the trial court, the attorney is entitled to
25 payment by the Chief Financial Officer ~~Comptroller~~ for
26 expenses for such tuition and continuing legal education.

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

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

25 Section 95. Section 28.235, Florida Statutes, is
26 amended to read:

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

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

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

5 28.24 Service charges by clerk of the circuit
6 court.--The clerk of the circuit court shall make the
7 following charges for services rendered by the clerk's office
8 in recording documents and instruments and in performing the
9 duties enumerated. However, in those counties where the
10 clerk's office operates as a fiscal unit of the county
11 pursuant to s. 145.022(1), the clerk shall not charge the
12 county for such services.

13
14
15
16

Charges

17
18
19 (7) For making and reporting payrolls of jurors to
20 Chief Financial Officer ~~State Comptroller~~, per page, per copy
215.00

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

25 Section 97. Section 30.52, Florida Statutes, is
26 amended to read:

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

1 an amount not in excess of the security provided pursuant to
2 s. 658.60 and the regulations of the Department of Financial
3 Services ~~Banking and Finance~~. The title of the depository
4 accounts shall include the word "sheriff" and the name of the
5 county, and withdrawals from the accounts shall be made by
6 checks signed by the duly qualified and acting sheriff of the
7 county, or his or her designated deputy or agent.

8 Section 98. Section 40.30, Florida Statutes, is
9 amended to read:

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

17 Section 99. Section 40.31, Florida Statutes, is
18 amended to read:

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

1 witnesses during a quarterly fiscal period, the clerk of the
2 court shall apportion the money received pro rata among the
3 jurors and witnesses entitled to pay and shall give to each
4 juror or witness a certificate of the amount of compensation
5 still due, which certificate shall be held by the State Courts
6 Administrator as other demands against the state.

7 Section 100. Section 40.33, Florida Statutes, is
8 amended to read:

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

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

21 40.34 Clerks to make triplicate payroll.--

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

24 Section 102. Section 40.35, Florida Statutes, is
25 amended to read:

26 40.35 Accounting and payment to the State Courts
27 Administrator.--

28 (1) The clerk of the court shall, within 2 weeks after
29 the last day of the quarterly fiscal period, render to the
30 State Courts Administrator a full statement of accounts for
31 moneys received and disbursed under the provisions of this

1 chapter and refund to the State Courts Administrator any
2 balance in the clerk's hands. If upon audit the State Courts
3 Administrator shall determine a balance due the clerk of the
4 court, the State Courts Administrator shall submit a request
5 for payment to the Chief Financial Officer ~~Comptroller~~.

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

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

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

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

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

31

1 schedules, and other forms and reports or accomplish the
2 entire project involved.

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

5 43.19 Money paid into court; unclaimed funds.--

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

17 (3) Any person, firm or corporation entitled to any of
18 the money may obtain an order directing the payment of the
19 money to the claimant on written petition to the court from
20 which the money was deposited or its successor, and written
21 notice to the state attorney of the circuit wherein the court
22 is situate, whether or not the court is a circuit court, and
23 proof of right thereto, and the money deposited shall
24 constitute and be a permanent appropriation for payments by
25 the Chief Financial Officer ~~Treasurer~~ of the state in
26 obedience of such orders.

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

30 Section 105. Subsections (3) and (4) of section
31 48.151, Florida Statutes, are amended to read:

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

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

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

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

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

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

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

14 Section 107. Section 57.091, Florida Statutes, is
15 amended to read:

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

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

17 Section 108. Subsections (1), (3), and (4) of section
18 68.083, Florida Statutes, are amended to read:

19 68.083 Civil actions for false claims.--

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

29 (3) The complaint shall be identified on its face as a
30 qui tam action and shall be filed in the circuit court of the
31 Second Judicial Circuit, in and for Leon County. Immediately

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

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

1 Section 109. Subsections (3) and (6) of section
2 68.084, Florida Statutes, are amended to read:

3 68.084 Rights of the parties in civil actions.--

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

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

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

22 68.087 Exemptions to civil actions.--

23 (3) No court shall have jurisdiction over an action
24 brought under this act based upon the public disclosure of
25 allegations or transactions in a criminal, civil, or
26 administrative hearing; in a legislative, administrative,
27 inspector general, or Auditor General, Chief Financial Officer
28 ~~Comptroller~~, or Department of Financial Services ~~Banking and~~
29 ~~Finance~~ report, hearing, audit, or investigation; or from the
30 news media, unless the action is brought by the department, or
31 unless the person bringing the action is an original source of

1 the information. For purposes of this subsection, the term
2 "original source" means an individual who has direct and
3 independent knowledge of the information on which the
4 allegations are based and has voluntarily provided the
5 information to the department before filing an action under
6 this act based on the information.

7 Section 111. Section 68.092, Florida Statutes, is
8 amended to read:

9 68.092 Deposit of recovered moneys.--All moneys
10 recovered by the Chief Financial Officer ~~Comptroller~~, as head
11 of the Department of Financial Services ~~Banking and Finance~~,
12 under s. 68.086(1) in any civil action for violation of the
13 Florida False Claims Act shall be deposited in the
14 Administrative Trust Fund of the Department of Financial
15 Services ~~Banking and Finance~~.

16 Section 112. Section 77.0305, Florida Statutes, is
17 amended to read:

18 77.0305 Continuing writ of garnishment against salary
19 or wages.--Notwithstanding any other provision of this
20 chapter, if salary or wages are to be garnished to satisfy a
21 judgment, the court shall issue a continuing writ of
22 garnishment to the judgment debtor's employer which provides
23 for the periodic payment of a portion of the salary or wages
24 of the judgment debtor as the salary or wages become due until
25 the judgment is satisfied or until otherwise provided by court
26 order. A debtor's status as an employee of the state or its
27 agencies or political subdivisions does not preclude a
28 judgment creditor's right to garnish the debtor's wages. For
29 the purposes of this section, the state includes the judicial
30 branch and the legislative branch as defined in s. 216.011.
31 The state, for itself and for its agencies and subdivisions,

1 waives sovereign immunity for the express and limited purpose
2 necessary to carry out this section. The court shall allow
3 the judgment debtor's employer to collect up to \$5 against the
4 salary or wages of the judgment debtor to reimburse the
5 employer for administrative costs for the first deduction from
6 the judgment debtor's salary or wages and up to \$2 for each
7 deduction thereafter. The funds collected by the state under
8 this section must be deposited in the Department of Financial
9 Services ~~Banking and Finance~~ Administrative Trust Fund for
10 purposes of carrying out this section.

11 Section 113. Section 92.39, Florida Statutes, is
12 amended to read:

13 92.39 Evidence of individual's claim against the state
14 in suits between them.--In suits between the state and
15 individuals, no claim for a credit shall be allowed upon
16 trial, but such as shall appear to have been presented to the
17 Chief Financial Officer ~~Comptroller~~ for his or her ~~the~~
18 ~~Comptroller's~~ examination, and by him or her disallowed in
19 whole or in part, unless it shall be proved to the
20 satisfaction of the court that the defendant is, at the time
21 of the trial, in possession of vouchers not before in the
22 defendant's power to procure, and that the defendant was
23 prevented from exhibiting a claim for such credit at the Chief
24 Financial Officer's ~~Comptroller's~~ office by unavoidable
25 accident.

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

28 99.097 Verification of signatures on petitions.--

29 (4) The supervisor shall be paid in advance the sum of
30 10 cents for each signature checked or the actual cost of
31 checking such signature, whichever is less, by the candidate

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

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

28 101.151 Specifications for ballots.--

29 (2)(a) The ballot shall have headings under which
30 shall appear the names of the offices and names of duly
31 nominated candidates for the respective offices in the

1 following order: the heading "President and Vice President"
2 and thereunder the names of the candidates for President and
3 Vice President of the United States nominated by the political
4 party that received the highest vote for Governor in the last
5 general election of the Governor in this state. Then shall
6 appear the names of other candidates for President and Vice
7 President of the United States who have been properly
8 nominated. Votes cast for write-in candidates for President
9 and Vice President shall be counted as votes cast for the
10 presidential electors supporting such candidates. Then shall
11 follow the heading "Congressional" and thereunder the offices
12 of United States Senator and Representative in Congress; then
13 the heading "State" and thereunder the offices of Governor and
14 Lieutenant Governor, Secretary of State, Attorney General,
15 Chief Financial Officer ~~Comptroller, Treasurer~~, Commissioner
16 of Education, Commissioner of Agriculture, state attorney, and
17 public defender, together with the names of the candidates for
18 each office and the title of the office which they seek; then
19 the heading "Legislative" and thereunder the offices of state
20 senator and state representative; then the heading "County"
21 and thereunder clerk of the circuit court, clerk of the county
22 court (when authorized by law), sheriff, property appraiser,
23 tax collector, district superintendent of schools, and
24 supervisor of elections. Thereafter follows: members of the
25 board of county commissioners, and such other county and
26 district offices as are involved in the general election, in
27 the order fixed by the Department of State, followed, in the
28 year of their election, by "Party Offices," and thereunder the
29 offices of state and county party executive committee members.
30 In addition to the names printed on the ballot, a blank space
31 shall be provided under each heading for an office for which a

1 write-in candidate has qualified. With respect to write-in
2 candidates, if two or more candidates are seeking election to
3 one office, only one blank space shall be provided.

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

6 103.091 Political parties.--

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

12 (b)2. Each state executive committee shall include, as
13 at-large committeemen and committeewomen, all members of the
14 United States Congress representing the State of Florida who
15 are members of the political party, all statewide elected
16 officials who are members of the party, and the President of
17 the Senate or the Minority Leader in the Senate, and the
18 Speaker of the House of Representatives or the Minority Leader
19 in the House of Representatives, whichever is a member of the
20 political party, and 20 members of the Legislature who are
21 members of the political party. Ten of the legislators shall
22 be appointed with the concurrence of the state chair of the
23 respective party, as follows: five to be appointed by the
24 President of the Senate; five by the Minority Leader in the
25 Senate; five by the Speaker of the House of Representatives;
26 and five by the Minority Leader in the House.

27 (c)3. When a political party allows any member of the
28 state executive committee to have more than one vote per
29 person, other than by proxy, in a matter coming before the
30 state executive committee, the 20 members of the Legislature
31 appointed under paragraph (b)~~subparagraph 2~~ shall not be

1 appointed to the state executive committee and the following
2 elected officials who are members of that political party
3 shall be appointed and shall have the following votes:
4 1.a. Governor: a number equal to 15 percent of votes
5 cast by state executive committeemen and committeewomen;
6 2.b. Lieutenant Governor: a number equal to 5 percent
7 of the votes cast by state executive committeemen and
8 committeewomen;
9 3.c. Each member of the United States Senate
10 representing the state: a number equal to 10 percent of the
11 votes cast by state executive committeemen and committeewomen;
12 4.d. Secretary of State: a number equal to 5 percent
13 of the votes cast by state executive committeemen and
14 committeewomen;
15 5.e. Attorney General: a number equal to 5 percent of
16 the votes cast by state executive committeemen and
17 committeewomen;
18 6.f. Comptroller: a number equal to 5 percent of the
19 votes cast by state executive committeemen and committeewomen;
20 7.g. Treasurer: a number equal to 5 percent of the
21 votes cast by state executive committeemen and committeewomen;
22 8.h. Commissioner of Agriculture: a number equal to 5
23 percent of the votes cast by state executive committeemen and
24 committeewomen;
25 9.i. Commissioner of Education: a number equal to 5
26 percent of the votes cast by state executive committeemen and
27 committeewomen;
28 10.j. President of the Senate: a number equal to 10
29 percent of the votes cast by state executive committeemen and
30 committeewomen;
31

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

4 12.i. Speaker of the House of Representatives: a
5 number equal to 10 percent of the votes cast by state
6 executive committeemen and committeewomen;

7 13.m. Minority leader of the House of Representatives:
8 a number equal to 10 percent of the votes cast by state
9 executive committeemen and committeewomen; and

10 14.n. Each member of the United States House of
11 Representatives representing the state: a number equal to 1
12 percent of the votes cast by state executive committeemen and
13 committeewomen.

14 (d)1.4.a. The governing body of each state executive
15 committee as defined by party rule shall include as at-large
16 committeemen and committeewomen all statewide elected
17 officials who are members of such political party; up to four
18 members of the United States Congress representing the state
19 who are members of such political party and who shall be
20 appointed by the state chair on the basis of geographic
21 representation; the permanent presiding officer selected by
22 the members of each house of the Legislature who are members
23 of such political party; and the minority leader selected by
24 the members of each house of the Legislature who are members
25 of such political party.

26 2.b. All members of the governing body shall have one
27 vote per person.

28 Section 117. Section 107.11, Florida Statutes, is
29 amended to read:

30 107.11 Appropriation for expenses.--For the purpose of
31 defraying the expenses of preparing for, conducting, holding

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

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

14 110.1127 Employee security checks.--

15 (2)(a) All positions within the Division of Treasury
16 of the Department of Financial Services ~~Insurance~~ are deemed
17 to be positions of special trust or responsibility, and a
18 person may be disqualified for employment in any such position
19 by reason of:

20 1. The conviction or prior conviction of a crime which
21 is reasonably related to the nature of the position sought or
22 held by the individual; or

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

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

30 110.113 Pay periods for state officers and employees;
31 salary payments by direct deposit.--

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

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

12 110.114 Employee wage deductions.--

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

27 Section 121. Section 110.116, Florida Statutes, is
28 amended to read:

29 110.116 Personnel information system; payroll
30 procedures.--The Department of Management Services shall
31 establish and maintain, in coordination with the payroll

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

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

30 110.1227 Florida Employee Long-Term-Care Plan Act.--
31

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

9 (a) The Department of Management Services and the
10 department shall, in consultation with the Department of
11 Financial Services ~~Insurance~~, contract for actuarial,
12 professional-administrator, and other services for the Florida
13 Employee Long-Term-Care Plan.

14 (6) A Florida Employee Long-Term-Care Plan Board of
15 Directors is created, composed of nine members who shall serve
16 2-year terms, to be appointed after May 1, 1999, as follows:

17 (b) The Chief Financial Officer ~~Insurance Commissioner~~
18 shall appoint an actuary.

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

21 110.1228 Participation by small counties, small
22 municipalities, and district school boards located in small
23 counties.--

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

28 (f) If a small county, small municipality, or district
29 school board employer fails to make the payments required by
30 this section to fully reimburse the state, the Department of
31 Revenue or the Department of Financial Services ~~Banking and~~

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

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

12 110.123 State group insurance program.--

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

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

24 (5) DEPARTMENT POWERS AND DUTIES.--The department is
25 responsible for the administration of the state group
26 insurance program. The department shall initiate and
27 supervise the program as established by this section and shall
28 adopt such rules as are necessary to perform its
29 responsibilities. To implement this program, the department
30 shall, with prior approval by the Legislature:

31

1 (b) Prepare, in cooperation with the Department of
2 Financial Services Insurance, the specifications necessary to
3 implement the program.

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

1 measures of financial performance. The department may contract
2 for medical services which will improve the health or reduce
3 medical costs for employees who participate in the state group
4 insurance plan.

5
6 Final decisions concerning enrollment, the existence of
7 coverage, or covered benefits under the state group insurance
8 program shall not be delegated or deemed to have been
9 delegated by the department.

10 Section 125. Section 110.125, Florida Statutes, is
11 amended to read:

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

1 Financial Officer ~~Comptroller~~ shall transfer the amount due to
2 the department from any debtor agency funds available.

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

5 110.181 Florida State Employees' Charitable
6 Campaign.--

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

8 (a) 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~~, an annual Florida State Employees' Charitable
12 Campaign. Except as provided in subsection (5), this annual
13 fundraising drive is the only authorized charitable
14 fundraising drive directed toward state employees within work
15 areas during work hours, and for which the state will provide
16 payroll deduction.

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

19 110.2037 Alternative benefits; tax-sheltered annual
20 leave and sick leave payments and special compensation
21 payments.--

22 (1) The Department of Management Services has
23 authority to adopt tax-sheltered plans under s. 401(a) of the
24 Internal Revenue Code for state employees who are eligible for
25 payment for accumulated leave. The department, upon adoption
26 of the plans, shall contract for a private vendor or vendors
27 to administer the plans. These plans shall be limited to state
28 employees who are over age 55 and who are: eligible for
29 accumulated leave and special compensation payments and
30 separating from employment with 10 years of service in
31 accordance with the Internal Revenue Code, or who are

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

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

27 110.205 Career service; exemptions.--

28 (6) EXEMPTION OF CHIEF INSPECTOR OF BOILER SAFETY
29 PROGRAM, DEPARTMENT OF FINANCIAL SERVICES ~~INSURANCE~~.--In
30 addition to those positions exempted from this part, there is
31 hereby exempted from the Career Service System the chief

1 inspector of the boiler inspection program of the Department
2 of Financial Services Insurance. The salary range of this
3 position shall be established by the Department of Management
4 Services in accordance with the classification and pay plan
5 established for the Selected Exempt Service.

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

10 112.061 Per diem and travel expenses of public
11 officers, employees, and authorized persons.--

12 (5) COMPUTATION OF TRAVEL TIME FOR REIMBURSEMENT.--For
13 purposes of reimbursement and methods of calculating
14 fractional days of travel, the following principles are
15 prescribed:

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

20 1. Breakfast--When travel begins before 6 a.m. and
21 extends beyond 8 a.m.

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

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

27
28 No allowance shall be made for meals when travel is confined
29 to the city or town of the official headquarters or immediate
30 vicinity; except assignments of official business outside the
31 traveler's regular place of employment if travel expenses are

1 approved. The Chief Financial Officer ~~Comptroller~~ shall
2 establish a schedule for processing Class C travel subsistence
3 payments at least on a monthly basis.

4 (7) TRANSPORTATION.--

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

9 (8) OTHER EXPENSES.--

10 (b) Other expenses which are not specifically
11 authorized by this section may be approved by the Department
12 of Financial Services ~~Banking and Finance~~ pursuant to rules
13 adopted by it. Expenses approved pursuant to this paragraph
14 shall be reported by the Department of Financial Services
15 ~~Banking and Finance~~ to the Auditor General annually.

16 (9) RULES AND REGULATIONS.--

17 (a) The Department of Financial Services ~~Banking and~~
18 ~~Finance~~ shall adopt ~~promulgate~~ such rules and ~~regulations~~,
19 including, but not limited to, the general criteria to be used
20 by a state agency to predetermine justification for attendance
21 by state officers and employees and authorized persons at
22 conventions and conferences, and prescribe such forms as may
23 be necessary to effectuate the purposes of this section. The
24 department may also adopt rules prescribing the proper
25 disposition and use of promotional items and rebates offered
26 by common carriers and other entities in connection with
27 travel at public expense; however, before adopting such rules,
28 the department shall consult with the appropriation committees
29 of the Legislature.

30 (b) Each state agency shall promulgate such additional
31 specific rules and regulations and specific criteria to be

1 used by it to predetermine justification for attendance by
2 state officers and employees and authorized persons at
3 conventions and conferences, not in conflict with the rules
4 ~~and regulations~~ of the Department of Financial Services
5 ~~Banking and Finance~~ or with the general criteria to be used by
6 a state agency to predetermine justification for attendance by
7 state officers and employees and authorized persons at
8 conventions, as may be necessary to effectuate the purposes of
9 this section.

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

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

1 (b) Voucher forms.--

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

22 2. Statements for travel expenses incidental to the
23 rendering of medical services for and on behalf of clients of
24 the Department of Health shall be on forms approved by the
25 Department of Financial Services ~~Banking and Finance~~.

26 (13) DIRECT PAYMENT OF EXPENSES BY AGENCY.--Whenever
27 an agency requires an employee to incur either Class A or
28 Class B travel on emergency notice to the traveler, such
29 traveler may request the agency to pay his or her expenses for
30 meals and lodging directly to the vendor, and the agency may
31 pay the vendor the actual expenses for meals and lodging

1 during the travel period, limited to an amount not to exceed
2 that authorized pursuant to this section. In emergency
3 situations, the agency head or his or her designee may
4 authorize an increase in the amount paid for a specific meal,
5 provided that the total daily cost of meals does not exceed
6 the total amount authorized for meals each day. The agency
7 head or his or her designee may also grant prior approval for
8 a state agency to make direct payments of travel expenses in
9 other situations that result in cost savings to the state, and
10 such cost savings shall be documented in the voucher submitted
11 to the Chief Financial Officer ~~Comptroller~~ for the direct
12 payment of travel expenses. The provisions of this subsection
13 shall not be deemed to apply to any legislator or to any
14 employee of the Legislature.

15 Section 130. Subsections (2), (5), and (6) of section
16 112.08, Florida Statutes, are amended to read:

17 112.08 Group insurance for public officers, employees,
18 and certain volunteers; physical examinations.--

19 (2)(a) Every local governmental unit is authorized to
20 provide and pay out of its available funds for all or part of
21 the premium for life, health, accident, hospitalization, legal
22 expense, or annuity insurance, or all or any kinds of such
23 insurance, for the officers and employees of the local
24 governmental unit and for health, accident, hospitalization,
25 and legal expense insurance for the dependents of such
26 officers and employees upon a group insurance plan and, to
27 that end, to enter into contracts with insurance companies or
28 professional administrators to provide such insurance. Before
29 entering any contract for insurance, the local governmental
30 unit shall advertise for competitive bids; and such contract
31 shall be let upon the basis of such bids. If a contracting

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

21 (b) In order to obtain approval from the Department of
22 Financial Services Insurance of any self-insured plan for
23 health, accident, and hospitalization coverage, each local
24 governmental unit or consortium shall submit its plan along
25 with a certification as to the actuarial soundness of the
26 plan, which certification is prepared by an actuary who is a
27 member of the Society of Actuaries or the American Academy of
28 Actuaries. The Department of Financial Services Insurance
29 shall not approve the plan unless it determines that the plan
30 is designed to provide sufficient revenues to pay current and
31 future liabilities, as determined according to generally

1 accepted actuarial principles. After implementation of an
2 approved plan, each local governmental unit or consortium
3 shall annually submit to the Department of Financial Services
4 ~~Insurance~~ a report which includes a statement prepared by an
5 actuary who is a member of the Society of Actuaries or the
6 American Academy of Actuaries as to the actuarial soundness of
7 the plan. The report is due 90 days after the close of the
8 fiscal year of the plan. The report shall consist of, but is
9 not limited to:

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

1 7. Other factors or statements as required by the
2 Department of Insurance in order to determine the actuarial
3 soundness of the plan.

4
5 All assumptions used in the report shall be based on
6 recognized actuarial principles acceptable to the Department
7 of Financial Services Insurance. The Department of Financial
8 Services Insurance shall review the report and shall notify
9 the administrator of the plan and each entity participating in
10 the plan, as identified by the administrator, of any actuarial
11 deficiencies. Each local governmental unit is responsible for
12 payment of valid claims of its employees that are not paid
13 within 60 days after receipt by the plan administrator or
14 consortium.

15 (c) Every local governmental unit is authorized to
16 expend funds for preemployment physical examinations and
17 postemployment physical examinations.

18 (5) The Department of Management Services shall
19 initiate and supervise a group insurance program providing
20 death and disability benefits for active members of the
21 Florida Highway Patrol Auxiliary, with coverage beginning July
22 1, 1978, and purchased from state funds appropriated for that
23 purpose. The Department of Management Services, in
24 cooperation with the Department of Financial Services
25 ~~Insurance~~, shall prepare specifications necessary to implement
26 the program, and the Department of Management Services shall
27 receive bids and award the contract in accordance with general
28 law.

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

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

3 112.191 Firefighters; death benefits.--

4 (2)

5 (h) The Division of the State Fire Marshal within the
6 Department of Financial Services ~~Insurance~~ is directed to
7 adopt ~~promulgate~~ rules as are necessary to implement the
8 provisions of this section.

9 Section 132. Subsection (4), paragraph (a) of
10 subsection (6), paragraphs (a), (d), (f), and (h) of
11 subsection (8), paragraph (b) of subsection (10), and
12 subsections (11) and (12) of section 112.215, Florida
13 Statutes, are amended to read:

14 112.215 Government employees; deferred compensation
15 program.--

16 (4)(a) The Chief Financial Officer ~~Treasurer~~, with the
17 approval of the State Board of Administration, shall establish
18 such plan or plans of deferred compensation for state
19 employees, including all such investment vehicles or products
20 incident thereto, as may be available through, or offered by,
21 qualified companies or persons, and may approve one or more
22 such plans for implementation by and on behalf of the state
23 and its agencies and employees.

24 (b) If the Chief Financial Officer ~~Treasurer~~ deems it
25 advisable, he or she shall have the power, with the approval
26 of the State Board of Administration, to create a trust or
27 other special funds for the segregation of funds or assets
28 resulting from compensation deferred at the request of
29 employees of the state or its agencies and for the
30 administration of such program.

31

1 (c) The Chief Financial Officer ~~Treasurer~~, with the
2 approval of the State Board of Administration, may delegate
3 responsibility for administration of the plan to a person the
4 Chief Financial Officer ~~Treasurer~~ determines to be qualified,
5 compensate such person, and, directly or through such person
6 or pursuant to a collective bargaining agreement, contract
7 with a private corporation or institution to provide such
8 services as may be part of any such plan or as may be deemed
9 necessary or proper by the Chief Financial Officer ~~Treasurer~~
10 or such person, including, but not limited to, providing
11 consolidated billing, individual and collective recordkeeping
12 and accountings, asset purchase, control, and safekeeping, and
13 direct disbursement of funds to employees or other
14 beneficiaries. The Chief Financial Officer ~~Treasurer~~ may
15 authorize a person, private corporation, or institution to
16 make direct disbursement of funds under the plan to an
17 employee or other beneficiary ~~only upon the order of the~~
18 ~~Comptroller to the Treasurer.~~

19 (d) In accordance with such approved plan, and upon
20 contract or agreement with an eligible employee, deferrals of
21 compensation may be accomplished by payroll deductions made by
22 the appropriate officer or officers of the state, with such
23 funds being thereafter held and administered in accordance
24 with the plan.

25 (6)(a) No deferred compensation plan of the state
26 shall become effective until approved by the State Board of
27 Administration and the Chief Financial Officer ~~Treasurer~~ is
28 satisfied by opinion from such federal agency or agencies as
29 may be deemed necessary that the compensation deferred
30 thereunder and/or the investment products purchased pursuant
31 to the plan will not be included in the employee's taxable

1 income under federal or state law until it is actually
2 received by such employee under the terms of the plan, and
3 that such compensation will nonetheless be deemed compensation
4 at the time of deferral for the purposes of social security
5 coverage, for the purposes of the state retirement system, and
6 for any other retirement, pension, or benefit program
7 established by law.

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

10 1. One member shall be appointed by the Speaker of the
11 House of Representatives and the President of the Senate
12 jointly and shall be an employee of the legislative branch.

13 2. One member shall be appointed by the Chief Justice
14 of the Supreme Court and shall be an employee of the judicial
15 branch.

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

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

21 a. One member shall be appointed by the Chancellor of
22 the State University System and shall be an employee of the
23 university system.

24 b. One member shall be appointed by the Chief
25 Financial Officer ~~Treasurer~~ and shall be an employee of the
26 Chief Financial Officer ~~Treasurer~~.

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

29 ~~d. One member shall be appointed by the Comptroller~~
30 ~~and shall be an employee of the Comptroller.~~

31

1 (d) The council shall meet at the call of its chair,
2 at the request of a majority of its membership, or at the
3 request of the Chief Financial Officer ~~Treasurer~~, but not less
4 than twice a year. The business of the council shall be
5 presented to the council in the form of an agenda. The agenda
6 shall be set by the Chief Financial Officer ~~Treasurer~~ and
7 shall include items of business requested by the council
8 members.

9 (f) The council shall make a report of each meeting to
10 the Chief Financial Officer ~~Treasurer~~, which shall show the
11 names of the members present and shall include a record of its
12 discussions, recommendations, and actions taken. The Chief
13 Financial Officer ~~Treasurer~~ shall keep the records of the
14 proceedings of each meeting on file and shall make the records
15 available to any interested person or group.

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

31 (10)

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

8 a. All amounts of compensation deferred thereunder;

9 b. All property and rights purchased with such
10 amounts; and

11 c. All income attributable to such amounts, property,
12 or rights.

13 2. Notwithstanding the mandates of 26 U.S.C. s.
14 457(b)(6), all of the assets specified in subparagraph 1.
15 shall be held in trust for the exclusive benefit of
16 participants and their beneficiaries as mandated by 26 U.S.C.
17 s. 457(g)(1).

18 (11) With respect to any funds held pursuant to a
19 deferred compensation plan, any plan provider which is a bank
20 or savings association and which provides time deposit
21 accounts and certificates of deposit as an investment product
22 to the plan participants may, with the approval of the State
23 Board of Administration for providers in the state plan, or
24 with the approval of the appropriate official or body
25 designated under subsection (5) for a plan of a county,
26 municipality, other political subdivision, or constitutional
27 county officer, be exempt from the provisions of chapter 280
28 requiring it to be a qualified public depository, provided:

29 (a) The bank or savings association shall, to the
30 extent that the time deposit accounts or certificates of
31 deposit are not insured by the Federal Deposit Insurance

1 Corporation or the Federal Savings and Loan Insurance
2 Corporation, pledge collateral with the Chief Financial
3 Officer ~~Treasurer~~ for all state funds held by it under a
4 deferred compensation plan, or with such other appropriate
5 official for all public funds held by it under a deferred
6 compensation plan of a county, municipality, other political
7 subdivision, or constitutional county officer, in an amount
8 which equals at least 150 percent of all uninsured deferred
9 compensation funds then held.

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

13

14 The Chief Financial Officer ~~Treasurer~~ shall have all the
15 applicable powers provided in ss. 280.04, 280.05, and 280.08
16 relating to the sale or other disposition of the pledged
17 collateral.

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

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

23 112.3144 Full and public disclosure of financial
24 interests.--

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

30 (h) Notwithstanding any provision of chapter 120, any
31 fine imposed under this subsection which is not waived by

1 final order of the commission and which remains unpaid more
2 than 60 days after the notice of payment due or more than 60
3 days after the commission renders a final order on the appeal
4 must be submitted to the Department of Financial Services
5 ~~Banking and Finance~~ as a claim, debt, or other obligation owed
6 to the state, and the department shall assign the collection
7 of such fine to a collection agent as provided in s. 17.20.

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

10 112.3145 Disclosure of financial interests and clients
11 represented before agencies.--

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

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

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

30 112.3189 Investigative procedures upon receipt of
31 whistle-blower information from certain state employees.--

1 (9)

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

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

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

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

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

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

31

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

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

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

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

17 112.3215 Lobbyists before the executive branch or the
18 Constitution Revision Commission; registration and reporting;
19 investigation by commission.--

20 (5)

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

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

31

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

4 a. When a report is actually received by the lobbyist
5 registration and reporting office.

6 b. When the report is postmarked.

7 c. When the certificate of mailing is dated.

8 d. When the receipt from an established courier
9 company is dated.

10 3. Such fine shall be paid within 30 days after the
11 notice of payment due is transmitted by the Lobbyist
12 Registration Office, unless appeal is made to the commission.
13 The moneys shall be deposited into the Executive Branch Lobby
14 Registration Trust Fund.

15 4. A fine shall not be assessed against a lobbyist the
16 first time any reports for which the lobbyist is responsible
17 are not timely filed. However, to receive the one-time fine
18 waiver, all reports for which the lobbyist is responsible must
19 be filed within 30 days after the notice that any reports have
20 not been timely filed is transmitted by the Lobbyist
21 Registration Office. A fine shall be assessed for any
22 subsequent late-filed reports.

23 5. Any lobbyist may appeal or dispute a fine, based
24 upon unusual circumstances surrounding the failure to file on
25 the designated due date, and may request and shall be entitled
26 to a hearing before the commission, which shall have the
27 authority to waive the fine in whole or in part for good cause
28 shown. Any such request shall be made within 30 days after
29 the notice of payment due is transmitted by the Lobbyist
30 Registration Office. In such case, the lobbyist shall, within
31 the 30-day period, notify the person designated to review the

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

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

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

17 | Section 138. Subsection (4) of section 112.63, Florida
18 | Statutes, is amended to read:

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

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

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

22 Section 139. Section 114.03, Florida Statutes, is
23 amended to read:

24 114.03 Certain executive officers not to absent
25 themselves from the state.--The ~~Secretary of State, Attorney~~
26 ~~General, Chief Financial Officer ~~Comptroller, Treasurer,~~~~
27 ~~Commissioner of Education,~~ and Commissioner of Agriculture
28 shall reside at the capital, and no member of the Cabinet
29 shall absent himself or herself from the state for a period of
30 60 consecutive days or more without the consent of the
31 Governor and a majority of the Cabinet. If a Cabinet officer

1 should refuse or fail to comply with and observe the
2 requirements of this section, his or her office may be deemed
3 vacant pursuant to paragraph (f) or paragraph (g) of s.
4 114.01(1), as appropriate.

5 Section 140. Section 116.03, Florida Statutes, is
6 amended to read:

7 116.03 Officers to report fees collected.--Each state
8 and county officer who receives all or any part of his or her
9 compensation in fees or commissions, or other remuneration,
10 shall keep a complete report of all fees and commissions, or
11 other remuneration collected, and shall make a report to the
12 Department of Financial Services ~~Banking and Finance~~ of all
13 such fees and commissions, or other remuneration, annually on
14 December 31 of each and every year. Such report shall be made
15 upon forms to be prescribed from time to time by the
16 department, and shall show in detail the source, character and
17 amount of all his or her official expenses and the net amount
18 that the office has paid up to the time of making such report.
19 All officers shall make out, fill in and subscribe and
20 properly forward to the department such reports, and swear to
21 the accuracy and competency of such reports.

22 Section 141. Section 116.04, Florida Statutes, is
23 amended to read:

24 116.04 Failure of officer to make sworn report of
25 fees.--Any officer who shall fail or refuse to make,
26 subscribe, and swear, or to file with the Department of
27 Financial Services ~~Banking and Finance~~ a report of all fees,
28 commissions, or other remuneration collected, as required by
29 law, or if any officer shall knowingly or willfully make false
30 or incomplete reports, or in any report violate any of the
31 provisions of s. 116.03 he or she shall be guilty of a

1 misdemeanor of the first degree, punishable as provided in s.
2 775.082 or s. 775.083.

3 Section 142. Section 116.05, Florida Statutes, is
4 amended to read:

5 116.05 Examination and publication by Department of
6 Financial Services ~~Banking and Finance~~.--The Department of
7 Financial Services ~~Banking and Finance~~ shall have examined and
8 verified any of the reports received under s. 116.03 whenever
9 in its judgment the same may be necessary, and the department
10 shall cause the matter and things in each of said reports to
11 be published one time in a newspaper published in the county
12 in which such report originated, in such form as it shall
13 direct, and the expense of such publication shall be paid by
14 the county commissioners of such county.

15 Section 143. Section 116.06, Florida Statutes, is
16 amended to read:

17 116.06 Summary of reports; certain officers not
18 required to report fees.--A summary of all such reports shall
19 be included by the Department of Financial Services ~~Banking~~
20 ~~and Finance~~ in its annual report to the Governor, except that
21 jurors and notaries public shall not be required to make such
22 reports as provided for in s. 116.03.

23 Section 144. Section 116.14, Florida Statutes, is
24 amended to read:

25 116.14 Receipts required from purchasers of state
26 property.--Upon the sale of any state property by the
27 superintendent and presidents of state institutions as
28 provided by law, they shall take receipt for the same from the
29 purchaser, which receipt shall be forwarded, together with the
30 proceeds of the sale, to the Chief Financial Officer ~~State~~
31 ~~Treasurer~~.

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

3 120.52 Definitions.--As used in this act:

4 (15) "Rule" means each agency statement of general
5 applicability that implements, interprets, or prescribes law
6 or policy or describes the procedure or practice requirements
7 of an agency and includes any form which imposes any
8 requirement or solicits any information not specifically
9 required by statute or by an existing rule. The term also
10 includes the amendment or repeal of a rule. The term does not
11 include:

12 (c) The preparation or modification of:

13 1. Agency budgets.

14 2. Statements, memoranda, or instructions to state
15 agencies issued by the Chief Financial Officer or Comptroller
16 as chief fiscal officer of the state and relating or
17 pertaining to claims for payment submitted by state agencies
18 to the Chief Financial Officer or Comptroller.

19 3. Contractual provisions reached as a result of
20 collective bargaining.

21 4. Memoranda issued by the Executive Office of the
22 Governor relating to information resources management.

23 Section 146. Section 120.80, Florida Statutes, is
24 amended to read:

25 120.80 Exceptions and special requirements;
26 agencies.--

27 (1) DIVISION OF ADMINISTRATIVE
28 HEARINGS.--Notwithstanding s. 120.57(1)(a), a hearing in which
29 the division is a party shall not be conducted by an
30 administrative law judge assigned by the division. An
31

1 attorney assigned by the Administration Commission shall be
2 the hearing officer.

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

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

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

10 (3) DEPARTMENT OF FINANCIAL SERVICES ~~BANKING AND~~
11 ~~FINANCE~~.--

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

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

18 b. Within 21 days after publication of notice, any
19 person may request a hearing. Failure to request a hearing
20 within 21 days after notice constitutes a waiver of any right
21 to a hearing. The Department of Financial Services ~~Banking and~~
22 ~~Finance~~ or an applicant may request a hearing at any time
23 prior to the issuance of a final order. Hearings shall be
24 conducted pursuant to ss. 120.569 and 120.57, except that the
25 Department of Financial Services ~~Banking and Finance~~ shall by
26 rule provide for participation by the general public.

27 2. Should a hearing be requested as provided by
28 sub-subparagraph 1.b., the applicant or licensee shall publish
29 at its own cost a notice of the hearing in a newspaper of
30 general circulation in the area affected by the application.

31

1 The Department of Financial Services ~~Banking and Finance~~ may
2 by rule specify the format and size of the notice.

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

18 4. In the case of every application for license to
19 establish a new bank, trust company, or capital stock savings
20 association in which a foreign national proposes to own or
21 control 10 percent or more of any class of voting securities,
22 and in the case of every application by a foreign national for
23 approval to acquire control of a bank, trust company, or
24 capital stock savings association, the Department of Financial
25 Services ~~Banking and Finance~~ shall request that a public
26 hearing be conducted pursuant to ss. 120.569 and 120.57.
27 Notice of such hearing shall be published by the applicant as
28 provided in subparagraph 2. The failure of any such foreign
29 national to appear personally at the hearing shall be grounds
30 for denial of the application. Notwithstanding the provisions
31 of s. 120.60(1) and subparagraph 3., every application

1 involving a foreign national shall be approved or denied
2 within 1 year after receipt of the original application or any
3 timely requested additional information or the correction of
4 any errors or omissions, or within 30 days after the
5 conclusion of the public hearing on the application, whichever
6 is later.

7 (b) In any application for a license or merger
8 pursuant to title XXXVIII which is referred by the agency to
9 the division for hearing, the administrative law judge shall
10 complete and submit to the agency and to all parties a written
11 report consisting of findings of fact and rulings on
12 evidentiary matters. The agency shall allow each party at
13 least 10 days in which to submit written exceptions to the
14 report.

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

24 (4) DEPARTMENT OF BUSINESS AND PROFESSIONAL
25 REGULATION.--

26 (a) Business regulation.--The Division of Pari-mutuel
27 Wagering is exempt from the hearing and notice requirements of
28 ss. 120.569 and 120.57(1)(a), but only for stewards, judges,
29 and boards of judges when the hearing is to be held for the
30 purpose of the imposition of fines or suspensions as provided
31 by rules of the Division of Pari-mutuel Wagering, but not for

1 revocations, and only upon violations of subparagraphs 1.-6.
2 The Division of Pari-mutuel Wagering shall adopt rules
3 establishing alternative procedures, including a hearing upon
4 reasonable notice, for the following violations:
5 1. Horse riding, harness riding, greyhound
6 interference, and jai alai game actions in violation of
7 chapter 550.
8 2. Application and usage of drugs and medication to
9 horses, greyhounds, and jai alai players in violation of
10 chapter 550.
11 3. Maintaining or possessing any device which could be
12 used for the injection or other infusion of a prohibited drug
13 to horses, greyhounds, and jai alai players in violation of
14 chapter 550.
15 4. Suspensions under reciprocity agreements between
16 the Division of Pari-mutuel Wagering and regulatory agencies
17 of other states.
18 5. Assault or other crimes of violence on premises
19 licensed for pari-mutuel wagering.
20 6. Prearranging the outcome of any race or game.
21 (b) Professional regulation.--Notwithstanding s.
22 120.57(1)(a), formal hearings may not be conducted by the
23 Secretary of Business and Professional Regulation or a board
24 or member of a board within the Department of Business and
25 Professional Regulation for matters relating to the regulation
26 of professions, as defined by chapter 455.
27 (5) FLORIDA LAND AND WATER ADJUDICATORY
28 COMMISSION.--Notwithstanding the provisions of s.
29 120.57(1)(a), when the Florida Land and Water Adjudicatory
30 Commission receives a notice of appeal pursuant to s. 380.07,
31 the commission shall notify the division within 60 days after

1 receipt of the notice of appeal if the commission elects to
2 request the assignment of an administrative law judge.

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

7 (a) The collection, management, and dissemination of
8 active criminal intelligence information and active criminal
9 investigative information; management of criminal
10 investigations; and management of undercover investigations
11 and the selection, assignment, and fictitious identity of
12 undercover personnel.

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

15 (c) Surveillance techniques, the selection of
16 surveillance personnel, and electronic surveillance, including
17 court-ordered and consensual interceptions of communication
18 conducted pursuant to chapter 934.

19 (d) The safety and release of hostages.

20 (e) The provision of security and protection to public
21 figures.

22 (f) The protection of witnesses.

23 (7) DEPARTMENT OF CHILDREN AND FAMILY
24 SERVICES.--Notwithstanding s. 120.57(1)(a), hearings conducted
25 within the Department of Children and Family Services in the
26 execution of those social and economic programs administered
27 by the former Division of Family Services of the former
28 Department of Health and Rehabilitative Services prior to the
29 reorganization effected by chapter 75-48, Laws of Florida,
30 need not be conducted by an administrative law judge assigned
31 by the division.

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

2 (a) Drivers' licenses.--

3 1. Notwithstanding s. 120.57(1)(a), hearings regarding
4 drivers' licensing pursuant to chapter 322 need not be
5 conducted by an administrative law judge assigned by the
6 division.

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

11 (b) Wrecker operators.--Notwithstanding s.
12 120.57(1)(a), hearings held by the Division of the Florida
13 Highway Patrol of the Department of Highway Safety and Motor
14 Vehicles to deny, suspend, or remove a wrecker operator from
15 participating in the wrecker rotation system established by s.
16 321.051 need not be conducted by an administrative law judge
17 assigned by the division. These hearings shall be held by a
18 hearing officer appointed by the director of the Division of
19 the Florida Highway Patrol.

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

30 (9)~~(10)~~ DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY.--

31 (a) Unemployment compensation.--

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

4 2. Notwithstanding s. 120.57(1)(a), hearings may be
5 conducted by the Unemployment Appeals Commission in
6 unemployment compensation appeals, unemployment compensation
7 appeals referees, and special deputies pursuant to s. 443.141.

8 (b) Workers' compensation.--Notwithstanding s.
9 120.52(1), a judge of compensation claims, in the adjudication
10 of matters pursuant to chapter 440, shall not be considered an
11 agency or part of an agency for the purposes of this chapter.

12 (10)~~(11)~~ NATIONAL GUARD.--Notwithstanding s.
13 120.52(15), the enlistment, organization, administration,
14 equipment, maintenance, training, and discipline of the
15 militia, National Guard, organized militia, and unorganized
16 militia, as provided by s. 2, Art. X of the State
17 Constitution, are not rules as defined by this chapter.

18 (11)~~(12)~~ PUBLIC EMPLOYEES RELATIONS COMMISSION.--

19 (a) Notwithstanding s. 120.57(1)(a), hearings within
20 the jurisdiction of the Public Employees Relations Commission
21 need not be conducted by an administrative law judge assigned
22 by the division.

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

25 (12)~~(13)~~ FLORIDA PUBLIC SERVICE COMMISSION.--

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

30 (b) Notwithstanding ss. 120.569 and 120.57, a hearing
31 on an objection to proposed action of the Florida Public

1 Service Commission may only address the issues in dispute.
2 Issues in the proposed action which are not in dispute are
3 deemed stipulated.

4 (c) The Florida Public Service Commission is exempt
5 from the time limitations in s. 120.60(1) when issuing a
6 license.

7 (d) Notwithstanding the provisions of this chapter, in
8 implementing the Telecommunications Act of 1996, Pub. L. No.
9 104-104, the Public Service Commission is authorized to employ
10 procedures consistent with that act.

11 (e) Notwithstanding the provisions of this chapter, s.
12 350.128, or s. 364.381, appellate jurisdiction for Public
13 Service Commission decisions that implement the
14 Telecommunications Act of 1996, Pub. L. No. 104-104, shall be
15 consistent with the provisions of that act.

16 (f) Notwithstanding any provision of this chapter, all
17 public utilities and companies regulated by the Public Service
18 Commission shall be entitled to proceed under the interim rate
19 provisions of chapter 364 or the procedures for interim rates
20 contained in chapter 74-195, Laws of Florida, or as otherwise
21 provided by law.

22 (13)~~(14)~~ DEPARTMENT OF REVENUE.--

23 (a) Assessments.--An assessment of tax, penalty, or
24 interest by the Department of Revenue is not a final order as
25 defined by this chapter. Assessments by the Department of
26 Revenue shall be deemed final as provided in the statutes and
27 rules governing the assessment and collection of taxes.

28 (b) Taxpayer contest proceedings.--

29 1. In any administrative proceeding brought pursuant
30 to this chapter as authorized by s. 72.011(1), the taxpayer
31 shall be designated the "petitioner" and the Department of

1 Revenue shall be designated the "respondent," except that for
2 actions contesting an assessment or denial of refund under
3 chapter 207, the Department of Highway Safety and Motor
4 Vehicles shall be designated the "respondent," and for actions
5 contesting an assessment or denial of refund under chapters
6 210, 550, 561, 562, 563, 564, and 565, the Department of
7 Business and Professional Regulation shall be designated the
8 "respondent."

9 2. In any such administrative proceeding, the
10 applicable department's burden of proof, except as otherwise
11 specifically provided by general law, shall be limited to a
12 showing that an assessment has been made against the taxpayer
13 and the factual and legal grounds upon which the applicable
14 department made the assessment.

15 3.a. Prior to filing a petition under this chapter,
16 the taxpayer shall pay to the applicable department the amount
17 of taxes, penalties, and accrued interest assessed by that
18 department which are not being contested by the taxpayer.
19 Failure to pay the uncontested amount shall result in the
20 dismissal of the action and imposition of an additional
21 penalty of 25 percent of the amount taxed.

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

27 4. Except as provided in s. 220.719, further
28 collection and enforcement of the contested amount of an
29 assessment for nonpayment or underpayment of any tax,
30 interest, or penalty shall be stayed beginning on the date a
31

1 petition is filed. Upon entry of a final order, an agency may
2 resume collection and enforcement action.

3 5. The prevailing party, in a proceeding under ss.
4 120.569 and 120.57 authorized by s. 72.011(1), may recover all
5 legal costs incurred in such proceeding, including reasonable
6 attorney's fees, if the losing party fails to raise a
7 justiciable issue of law or fact in its petition or response.

8 6. Upon review pursuant to s. 120.68 of final agency
9 action concerning an assessment of tax, penalty, or interest
10 with respect to a tax imposed under chapter 212, or the denial
11 of a refund of any tax imposed under chapter 212, if the court
12 finds that the Department of Revenue improperly rejected or
13 modified a conclusion of law, the court may award reasonable
14 attorney's fees and reasonable costs of the appeal to the
15 prevailing appellant.

16 (c) Proceedings for administrative child support
17 orders.--Notwithstanding the provisions of s. 120.569 or s.
18 120.57 to the contrary, in proceedings for the establishment
19 of administrative support orders pursuant to s. 409.2563,
20 final orders in cases referred by the Department of Revenue to
21 the Division of Administrative Hearings shall be entered by
22 the division's administrative law judge and transmitted to the
23 Department of Revenue for filing and indexing. The Department
24 of Revenue has the right to seek judicial review of a final
25 order entered by an administrative law judge. Administrative
26 support orders rendered pursuant to s. 409.2563 may be
27 enforced pursuant to s. 120.69 or, alternatively, by any
28 method prescribed by law for the enforcement of judicial
29 support orders, except contempt.

30 (14)~~(15)~~ DEPARTMENT OF HEALTH.--Notwithstanding s.
31 120.57(1)(a), formal hearings may not be conducted by the

1 Secretary of Health, the Secretary of Health Care
2 Administration, or a board or member of a board within the
3 Department of Health or the Agency for Health Care
4 Administration for matters relating to the regulation of
5 professions, as defined by chapter 456. Notwithstanding s.
6 120.57(1)(a), hearings conducted within the Department of
7 Health in execution of the Special Supplemental Nutrition
8 Program for Women, Infants, and Children; Child Care Food
9 Program; Children's Medical Services Program; the Brain and
10 Spinal Cord Injury Program; and the exemption from
11 disqualification reviews for certified nurse assistants
12 program need not be conducted by an administrative law judge
13 assigned by the division. The Department of Health may
14 contract with the Department of Children and Family Services
15 for a hearing officer in these matters.

16 (15)~~(16)~~ DEPARTMENT OF ENVIRONMENTAL
17 PROTECTION.--Notwithstanding the provisions of s.
18 120.54(1)(d), the Department of Environmental Protection, in
19 undertaking rulemaking to establish best available control
20 technology, lowest achievable emissions rate, or case-by-case
21 maximum available control technology for purposes of s.
22 403.08725, shall not adopt the lowest regulatory cost
23 alternative if such adoption would prevent the agency from
24 implementing federal requirements.

25 (16)~~(17)~~ FLORIDA BUILDING COMMISSION.--

26 (a) Notwithstanding the provisions of s. 120.542, the
27 Florida Building Commission may not accept a petition for
28 waiver or variance and may not grant any waiver or variance
29 from the requirements of the Florida Building Code.

30 (b) The Florida Building Commission shall adopt within
31 the Florida Building Code criteria and procedures for

1 alternative means of compliance with the code or local
2 amendments thereto, for enforcement by local governments,
3 local enforcement districts, or other entities authorized by
4 law to enforce the Florida Building Code. Appeals from the
5 denial of the use of alternative means shall be heard by the
6 local board, if one exists, and may be appealed to the Florida
7 Building Commission.

8 Section 147. Section 121.0312, Florida Statutes, is
9 amended to read:

10 121.0312 Review; actuarial valuation report;
11 contribution rate determination process.--The Governor, Chief
12 Financial Officer ~~Comptroller~~, and Attorney General ~~Treasurer~~,
13 sitting as the ~~Board of Trustees of the~~ State Board of
14 Administration, shall review the actuarial valuation report
15 prepared in accordance with the provisions of this chapter.
16 The board shall review the process by which Florida Retirement
17 System contribution rates are determined and recommend and
18 submit any comments regarding the process to the Legislature.

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

21 121.055 Senior Management Service Class.--There is
22 hereby established a separate class of membership within the
23 Florida Retirement System to be known as the "Senior
24 Management Service Class," which shall become effective
25 February 1, 1987.

26 (1)

27 (e) Effective January 1, 1991, participation in the
28 Senior Management Service Class shall be compulsory for the
29 number of senior managers who have policymaking authority with
30 the State Board of Administration, as determined by the
31 Governor, Chief Financial Officer ~~Treasurer~~, and Attorney

1 General Comptroller acting as the State Board of
2 Administration, unless such member elects to participate in
3 the Senior Management Service Optional Annuity Program as
4 established in subsection (6) in lieu of participation in the
5 Senior Management Service Class. Such election shall be made
6 in writing and filed with the division and the personnel
7 officer of the State Board of Administration within 90 days
8 after becoming eligible for membership in the Senior
9 Management Service Class.

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

12 121.061 Funding.--

13 (2)(a) Should any employer other than a state employer
14 fail to make the retirement and social security contributions,
15 both member and employer contributions, required by this
16 chapter, then, upon request by the administrator, the
17 Department of Revenue or the Department of Financial Services
18 ~~Banking and Finance~~, as the case may be, shall deduct the
19 amount owed by the employer from any funds to be distributed
20 by it to the county, city, special district, or consolidated
21 form of government. The amounts so deducted shall be
22 transferred to the administrator for further distribution to
23 the trust funds in accordance with this chapter.

24 Section 150. Section 121.133, Florida Statutes, is
25 amended to read:

26 121.133 Cancellation of uncashed
27 warrants.--Notwithstanding the provisions of s. 17.26 or s.
28 717.123 to the contrary, ~~effective July 1, 1998~~, if any state
29 warrant issued by the Chief Financial Officer Comptroller for
30 the payment of retirement benefits from the Florida Retirement
31 System Trust Fund, or any other pension trust fund

1 administered by the department, is not presented for payment
2 within 1 year after the last day of the month in which it was
3 originally issued, the Chief Financial Officer ~~Comptroller~~
4 shall cancel the benefit warrant and credit the amount of the
5 warrant to the Florida Retirement System Trust Fund or other
6 pension trust fund administered by the department, as
7 appropriate. The department may provide for issuance of a
8 replacement warrant when deemed appropriate.

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

11 121.4501 Public Employee Optional Retirement
12 Program.--

13 (12) ADVISORY COMMITTEES TO PROVIDE ADVICE AND
14 ASSISTANCE.--The Investment Advisory Council and the Public
15 Employee Optional Retirement Program Advisory Committee shall
16 assist the board in implementing and administering the Public
17 Employee Optional Retirement Program.

18 (b)1. The Public Employee Optional Retirement Program
19 Advisory Committee shall be composed of seven members. The
20 President of the Senate shall appoint two members, the Speaker
21 of the House of Representatives shall appoint two members, the
22 Governor shall appoint two members ~~one member~~, the Treasurer
23 ~~shall appoint one member~~, and the Chief Financial Officer
24 ~~Comptroller~~ shall appoint one member. On January 7, 2003, the
25 term of office of the member appointed by the Treasurer and of
26 the member appointed by the Comptroller expires; and the Chief
27 Financial Officer shall choose one of those members for
28 reappointment for the remainder of the term. ~~The members of~~
29 ~~the advisory committee shall elect a member as chair. The~~
30 ~~appointments shall be made by September 1, 2000, and the~~
31 ~~committee shall meet to organize by October 1, 2000.~~The

1 initial appointments shall be for a term of 24 months. Each
2 appointing authority shall fill any vacancy occurring among
3 its appointees for the remainder of the original term.

4 2. The advisory committee shall make recommendations
5 on the selection of the third-party administrator, the
6 education providers, and the investment products and
7 providers. The committee's recommendations on the third-party
8 administrator must be forwarded to the Trustees of the State
9 Board of Administration by January 1, 2001. The
10 recommendations on the education providers must be forwarded
11 to the trustees by April 1, 2001.

12 3. The advisory committee's recommendations and
13 activities shall be guided by the best interests of the
14 employees, considering the interests of employers, and the
15 intent of the Legislature in establishing the Public Employee
16 Optional Retirement Program.

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

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

21 125.0104 Tourist development tax; procedure for
22 levying; authorized uses; referendum; enforcement.--

23 (11) INTEREST PAID ON DISTRIBUTIONS.--

24 (a) Interest shall be paid on undistributed taxes
25 collected and remitted to the Department of Revenue under this
26 section. Such interest shall be included along with the tax
27 proceeds distributed to the counties and shall be paid from
28 moneys transferred from the General Revenue Fund. The
29 department shall calculate the interest for net tax
30 distributions using the average daily rate that was earned by
31 the State Treasury for the preceding calendar quarter and paid

1 to the General Revenue Fund. This rate shall be certified by
2 the Chief Financial Officer ~~Treasurer~~ to the department by the
3 20th day following the close of each quarter.

4 (b) The interest applicable to taxes collected under
5 this section shall be calculated by multiplying the tax
6 amounts to be distributed times the daily rate times the
7 number of days after the third working day following the date
8 the tax is due and payable pursuant to s. 212.11 until the
9 date the department issues a voucher to request the Chief
10 Financial Officer ~~Comptroller~~ to issue the payment warrant.

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

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

14 129.201 Budget of supervisor of elections; manner and
15 time of preparation and presentation.--

16 (2)

17 (b) To the extent appropriate, the budget shall be
18 further itemized in conformance with the Uniform Accounting
19 System for Local Units of Government in Florida adopted
20 ~~promulgated~~ by rule of the Chief Financial Officer ~~Comptroller~~
21 ~~of the state.~~

22 Section 154. Section 131.05, Florida Statutes, is
23 amended to read:

24 131.05 Disposition of proceeds of sale.--In the event
25 refunding bonds are issued under the provisions of this
26 chapter prior to the date of maturity or option date of the
27 obligations proposed to be refunded, the proceeds of said
28 refunding bonds shall be deposited in a bank or trust company
29 within the state, which depository shall give a surety bond,
30 or other such bonds as are authorized by law to be accepted
31 for securing county and city funds, satisfactory to the

1 Department of Financial Services ~~Banking and Finance~~ for the
2 full amount of money so deposited, and the funds so deposited
3 shall only be withdrawn with the approval of the department,
4 for the purpose of paying the obligations to refund which said
5 bonds were issued.

6 Section 155. Section 137.09, Florida Statutes, is
7 amended to read:

8 137.09 Justification and approval of bonds.--Each
9 surety upon every bond of any county officer shall make
10 affidavit that he or she is a resident of the county for which
11 the officer is to be commissioned, and that he or she has
12 sufficient visible property therein unencumbered and not
13 exempt from sale under legal process to make good his or her
14 bond. Every such bond shall be approved by the board of
15 county commissioners and by the Department of Financial
16 Services ~~Banking and Finance~~ when they and it are satisfied in
17 their judgment that the same is legal, sufficient, and proper
18 to be approved.

19 Section 156. Section 145.141, Florida Statutes, is
20 amended to read:

21 145.141 Deficiency to be paid by board of county
22 commissioners.--Should any county officer have insufficient
23 revenue from the income of his or her office, after paying
24 office personnel and expenses, to pay his or her total annual
25 salary, the board of county commissioners shall pay any
26 deficiency in salary from the general revenue fund and notify
27 the Department of Financial Services ~~Banking and Finance~~. The
28 deficiency shall be listed in the comptroller's annual report
29 of county finances and county fee officers.

30 Section 157. Subsections (1) and (2) of section
31 154.02, Florida Statutes, are amended to read:

1 154.02 County Health Department Trust Fund.--
2 (1) To enable counties to provide public health
3 services and maintain public health equipment and facilities,
4 each county in the state with a population exceeding 100,000,
5 according to the last state census, may levy an annual tax not
6 exceeding 0.5 mill; each county in the state with a population
7 exceeding 40,000 and not exceeding 100,000, according to the
8 last state census, may levy an annual tax not exceeding 1
9 mill; and each county in the state with a population not
10 exceeding 40,000, according to the last state census, may levy
11 an annual tax not exceeding 2 mills, on the dollar on all
12 taxable property in such county, the proceeds of which tax, if
13 so contracted with the state, shall be paid to the Chief
14 Financial Officer ~~Treasurer~~. However, the board of county
15 commissioners may elect to pay in 12 equal monthly
16 installments. Such funds in the hands of the Chief Financial
17 Officer ~~Treasurer~~ shall be placed in the county health
18 department trust funds of the county by which such funds were
19 raised, and such funds shall be expended by the Department of
20 Health solely for the purpose of carrying out the intent and
21 object of the public health contract.

22 (2) The Chief Financial Officer ~~Treasurer~~ shall
23 maintain a full-time County Health Department Trust Fund which
24 shall contain all state and local funds to be expended by
25 county health departments. Such funds shall be expended by
26 the Department of Health solely for the purposes of carrying
27 out the intent and purpose of this part. Federal funds may be
28 deposited in the trust fund.

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

31

1 154.03 Cooperation with Department of Health and
2 United States Government.--

3 (1) The county commissioners of any county may agree
4 with the Department of Health upon the expenditure by the
5 department in such county of any funds allotted for that
6 purpose by the department or received by it for such purposes
7 from private contributions or other sources, and such funds
8 shall be paid to the Chief Financial Officer ~~Treasurer~~ and
9 shall form a part of the full-time county health department
10 trust fund of such county; and such funds shall be expended by
11 the department solely for the purposes of this chapter. The
12 department is further authorized to arrange and agree with the
13 United States Government, through its duly authorized
14 officials, for the allocation and expenditure by the United
15 States of funds of the United States in the study of causes of
16 disease and prevention thereof in such full-time county health
17 departments when and where established by the department under
18 this part.

19 Section 159. Section 154.05, Florida Statutes, is
20 amended to read:

21 154.05 Cooperation and agreements between
22 counties.--Two or more counties may combine in the
23 establishment and maintenance of a single full-time county
24 health department for the counties which combine for that
25 purpose; and, pursuant to such combination or agreement, such
26 counties may cooperate with one another and the Department of
27 Health and contribute to a joint fund in carrying out the
28 purpose and intent of this chapter. The duration and nature
29 of such agreement shall be evidenced by resolutions of the
30 boards of county commissioners of such counties and shall be
31 submitted to and approved by the department. In the event of

1 any such agreement, a full-time county health department shall
2 be established and maintained by the department in and for the
3 benefit of the counties which have entered into such an
4 agreement; and, in such case, the funds raised by taxation
5 pursuant to this chapter by each such county shall be paid to
6 the Chief Financial Officer ~~Treasurer~~ for the account of the
7 department and shall be known as the full-time county health
8 department trust fund of the counties so cooperating. Such
9 trust funds shall be used and expended by the department for
10 the purposes specified in this chapter in each county which
11 has entered into such agreement. In case such an agreement is
12 entered into between two or more counties, the work
13 contemplated by this chapter shall be done by a single
14 full-time county health department in the counties so
15 cooperating; and the nature, extent, and location of such work
16 shall be under the control and direction of the department.

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

19 154.06 Fees and services rendered; authority.--

20 (2) All funds collected under this section shall be
21 expended solely for the purpose of providing health services
22 and facilities within the county served by the county health
23 department. Fees collected by county health departments
24 pursuant to department rules shall be deposited with the Chief
25 Financial Officer ~~Treasurer~~ and credited to the County Health
26 Department Trust Fund. Fees collected by the county health
27 department for public health services or personal health
28 services shall be allocated to the state and the county based
29 upon the pro rata share of funding for each such service. The
30 board of county commissioners, if it has so contracted, shall
31 provide for the transmittal of funds collected for its pro

1 rata share of personal health services or primary care
2 services rendered under the provisions of this section to the
3 State Treasury for credit to the County Health Department
4 Trust Fund, but in any event the proceeds from such fees may
5 only be used to fund county health department services.

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

8 154.209 Powers of authority.--The purpose of the
9 authority shall be to assist health facilities in the
10 acquisition, construction, financing, and refinancing of
11 projects in any corporated or unincorporated area within the
12 geographical limits of the local agency. For this purpose,
13 the authority is authorized and empowered:

14 (17) To issue special obligation revenue bonds for the
15 purpose of establishing and maintaining the self-insurance
16 pool and to provide reserve funds in connection therewith,
17 such bonds to be payable from funds available in the pool from
18 time to time or from assessments against participating health
19 facilities for the purpose of providing required contributions
20 to the fund. With respect to the issuance of such bonds or
21 notes the following provisions shall apply:

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

29 (e) Prior to the issuance of any bonds pursuant to
30 this section for the purpose of acquiring liability coverage
31 contracts from the self-insurance pool, the Department of

1 Financial Services Insurance shall certify that excess
2 liability coverage for the health facility is reasonably
3 unobtainable in the amounts provided by such pool or that the
4 liability coverage obtained through acquiring contracts from
5 the self-insurance pool, after taking into account costs of
6 issuance of bonds and any other administrative fees, is less
7 expensive to the health facility than similar commercial
8 coverage then reasonably available.

9 Section 162. Section 154.314, Florida Statutes, is
10 amended to read:

11 154.314 Certification of the State of Florida.--

12 (1) In the event payment for the costs of services
13 rendered by a participating hospital or a regional referral
14 hospital is not received from the responsible county within 90
15 days of receipt of a statement for services rendered to a
16 qualified indigent who is a certified resident of the county,
17 or if the payment is disputed and said payment is not received
18 from the county determined to be responsible within 60 days of
19 the date of exhaustion of all administrative and legal
20 remedies, the hospital shall certify to the Chief Financial
21 Officer ~~Comptroller~~ the amount owed by the county.

22 (2) The Chief Financial Officer ~~Comptroller~~ shall have
23 no longer than 45 days from the date of receiving the
24 hospital's certified notice to forward the amount delinquent
25 to the appropriate hospital from any funds due to the county
26 under any revenue-sharing or tax-sharing fund established by
27 the state, except as otherwise provided by the State
28 Constitution. The Chief Financial Officer ~~Comptroller~~ shall
29 provide the Governor and the fiscal committees in the House of
30 Representatives and the Senate with a quarterly accounting of
31 the amounts certified by hospitals as owed by counties and the

1 amount paid to hospitals out of any revenue or tax sharing
2 funds due to the county.

3 Section 163. Paragraph (e) of subsection (7) of
4 section 163.01, Florida Statutes, is amended to read:

5 163.01 Florida Interlocal Cooperation Act of 1969.--

6 (7)

7 (e)1. Notwithstanding the provisions of paragraph (c),
8 any separate legal entity, created pursuant to the provisions
9 of this section and controlled by counties or municipalities
10 of this state, the membership of which consists or is to
11 consist only of public agencies of this state, may, for the
12 purpose of financing acquisition of liability coverage
13 contracts from one or more local government liability pools to
14 provide liability coverage for counties, municipalities, or
15 other public agencies of this state, exercise all powers in
16 connection with the authorization, issuance, and sale of
17 bonds. All of the privileges, benefits, powers, and terms of
18 s. 125.01 relating to counties and s. 166.021 relating to
19 municipalities shall be fully applicable to such entity and
20 such entity shall be considered a unit of local government for
21 all of the privileges, benefits, powers, and terms of part I
22 of chapter 159. Bonds issued by such entity shall be deemed
23 issued on behalf of counties, municipalities, or public
24 agencies which enter into loan agreements with such entity as
25 provided in this paragraph. Proceeds of bonds issued by such
26 entity may be loaned to counties, municipalities, or other
27 public agencies of this state, whether or not such counties,
28 municipalities, or other public agencies are also members of
29 the entity issuing the bonds, and such counties,
30 municipalities, or other public agencies may in turn deposit

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1 such loan proceeds with a separate local government liability
2 pool for purposes of acquiring liability coverage contracts.
3 2. Counties or municipalities of this state are
4 authorized pursuant to this section, in addition to the
5 authority provided by s. 125.01, part II of chapter 166, and
6 other applicable law, to issue bonds for the purpose of
7 acquiring liability coverage contracts from a local government
8 liability pool. Any individual county or municipality may, by
9 entering into interlocal agreements with other counties,
10 municipalities, or public agencies of this state, issue bonds
11 on behalf of itself and other counties, municipalities, or
12 other public agencies, for purposes of acquiring a liability
13 coverage contract or contracts from a local government
14 liability pool. Counties, municipalities, or other public
15 agencies are also authorized to enter into loan agreements
16 with any entity created pursuant to subparagraph 1., or with
17 any county or municipality issuing bonds pursuant to this
18 subparagraph, for the purpose of obtaining bond proceeds with
19 which to acquire liability coverage contracts from a local
20 government liability pool. No county, municipality, or other
21 public agency shall at any time have more than one loan
22 agreement outstanding for the purpose of obtaining bond
23 proceeds with which to acquire liability coverage contracts
24 from a local government liability pool. Obligations of any
25 county, municipality, or other public agency of this state
26 pursuant to a loan agreement as described above may be
27 validated as provided in chapter 75. Prior to the issuance of
28 any bonds pursuant to subparagraph 1. or this subparagraph for
29 the purpose of acquiring liability coverage contracts from a
30 local government liability pool, the reciprocal insurer or the
31 manager of any self-insurance program shall demonstrate to the

1 satisfaction of the Department of Financial Services ~~Insurance~~
2 that excess liability coverage for counties, municipalities,
3 or other public agencies is reasonably unobtainable in the
4 amounts provided by such pool or that the liability coverage
5 obtained through acquiring contracts from a local government
6 liability pool, after taking into account costs of issuance of
7 bonds and any other administrative fees, is less expensive to
8 counties, municipalities, or special districts than similar
9 commercial coverage then reasonably available.

10 3. Any entity created pursuant to this section or any
11 county or municipality may also issue bond anticipation notes,
12 as provided by s. 215.431, in connection with the
13 authorization, issuance, and sale of such bonds. In addition,
14 the governing body of such legal entity or the governing body
15 of such county or municipality may also authorize bonds to be
16 issued and sold from time to time and may delegate, to such
17 officer, official, or agent of such legal entity as the
18 governing body of such legal entity may select, the power to
19 determine the time; manner of sale, public or private;
20 maturities; rate or rates of interest, which may be fixed or
21 may vary at such time or times and in accordance with a
22 specified formula or method of determination; and other terms
23 and conditions as may be deemed appropriate by the officer,
24 official, or agent so designated by the governing body of such
25 legal entity. However, the amounts and maturities of such
26 bonds and the interest rate or rates of such bonds shall be
27 within the limits prescribed by the governing body of such
28 legal entity and its resolution delegating to such officer,
29 official, or agent the power to authorize the issuance and
30 sale of such bonds. Any series of bonds issued pursuant to
31

1 this paragraph shall mature no later than 7 years following
2 the date of issuance thereof.

3 4. Bonds issued pursuant to subparagraph 1. may be
4 validated as provided in chapter 75. The complaint in any
5 action to validate such bonds shall be filed only in the
6 Circuit Court for Leon County. The notice required to be
7 published by s. 75.06 shall be published in Leon County and in
8 each county which is an owner of the entity issuing the bonds,
9 or in which a member of the entity is located, and the
10 complaint and order of the circuit court shall be served only
11 on the State Attorney of the Second Judicial Circuit and on
12 the state attorney of each circuit in each county or
13 municipality which is an owner of the entity issuing the bonds
14 or in which a member of the entity is located.

15 5. Bonds issued pursuant to subparagraph 2. may be
16 validated as provided in chapter 75. The complaint in any
17 action to validate such bonds shall be filed in the circuit
18 court of the county or municipality which will issue the
19 bonds. The notice required to be published by s. 75.06 shall
20 be published only in the county where the complaint is filed,
21 and the complaint and order of the circuit court shall be
22 served only on the state attorney of the circuit in the county
23 or municipality which will issue the bonds.

24 6. The participation by any county, municipality, or
25 other public agency of this state in a local government
26 liability pool shall not be deemed a waiver of immunity to the
27 extent of liability coverage, nor shall any contract entered
28 regarding such a local government liability pool be required
29 to contain any provision for waiver.

30 Section 164. 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 165. 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 166. 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 167. 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 168. 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 169. 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 170. 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 171. 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 172. 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 173. 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 174. 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 175. 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 176. 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 177. 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 178. 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 179. 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 180. 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 181. 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 182. 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 183. 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 184. 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 185. 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 186. 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 187. 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 188. 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 189. 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 190. 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 191. 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 192. 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 193. 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 194. 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 195. 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 196. 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 197. 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 198. 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 199. 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 200. 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 201. 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 202. 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 203. 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 204. 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 205. 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 206. 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 207. 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 208. 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 209. 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 210. 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 211. 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 212. 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 213. 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 214. 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 215. 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 216. 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 217. 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 218. 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 219. 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 220. 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 221. 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 222. 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 223. 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 224. 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 225. 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 226. 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 227. 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 228. 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 229. 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 230. 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 231. 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 232. 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 233. 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 234. 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 235. 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 236. 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 237. 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 238. 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.

31

1 Section 239. 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 240. 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
31

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 241. 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 242. 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 243. 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 244. 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 245. 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 246. 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 247. 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 248. 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 249. 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 250. 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 251. 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 252. 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 253. 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 254. 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 255. 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 256. 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 257. 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 258. 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 259. 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 260. 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 261. 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 262. 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 263. 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 264. 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 265. 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 266. 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 267. 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 268. 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 269. 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 270. 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 271. 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 272. 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 273. 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 274. 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 275. 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 276. 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 277. 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 278. 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 279. 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 280. 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 281. 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 282. 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 283. 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 284. 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 285. 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 286. 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 287. 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 288. 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 289. 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 290. 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 291. 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 292. 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 293. 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 294. 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 295. 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 296. 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 297. 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 298. 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 299. 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 300. 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 301. 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 302. 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 303. 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 304. 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 305. 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 306. 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 307. 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 308. 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 309. 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 310. 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 311. 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 312. 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 313. 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 314. 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 315. 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 316. 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.

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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 317. 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 318. 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 319. 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 320. 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 321. 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 322. 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 323. 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 324. 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 325. 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 326. 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 and Securities
15 ~~Department of Banking and Finance~~ or the receiver of the
16 qualified public depository in default, shall ascertain the
17 amount of funds of each public depositor on deposit at such
18 depository and the amount of deposit insurance applicable to
19 such deposits.

20 (2) The potential loss to public depositors shall be
21 calculated by compiling claims received from such depositors.
22 The Chief Financial Officer ~~Treasurer~~ shall validate claims on
23 public deposit accounts which meet the requirements of s.
24 280.17 and are confirmed as provided in subsection (1).

25 (3)(a) The loss to public depositors shall be
26 satisfied, insofar as possible, first through any applicable
27 deposit insurance and then through demanding payment under
28 letters of credit or the sale of collateral pledged or
29 deposited by the defaulting depository. The Chief Financial
30 Officer ~~Treasurer~~ may assess qualified public depositories as
31 provided in paragraph (b) for the total loss if the demand for

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 327. 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 328. 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 329. 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 330. 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 331. 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 332. 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 333. 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 334. 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 335. 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 336. 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 337. 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 338. 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 339. 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 340. 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 341. 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 342. 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 343. 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 344. 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 345. 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 346. 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 347. 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 348. 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 349. 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 350. 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 351. 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 352. 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 353. 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 354. 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 355. 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 356. 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 357. 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 358. 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 359. 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

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1 insurance shall not exceed a period of 30 days, and all such
2 emergency purchases shall be reported to the department.

3 Section 360. 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 361. 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 362. 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 363. 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 364. 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 365. 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 366. 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 367. 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 368. 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 369. 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 370. 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 371. 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 372. 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 373. 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 374. 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 375. Paragraphs (a), (e), and (k) of
29 subsection (3) of section 288.99, Florida Statutes, are
30 amended and paragraphs (o) and (p) are added to that
31 subsection, paragraph (e) of subsection (4), subsection (7),

1 paragraph (c) of subsection (8), paragraphs (b) and (h) of
2 subsection (10), and paragraph (b) of subsection (14) of that
3 section are amended, and subsection (17) is added to that
4 section, to read:
5 288.99 Certified Capital Company Act.--
6 (3) DEFINITIONS.--As used in this section, the term:
7 (a) "Affiliate of an insurance company" means:
8 1. Any person directly or indirectly beneficially
9 owning, whether through rights, options, convertible
10 interests, or otherwise, controlling, or holding power to vote
11 15 ~~10~~ percent or more of the outstanding voting securities or
12 other ownership interests of the insurance company;
13 2. Any person 15 ~~10~~ percent or more of whose
14 outstanding voting securities or other voting ownership
15 interest is directly or indirectly beneficially owned, whether
16 through rights, options, convertible interests, or otherwise,
17 controlled, or held with power to vote by the insurance
18 company;
19 3. Any person directly or indirectly controlling,
20 controlled by, or under common control with the insurance
21 company;
22 4. A partnership in which the insurance company is a
23 general partner; or
24 5. Any person who is a principal, director, employee,
25 or agent of the insurance company or an immediate family
26 member of the principal, director, employee, or agent.
27 (e) "Department" means the Department of Financial
28 Services ~~Banking and Finance~~.
29 (k) "Qualified business" means a business that meets
30 the following conditions:
31

1 1. The business is headquartered in this state and its
2 principal business operations are located in this state or at
3 least 75 percent of the employees are employed in this state.

4 2. At the time a certified capital company makes an
5 initial investment in a business, the business is a small
6 business concern as defined in 13 C.F.R. s. 121.301(c)
7 ~~121.201~~, "Size Standards Used to Define Small Business
8 Concerns" of the United States Small Business Administration
9 which is involved in manufacturing, processing or assembling
10 products, conducting research and development, or providing
11 services.

12 3. At the time a certified capital company makes an
13 initial investment in a business, the business certifies in an
14 affidavit that:

15 a. The business is unable to obtain conventional
16 financing, which means that the business has failed in an
17 attempt to obtain funding for a loan from a bank or other
18 commercial lender or that the business cannot reasonably be
19 expected to qualify for such financing under the standards of
20 commercial lending;

21 b. The business plan for the business projects that
22 the business is reasonably expected to achieve in excess of
23 \$25 million in sales revenue within 5 years after the initial
24 investment, or the business is located in a designated Front
25 Porch community, enterprise zone, urban high crime area, rural
26 job tax credit county, or nationally recognized historic
27 district;

28 c. The business will maintain its headquarters in this
29 state for the next 10 years and any new manufacturing facility
30 financed by a qualified investment will remain in this state
31 for the next 10 years, or the business is located in a

1 designated Front Porch community, enterprise zone, urban high
2 crime area, rural job tax credit county, or nationally
3 recognized historic district; and

4 d. The business has fewer than 200 employees and at
5 least 75 percent of the employees are employed in this state.
6 For purposes of this subsection, the term "qualified business"
7 also includes the Florida Black Business Investment Board, any
8 entity majority owned by the Florida Black Business Investment
9 Board, or any entity in which the Florida Black Business
10 Investment Board holds a majority voting interest on the board
11 of directors.

12

13 A business predominantly engaged in retail sales, real estate
14 development, insurance, banking, lending, oil and gas
15 exploration, or engaged in professional services provided by
16 accountants, lawyers, or physicians does not constitute a
17 qualified business.

18 (o) "Program One" means the \$150 million in premium
19 tax credits issued under this section in 1999, the allocation
20 of such credits under this section, and the regulation of
21 certified capital companies and investments made by them
22 hereunder.

23 (p) "Program Two" means the \$150 million in premium
24 tax credits to be issued under subsection (17), the allocation
25 of such credits, and the regulation of certified capital
26 companies and investments made by them thereunder.

27 (4) CERTIFICATION; GROUNDS FOR DENIAL OR
28 DECERTIFICATION.--

29 (e) The certified capital company shall file a copy of
30 its certification with the office by January 31 of each year,
31 ~~1999.~~

1 (7) ANNUAL TAX CREDIT; MAXIMUM AMOUNT; ALLOCATION
2 PROCESS.--

3 (a) The total amount of tax credits which may be
4 allocated by the department ~~office~~ shall not exceed \$150
5 million. The total amount of annual tax credits which may be
6 used by certified investors under this act shall not exceed 10
7 percent of the total available tax credits~~\$15 million~~
8 annually.

9 (b) The department ~~office~~ shall be responsible for
10 allocating premium tax credits as provided for in this act to
11 certified capital companies.

12 (c) Each certified capital company must apply to the
13 department ~~office~~ for an allocation of premium tax credits for
14 potential certified investors by a date and ~~March 15, 1999~~, on
15 a form developed by the department ~~office~~ with the cooperation
16 of the Department of Revenue. The form shall be accompanied
17 by an affidavit from each potential certified investor
18 confirming that the potential certified investor has agreed to
19 make an investment of certified capital in a certified capital
20 company up to a specified amount, subject only to the receipt
21 of a premium tax credit allocation pursuant to this
22 subsection. No allocation shall be made to the potential
23 investors of a certified capital company unless such certified
24 capital company has filed premium tax allocation claims that
25 would result in an allocation to the potential investors in
26 such certified capital company of not less than \$15 million in
27 the aggregate.

28 (d) Within 15 days following the date established by
29 the department ~~On or before April 1, 1999~~, the department
30 ~~office~~ shall inform each certified capital company of its
31

1 share of total premium tax credits available for allocation to
2 each of its potential investors.

3 (e) If a certified capital company does not receive
4 certified capital equaling the amount of premium tax credits
5 allocated to a potential certified investor for which the
6 investor filed a premium tax allocation claim within 10
7 business days after the investor received a notice of
8 allocation, the certified capital company shall notify the
9 department office by overnight common carrier delivery service
10 of the company's failure to receive the capital. That portion
11 of the premium tax credits allocated to the certified capital
12 company shall be forfeited. If the department office must
13 make a pro rata allocation under paragraph (f), the department
14 ~~office~~ shall reallocate such available credits among the other
15 certified capital companies on the same pro rata basis as the
16 initial allocation.

17 (f) If the total amount of capital committed by all
18 certified investors to certified capital companies in premium
19 tax allocation claims exceeds the aggregate cap on the amount
20 of credits that may be awarded, the premium tax credits that
21 may be allowed to any one certified investor shall be
22 allocated using the following ratio:

$$A/B = X/\$150,000,000$$

23
24
25
26 where the letter "A" represents the total amount of certified
27 capital certified investors have agreed to invest in any one
28 certified capital company, the letter "B" represents the
29 aggregate amount of certified capital that all certified
30 investors have agreed to invest in all certified capital
31 companies, the letter "X" is the numerator and represents the

1 total amount of premium tax credits and certified capital that
2 may be allocated to a certified capital company in calendar
3 year 1999, and \$150 million is the denominator and represents
4 the total amount of premium tax credits and certified capital
5 that may be allocated to all certified investors in calendar
6 year 1999. Any such premium tax credits are not first
7 available for utilization until annual filings are made in
8 2001 for calendar year 2000, and the tax credits may be used
9 at a rate not to exceed 10 percent annually.

10 (g) The maximum amount of certified capital for which
11 premium tax allocation claims may be filed on behalf of any
12 certified investor and its affiliates by one or more certified
13 companies may not exceed 15 percent of the total tax credits
14 available~~\$15 million~~.

15 (h) To the extent that less than \$150 million in
16 certified capital is raised in connection with the procedure
17 set forth in paragraphs (c)-(g), the department may adopt
18 rules to allow a subsequent allocation of the remaining
19 premium tax credits authorized under this section.

20 (i) The department shall issue a certification letter
21 for each certified investor, showing the amount invested in
22 the certified capital company. The applicable certified
23 capital company shall attest to the validity of the
24 certification letter.

25 (8) ANNUAL TAX CREDIT; CLAIM PROCESS.--

26 (c) The department ~~office~~ shall review the form, and
27 any supplemental documentation, submitted by each certified
28 capital company for the purpose of verifying:

29 1. That the businesses in which certified capital has
30 been invested by the certified capital company are in fact
31 qualified businesses, and that the amount of certified capital

1 invested by the certified capital company is as represented in
2 the form.

3 2. The amount of certified capital invested in the
4 certified capital company by the certified investors.

5 3. The amount of premium tax credit available to
6 certified investors.

7 (10) DECERTIFICATION.--

8 (b) Nothing contained in this subsection shall be
9 construed to limit the department's ~~Comptroller's~~ authority to
10 conduct audits of certified capital companies as deemed
11 appropriate and necessary.

12 (h) The department ~~office~~ shall send written notice to
13 the address of each certified investor whose premium tax
14 credit has been subject to recapture or forfeiture, using the
15 address last shown on the last premium tax filing.

16 (14) RULEMAKING AUTHORITY.--

17 (b) The department ~~office~~ may adopt any rules
18 necessary to carry out its duties, obligations, and powers
19 related to the administration, review, and reporting
20 provisions of this section and may perform any other acts
21 necessary for the proper administration and enforcement of
22 such duties, obligations, and powers.

23 (17) Notwithstanding the limitations set forth in
24 paragraph (7)(a), in the first fiscal year in which the total
25 insurance premium tax collections as determined by the Revenue
26 Estimating Conference exceed collections for fiscal year
27 2000-2001 by more than the total amount of tax credits issued
28 pursuant to this section which were used by certified
29 investors in that year, the department may allocate to
30 certified investors in accordance with this section tax
31 credits for Program Two. The department shall establish, by

1 rule, a date and procedures by which certified capital
2 companies must file applications for allocations of such
3 additional premium tax credits, which date shall be no later
4 than 120 days from the date of determination by the Revenue
5 Estimating Conference. With respect to new certified capital
6 invested and premium tax credits earned pursuant to this
7 subsection, the schedule specified in subparagraphs
8 (5)(a)1.-4. is satisfied by investments by December 31 of the
9 2nd, 3rd, 4th, and 5th calendar year, respectively, after the
10 date established by the department for applications of
11 additional premium tax credits. The department shall adopt
12 rules by which an entity not already certified as a certified
13 capital company may apply for certification as a certified
14 capital company for participation in this additional
15 allocation. The insurance premium tax credit authorized by
16 Program Two may not be used by certified investors until the
17 annual return due March 1, 2004, and may be used on all
18 subsequent returns and estimated payments; however, the
19 insurance premium tax credit that may be used on the annual
20 return due March 1, 2004, may not exceed \$10 million.

21 Section 376. Paragraph (c) of subsection (1) of
22 section 289.051, Florida Statutes, is amended to read:

23 289.051 Membership of financial institutions; loans to
24 corporation, limitations.--

25 (1) Any financial institution may request membership
26 in the corporation by making application to the board of
27 directors on such form and in such manner as said board of
28 directors may require, and membership shall become effective
29 upon acceptance of such application by said board. Each
30 member of the corporation shall make loans to the corporation
31 as and when called upon by it to do so, on such terms and

1 other conditions as shall be approved from time to time by the
2 board of directors, subject to the following conditions:

3 (c) The total amount outstanding on loans to the
4 corporation made by any member at any one time, when added to
5 the amount of the investment in the capital stock of the
6 corporation then held by such member, shall not exceed:

7 1. Twenty percent of the total amount then outstanding
8 on loans to the corporation by all members, including, in said
9 total amount outstanding, amounts validly called for loan but
10 not yet loaned.

11 2. The following limit, to be determined as of the
12 time such member becomes a member on the basis of the audited
13 balance sheet of such member at the close of its fiscal year
14 immediately preceding its application for membership, or, in
15 the case of an insurance company, its last annual statement to
16 the Department of Financial Services ~~Insurance~~: 2.5 percent of
17 the capital and surplus of commercial banks and trust
18 companies; 0.5 percent of the total outstanding loans made by
19 savings and loan associations and building and loan
20 associations; 2.5 percent of the capital and unassigned
21 surplus of stock insurance companies, except fire insurance
22 companies; 2.5 percent of the unassigned surplus of mutual
23 insurance companies, except fire insurance companies; 0.1
24 percent of the assets of fire insurance companies; and such
25 limits as may be approved by the board of directors of the
26 corporation for other financial institutions.

27 Section 377. Subsection (1) of section 289.081,
28 Florida Statutes, is amended to read:

29 289.081 Amendments to articles of incorporation.--

30 (1) The articles of incorporation may be amended by
31 the votes of the stockholders and the members of the

1 corporation, voting separately by classes, and such amendments
2 shall require approval by the affirmative vote of two-thirds
3 of the votes to which the stockholders shall be entitled and
4 two-thirds of the votes to which the members shall be
5 entitled. No amendment of the articles of incorporation which
6 is inconsistent with the general purposes expressed herein, or
7 which authorizes any additional class of capital stock to be
8 issued, or which eliminates or curtails the right of the
9 Department of Financial Services ~~Banking and Finance~~ to
10 examine the corporation or the obligation of the corporation
11 to make reports as provided in s. 289.121, shall be made. No
12 amendment of the articles of incorporation which increases the
13 obligation of a member to make loans to the corporation, or
14 makes any change in the principal amount, interest rate,
15 maturity date, or in the security or credit position of any
16 outstanding loan of a member to the corporation, or affects a
17 member's right to withdraw from membership as provided herein,
18 or affects a member's voting rights as provided herein, shall
19 be made without the consent of each member affected by such
20 amendment.

21 Section 378. Section 289.121, Florida Statutes, is
22 amended to read:

23 289.121 Periodic examinations; reports.--The
24 corporation shall be examined at least once annually by the
25 Department of Financial Services ~~Banking and Finance~~ and shall
26 make reports of its condition not less than annually to that
27 ~~said~~ department and more frequently upon call of the
28 department, which in turn shall make copies of such reports
29 available to the ~~Department of Insurance and the~~ Governor; and
30 the corporation shall also furnish such other information as
31 may from time to time be required by the Department of

1 Financial Services ~~Banking and Finance~~ and Department of
2 State. The corporation shall pay the actual cost of ~~said~~
3 examinations. The Department of Financial Services ~~Banking~~
4 ~~and Finance~~ shall exercise the same power and authority over
5 corporations organized under this act as is exercised over
6 financial institutions under the provisions of the financial
7 institutions codes, when such codes are not in conflict with
8 this act.

9 Section 379. Section 292.085, Florida Statutes, is
10 amended to read:

11 292.085 Department of Veterans' Affairs Tobacco
12 Settlement Trust Fund.--

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

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

26 Section 380. Section 313.02, Florida Statutes, is
27 amended to read:

28 313.02 Bond.--Every harbormaster appointed for any
29 port shall give an approved bond in the sum of \$500, payable
30 to the Governor of the state, for the faithful performance of
31 the harbormaster's duty, such bond to be approved by the

1 county commissioners of the county in which the port is
2 situated, and by the Department of Financial Services ~~Banking~~
3 ~~and Finance~~, and to be filed with the Department of State.

4 Section 381. Section 314.02, Florida Statutes, is
5 amended to read:

6 314.02 Bond.--Each harbormaster so appointed shall
7 enter into a bond in the penal sum of \$2,000, with two or more
8 sureties, payable to the Governor of the state and the
9 Governor's successors in office, conditioned for the faithful
10 discharge of the duties of the harbormaster's office, by the
11 harbormaster and his or her deputies, and for the payment of
12 any damage any person may sustain in consequence of any
13 wrongful act of such officer or deputy under color of the
14 harbormaster's office; such bond to be approved by the county
15 commissioners of the county in which is situated said port and
16 by the Department of Financial Services ~~Banking and Finance~~,
17 and to be filed with the Department of State.

18 Section 382. Paragraph (b) of subsection (5) of
19 section 316.3025, Florida Statutes, is amended to read:

20 316.3025 Penalties.--

21 (5)

22 (b) All penalties imposed and collected under this
23 section by any state agency having jurisdiction shall be paid
24 to the Chief Financial Officer ~~Treasurer~~, who shall credit the
25 total amount collected to the State Transportation Trust Fund
26 for use in repairing and maintaining the roads of this state.

27 Section 383. Subsection (6) of section 316.545,
28 Florida Statutes, is amended to read:

29 316.545 Weight and load unlawful; special fuel and
30 motor fuel tax enforcement; inspection; penalty; review.--

31

1 (6) Any officer or agent collecting the penalties
2 herein imposed shall give to the owner or driver of the
3 vehicle an official receipt for all penalties collected. Such
4 officers or agents of the state departments shall cooperate
5 with the owners or drivers of motor vehicles so as not to
6 delay unduly the vehicles. All penalties imposed and collected
7 under this section by any state agency having jurisdiction
8 shall be paid to the Chief Financial Officer ~~Treasurer~~, who
9 shall credit the total amount thereof to the State
10 Transportation Trust Fund, which shall be used to repair and
11 maintain the roads of this state and to enforce this section.

12 Section 384. Paragraph (c) of subsection (5) of
13 section 320.02, Florida Statutes, is amended to read:

14 320.02 Registration required; application for
15 registration; forms.--

16 (5)

17 (c) For purposes of providing proof of purchase of
18 required insurance coverage under this subsection, the
19 Department of Financial Services ~~Insurance~~ shall require that
20 uniform proof-of-purchase cards specified by the Department of
21 Highway Safety and Motor Vehicles be furnished by insurers
22 writing motor vehicle liability insurance in this state. Any
23 person altering or counterfeiting such a card or making a
24 false affidavit in order to furnish false proof or to
25 knowingly permit another person to furnish false proof is
26 guilty of a misdemeanor of the first degree, punishable as
27 provided in s. 775.082 or s. 775.083.

28 Section 385. Subsection (5) of section 320.081,
29 Florida Statutes, is amended to read:

30 320.081 Collection and distribution of annual license
31 tax imposed on the following type units.--

1 (5) The department shall keep records showing the
2 total number of stickers issued to each type unit governed by
3 this section, the total amount of license taxes collected, and
4 the county or city wherein each such unit is located and shall
5 from month to month certify to the Chief Financial Officer
6 ~~Comptroller~~ the amount derived from license taxes in each
7 county and each city within the county. Such amount, less the
8 amount of \$1.50 collected on each license, shall be paid to
9 the counties and cities within the counties wherein the unit
10 or units are located as follows: one-half to the district
11 school board and the remainder either to the board of county
12 commissioners, for units which are located within the
13 unincorporated areas of the county, or to any city within such
14 county, for units which are located within its corporate
15 limits. Payment shall be by warrant drawn by the Chief
16 Financial Officer ~~Comptroller~~ upon the treasury, which amount
17 is hereby appropriated monthly out of the License Tax
18 Collection Trust Fund.

19 Section 386. Paragraphs (b) and (c) of subsection (5)
20 of section 320.20, Florida Statutes, are amended to read:

21 320.20 Disposition of license tax moneys.--The revenue
22 derived from the registration of motor vehicles, including any
23 delinquent fees and excluding those revenues collected and
24 distributed under the provisions of s. 320.081, must be
25 distributed monthly, as collected, as follows:

26 (5)

27 (b) The Chief Financial Officer ~~State Comptroller~~ each
28 month shall deposit in the State Transportation Trust Fund an
29 amount, drawn from other funds in the State Treasury which are
30 not immediately needed or are otherwise in excess of the
31 amount necessary to meet the requirements of the State

1 Treasury, which when added to such remaining revenues each
2 month will equal one-twelfth of the amount of the anticipated
3 annual revenues to be deposited in the State Transportation
4 Trust Fund under paragraph (a) as estimated by the most recent
5 revenue estimating conference held pursuant to s. 216.136(3).
6 The transfers required hereunder may be suspended by action of
7 the Legislative Budget Commission in the event of a
8 significant shortfall of state revenues.

9 (c) In any month in which the remaining revenues
10 derived from the registration of motor vehicles exceed
11 one-twelfth of those anticipated annual remaining revenues as
12 determined by the revenue estimating conference, the excess
13 shall be credited to those state funds in the State Treasury
14 from which the amount was originally drawn, up to the amount
15 which was deposited in the State Transportation Trust Fund
16 under paragraph (b). A final adjustment must be made in the
17 last months of a fiscal year so that the total revenue
18 deposited in the State Transportation Trust Fund each year
19 equals the amount derived from the registration of motor
20 vehicles, less the amount distributed under subsection (1).
21 For the purposes of this paragraph and paragraph (b), the term
22 "remaining revenues" means all revenues deposited into the
23 State Transportation Trust Fund under paragraph (a) and
24 subsections (2) and (3). In order that interest earnings
25 continue to accrue to the General Revenue Fund, the Department
26 of Transportation may not invest an amount equal to the
27 cumulative amount of funds deposited in the State
28 Transportation Trust Fund under paragraph (b) less funds
29 credited under this paragraph as computed on a monthly basis.
30 The amounts to be credited under this and the preceding
31 paragraph must be calculated and certified to the Chief

1 Financial Officer ~~Comptroller~~ by the Executive Office of the
2 Governor.

3 Section 387. Subsection (1) of section 320.71, Florida
4 Statutes, is amended to read:

5 320.71 Nonresident motor vehicle, mobile home, or
6 recreational vehicle dealer's license.--

7 (1) Any person who is a nonresident of the state, who
8 does not have a dealer's contract from the manufacturer or
9 manufacturer's distributor of motor vehicles, mobile homes, or
10 recreational vehicles authorizing the sale thereof in definite
11 Florida territory, and who sells or engages in the business of
12 selling said vehicles at retail within the state shall
13 register with the Department of Revenue for a sales tax dealer
14 registration number and comply with chapter 212, and pay a
15 license tax of \$2,000 per annum in each county where such
16 sales are made; \$1,250 of said tax shall be transmitted to the
17 Department of Financial Services ~~Banking and Finance~~ to be
18 deposited in the General Revenue Fund of the state, and \$750
19 thereof shall be returned to the county. The license tax
20 shall cover the period from January 1 to the following
21 December 31, and no such license shall be issued for any
22 fractional part of a year.

23 Section 388. Subsection (2) of section 320.781,
24 Florida Statutes, is amended to read:

25 320.781 Mobile Home and Recreational Vehicle
26 Protection Trust Fund.--

27 (2) Beginning October 1, 1990, the department shall
28 charge and collect an additional fee of \$1 for each new mobile
29 home and new recreational vehicle title transaction for which
30 it charges a fee. This additional fee shall be deposited into
31 the trust fund. The Department of Highway Safety and Motor

1 Vehicles shall charge a fee of \$40 per annual dealer and
2 manufacturer license and license renewal, which shall be
3 deposited into the trust fund. The sums deposited in the trust
4 fund shall be used exclusively for carrying out the purposes
5 of this section. These sums may be invested and reinvested by
6 the Chief Financial Officer ~~Treasurer~~ under the same
7 limitations as apply to investment of other state funds, with
8 all interest from these investments deposited to the credit of
9 the trust fund.

10 Section 389. Subsection (5) of section 322.21, Florida
11 Statutes, is amended to read:

12 322.21 License fees; procedure for handling and
13 collecting fees.--

14 (5) The department shall collect and transmit all fees
15 received by it under this section to the Chief Financial
16 Officer ~~Treasurer~~ to be placed in the General Revenue Fund of
17 the state, and sufficient funds for the necessary expenses of
18 the department shall be included in the appropriations act.
19 The fees shall be used for the maintenance and operation of
20 the department.

21 Section 390. Subsection (1) of section 324.032,
22 Florida Statutes, is amended to read:

23 324.032 Manner of proving financial responsibility;
24 for-hire passenger transportation vehicles.--

25 (1) Notwithstanding the provisions of s. 324.031, a
26 person who is either the owner or a lessee required to
27 maintain insurance under s. 324.021(9)(b) and who operates at
28 least 300 taxicabs, limousines, jitneys, or any other for-hire
29 passenger transportation vehicles may prove financial
30 responsibility by satisfying the following:

31

1 (a) Furnishing satisfactory evidence of holding a
2 motor vehicle liability policy as defined in s. 324.031; or

3 (b) Complying with the provisions of s. 324.171, such
4 compliance to be demonstrated by maintaining at its principal
5 place of business an audited financial statement, prepared in
6 accordance with generally accepted accounting principles, and
7 providing to the department a certification issued by a
8 certified public accountant that the applicant's net worth is
9 at least equal to the requirements of s. 324.171 as determined
10 by the Department of Financial Services Insurance, including
11 claims liabilities in an amount certified as adequate by a
12 Fellow of the Casualty Actuarial Society.

13
14 Upon request by the department, the applicant must provide the
15 department at the applicant's principal place of business in
16 this state access to the applicant's underlying financial
17 information and financial statements that provide the basis of
18 the certified public accountant's certification. The
19 applicant shall reimburse the requesting department for all
20 reasonable costs incurred by it in reviewing the supporting
21 information. The maximum amount of self-insurance permissible
22 under this subsection is \$100,000 and must be stated on a
23 per-occurrence basis, and the applicant shall maintain
24 adequate excess insurance issued by an authorized or eligible
25 insurer licensed or approved by the Department of Financial
26 Services Insurance. All risks self-insured shall remain with
27 the owner or lessee providing it, and the risks are not
28 transferable to any other person, unless a policy complying
29 with paragraph (a) is obtained.

30 Section 391. Paragraph (b) of subsection (1) of
31 section 324.171, Florida Statutes, is amended to read:

1 324.171 Self-insurer.--

2 (1) Any person may qualify as a self-insurer by
3 obtaining a certificate of self-insurance from the department
4 which may, in its discretion and upon application of such a
5 person, issue said certificate of self-insurance when such
6 person has satisfied the requirements of this section to
7 qualify as a self-insurer under this section:

8 (b) A person, including any firm, partnership,
9 association, corporation, or other person, other than a
10 natural person, shall:

11 1. Possess a net unencumbered worth of at least
12 \$40,000 for the first motor vehicle and \$20,000 for each
13 additional motor vehicle; or

14 2. Maintain sufficient net worth, as determined
15 annually by the department, pursuant to rules promulgated by
16 the department, with the assistance of the Department of
17 Financial Services Insurance, to be financially responsible
18 for potential losses. The rules shall take into consideration
19 excess insurance carried by the applicant. The department's
20 determination shall be based upon reasonable actuarial
21 principles considering the frequency, severity, and loss
22 development of claims incurred by casualty insurers writing
23 coverage on the type of motor vehicles for which a certificate
24 of self-insurance is desired.

25 Section 392. Paragraph (d) of subsection (2) of
26 section 326.006, Florida Statutes, is amended to read:

27 326.006 Powers and duties of division.--

28 (2) The division has the power to enforce and ensure
29 compliance with the provisions of this chapter and rules
30 adopted under this chapter relating to the sale and ownership
31

1 of yachts and ships. In performing its duties, the division
2 has the following powers and duties:

3 (d) Notwithstanding any remedies available to a yacht
4 or ship purchaser, if the division has reasonable cause to
5 believe that a violation of any provision of this chapter or
6 rule adopted under this chapter has occurred, the division may
7 institute enforcement proceedings in its own name against any
8 broker or salesperson or any of his or her assignees or
9 agents, or against any unlicensed person or any of his or her
10 assignees or agents, as follows:

11 1. The division may permit a person whose conduct or
12 actions are under investigation to waive formal proceedings
13 and enter into a consent proceeding whereby orders, rules, or
14 letters of censure or warning, whether formal or informal, may
15 be entered against the person.

16 2. The division may issue an order requiring the
17 broker or salesperson or any of his or her assignees or
18 agents, or requiring any unlicensed person or any of his or
19 her assignees or agents, to cease and desist from the unlawful
20 practice and take such affirmative action as in the judgment
21 of the division will carry out the purposes of this chapter.

22 3. The division may bring an action in circuit court
23 on behalf of a class of yacht or ship purchasers for
24 declaratory relief, injunctive relief, or restitution.

25 4. The division may impose a civil penalty against a
26 broker or salesperson or any of his or her assignees or
27 agents, or against an unlicensed person or any of his or her
28 assignees or agents, for any violation of this chapter or a
29 rule adopted under this chapter. A penalty may be imposed for
30 each day of continuing violation, but in no event may the
31 penalty for any offense exceed \$10,000. All amounts collected

1 must be deposited with the Chief Financial Officer ~~Treasurer~~
2 to the credit of the Division of Florida Land Sales,
3 Condominiums, and Mobile Homes Trust Fund. If a broker,
4 salesperson, or unlicensed person working for a broker, fails
5 to pay the civil penalty, the division shall thereupon issue
6 an order suspending the broker's license until such time as
7 the civil penalty is paid or may pursue enforcement of the
8 penalty in a court of competent jurisdiction. The order
9 imposing the civil penalty or the order of suspension may not
10 become effective until 20 days after the date of such order.
11 Any action commenced by the division must be brought in the
12 county in which the division has its executive offices or in
13 the county where the violation occurred.

14 Section 393. Subsections (8) and (24) of section
15 331.303, Florida Statutes, are amended to read:

16 331.303 Definitions.--

17 (8) "Entertainment expenses" means the actual,
18 necessary, and reasonable costs of providing hospitality for
19 business clients or guests, which costs are defined and
20 prescribed by rules adopted by the authority, subject to
21 approval by the Chief Financial Officer ~~Comptroller~~.

22 (24) "Travel expenses" means the actual, necessary,
23 and reasonable costs of transportation, meals, lodging, and
24 incidental expenses normally incurred by a traveler, which
25 costs are defined and prescribed by rules adopted by the
26 authority, subject to approval by the Chief Financial Officer
27 ~~Comptroller~~.

28 Section 394. Subsection (2) of section 331.309,
29 Florida Statutes, is amended to read:

30 331.309 Treasurer; depositories; fiscal agent.--

31

1 (2) The board is authorized to select as depositories
2 in which the funds of the board and of the authority shall be
3 deposited any qualified public depository as defined in s.
4 280.02, upon such terms and conditions as to the payment of
5 interest by such depository upon the funds so deposited as the
6 board may deem just and reasonable. Funds of the authority may
7 also be deposited with the Florida Commercial Space Financing
8 Corporation created by s. 331.407. The funds of the authority
9 may be kept in or removed from the State Treasury upon written
10 notification from the chair of the board to the Chief
11 Financial Officer ~~State Comptroller~~.

12 Section 395. Subsection (2) of section 331.3101,
13 Florida Statutes, is amended to read:

14 331.3101 Spaceport Florida Authority; travel and
15 entertainment expenses.--

16 (2) The rules shall be subject to approval by the
17 Chief Financial Officer ~~Comptroller~~ prior to promulgation.
18 The rules shall require the submission of paid receipts, or
19 other proof prescribed by the Chief Financial Officer
20 ~~Comptroller~~, with any claim for reimbursement, and shall
21 require, as a condition for any advancement, an agreement to
22 submit paid receipts or other proof and to refund any unused
23 portion of the advancement within 15 days after the expense is
24 incurred or, if the advancement is made in connection with
25 travel, within 15 days after completion of the travel.
26 However, with respect to an advancement made solely for travel
27 expenses, the rules may allow paid receipts or other proof to
28 be submitted, and any unused portion of the advancement to be
29 refunded, within 30 days after completion of the travel.

30 Section 396. Section 331.348, Florida Statutes, is
31 amended to read:

1 331.348 Investment of funds.--The board may in its
2 discretion invest funds of the authority through the Chief
3 Financial Officer ~~Treasurer~~ or in:

4 (1) Direct obligations of or obligations guaranteed by
5 the United States or for the payment of the principal and
6 interest of which the faith and credit of the United States is
7 pledged;

8 (2) Bonds or notes issued by any of the following
9 federal agencies: Bank for Cooperatives; federal intermediate
10 credit banks; federal home loan bank system; federal land
11 banks; or the Federal National Mortgage Association (including
12 debentures or participating certificates issued by such
13 association);

14 (3) Public housing bonds issued by public housing
15 authorities and secured by a pledge or annual contributions
16 under an annual contribution contract or contracts with the
17 United States;

18 (4) Bonds or other interest-bearing obligations of any
19 county, district, city, or town located in the state for which
20 the full faith and credit of such political subdivision is
21 pledged;

22 (5) Any investment authorized for insurers by ss.
23 625.306-625.316 and amendments thereto; or

24 (6) Any investment authorized under s. 18.10 and
25 amendments thereto.

26 Section 397. Subsection (3) of section 331.419,
27 Florida Statutes, is amended to read:

28 331.419 Reports and audits.--

29 (3) ~~The Division of Banking of the~~ Department of
30 Financial Services ~~Banking and Finance~~ shall review the
31 corporation's activities once every 24 months to determine

1 compliance with this part and related laws and rules and to
2 evaluate the corporation's operations. The department ~~division~~
3 shall prepare a report based on its review and evaluation with
4 recommendation for any corrective action. The president shall
5 submit to the department ~~division~~ regular reports on the
6 corporation's activities. The content and frequency of such
7 reports shall be determined by the department ~~division~~. The
8 department ~~division~~ may charge a fee for conducting the review
9 and evaluation and preparing the related report, which fee
10 shall not be in excess of the examination fee paid by
11 chartered or licensed financial institutions.

12 Section 398. Subsection (1) of section 336.022,
13 Florida Statutes, is amended to read:

14 336.022 County transportation trust fund; controls and
15 administrative remedies.--

16 (1) Each county shall establish and maintain a
17 transportation trust fund for all transportation-related
18 revenues and expenditures. All funds received by a county for
19 transportation shall be deposited into this fund. No
20 expenditures other than transportation expenditures authorized
21 by law shall be made from such fund. Each county shall use a
22 uniform accounts classification system approved by the Chief
23 Financial Officer ~~Comptroller~~.

24 Section 399. Subsection (9) of section 337.25, Florida
25 Statutes, is amended to read:

26 337.25 Acquisition, lease, and disposal of real and
27 personal property.--

28 (9) The department, with the approval of the Chief
29 Financial Officer ~~State Comptroller~~, is authorized to disburse
30 state funds for real estate closings in a manner consistent
31

1 with good business practices and in a manner minimizing costs
2 and risks to the state.

3 Section 400. Section 339.035, Florida Statutes, is
4 amended to read:

5 339.035 Expenditures.--All expenditures by the
6 department shall be made upon vouchers issued and certified by
7 the department in such manner as the department may, by rule
8 or internal management memorandum as required by chapter 120,
9 provide and shall be paid by warrants issued by the Chief
10 Financial Officer ~~Comptroller upon the Treasurer~~.

11 Section 401. Section 339.081, Florida Statutes, is
12 amended to read:

13 339.081 Department trust funds.--The Chief Financial
14 Officer ~~Comptroller~~ shall maintain within the State Treasury
15 the following trust funds for the department:

16 (1) The State Transportation Trust Fund, to which
17 shall be credited the proceeds of the gas tax as authorized by
18 chapter 83-3, Laws of Florida, and such other funds which
19 accrue to the department which are not required to be
20 maintained in separate trust funds.

21 (2) Such other funds as may be authorized by bond
22 resolutions or agreements with any other public bodies or
23 agencies.

24 Section 402. Section 344.17, Florida Statutes, is
25 amended to read:

26 344.17 Depositories and investments.--All moneys
27 received by the Chief Financial Officer as treasurer of the
28 State Board of Administration, a body corporate under s. 9,
29 Art. XII of the State Constitution, shall be deposited by the
30 treasurer in a solvent bank or banks, to be approved and
31 accepted for such purposes by the board. In making such

1 deposits, he or she shall follow the method for the deposit of
2 state funds. Each bank receiving any portion of such funds
3 shall be required to deposit with such treasurer satisfactory
4 bonds or treasury certificates of the United States; bonds of
5 the several states; special tax school district bonds; bonds
6 of any municipality eligible to secure state deposits as
7 provided by law; bonds of any county or special road and
8 bridge district of this state entitled to participate under
9 the provisions of s. 16, Art. IX of the State Constitution of
10 1885, as adopted by the 1968 revised constitution, and of s.
11 9, Art. XII of that revision; bonds issued under the
12 provisions of s. 18, Art. XII of the State Constitution of
13 1885, as adopted by s. 9, Art. XII of the 1968 revised
14 constitution; or bonds, notes, or certificates issued by the
15 Florida State Improvement Commission or its successors, the
16 Florida Development Commission and the Division of Bond
17 Finance of the State Board of Administration, which contain a
18 pledge of the 80-percent surplus 2-cent constitutional
19 gasoline tax accruing under s. 16, Art. IX of the State
20 Constitution of 1885, as adopted by the 1968 revised
21 constitution, and under s. 9, Art. XII of that revision, which
22 shall be equal to the amount deposited with such bank. Such
23 security shall be in the possession of such treasurer; or the
24 treasurer is authorized to accept, in lieu of the actual
25 depositing with him or her of such security, trust or
26 safekeeping receipts issued by any Federal Reserve Bank, or
27 member bank thereof, or by any bank incorporated under the
28 laws of the United States; provided the member bank or bank
29 incorporated under the laws of the United States has been
30 previously approved and accepted for such purposes by the
31 State Board of Administration and the trust or safekeeping

1 receipts are in substantially the same form as that which the
2 Chief Financial Officer ~~State Treasurer~~ is authorized to
3 accept in lieu of securities given to cover deposits of state
4 funds.

5 Section 403. Subsections (2) and (9) of section
6 350.06, Florida Statutes, are amended to read:

7 350.06 Place of meeting; expenditures; employment of
8 personnel; records availability and fees.--

9 (2) All sums of money authorized to be paid on account
10 of said commissioners shall be paid out of the State Treasury
11 only on the order of the Chief Financial Officer ~~Comptroller~~.

12 (9) The commission shall keep a book in which all fees
13 collected by it as provided for herein shall be recorded,
14 together with the amount and purpose for which collected.
15 This book shall be a public record. The commission shall
16 prepare a statement of these fees in duplicate each month and
17 remit one copy of the statement, together with all fees
18 collected by it, to the Chief Financial Officer ~~Treasurer~~.
19 All moneys collected pursuant to this section by the
20 commission shall be deposited in the State Treasury to the
21 credit of the Florida Public Service Regulatory Trust Fund.

22 Section 404. Section 354.03, Florida Statutes, is
23 amended to read:

24 354.03 Bond.--Before entering into the performance of
25 his or her duties every such special officer shall enter into
26 a good and sufficient bond payable to the Governor of Florida,
27 and the Governor's successors, in the penal sum of \$5,000,
28 with some surety company authorized to do business in this
29 state as surety thereon, conditioned for the faithful
30 performance of his or her duties, and to pay any and all
31 damage done by any illegal act committed by him or her, to be

1 approved by the Department of Financial Services ~~Banking and~~
2 ~~Finance~~.

3 Section 405. Subsection (1) of section 365.173,
4 Florida Statutes, is amended to read:

5 365.173 Wireless Emergency Telephone System Fund.--

6 (1) All revenues derived from the E911 fee levied on
7 subscribers under s. 365.172 must be paid into the State
8 Treasury on or before the 15th day of each month. Such moneys
9 must be accounted for in a special fund to be designated as
10 the Wireless Emergency Telephone System Fund, a fund created
11 in the State Technology Office and must be invested by the
12 Chief Financial Officer ~~State Treasurer~~ pursuant to s. 18.125.
13 All moneys in such fund are to be expended by the State
14 Technology Office for the purposes provided in this section
15 and s. 365.172. These funds are not subject to s. 215.20.

16 Section 406. Subsection (8) of section 370.06, Florida
17 Statutes, is amended to read:

18 370.06 Licenses.--

19 (8) COLLECTION OF LICENSES, FEES.--Unless otherwise
20 provided by law, all license taxes or fees provided for in
21 this chapter shall be collected by the commission or its duly
22 authorized agents or deputies to be deposited by the Chief
23 Financial Officer ~~Comptroller~~ in the Marine Resources
24 Conservation Trust Fund. The commission may by rule establish
25 a reasonable processing fee for any free license or permit
26 required under this chapter. The commission is authorized to
27 accept payment by credit card for fees, fines, and civil
28 penalties levied pursuant to this chapter.

29 Section 407. Subsection (6) of section 370.16, Florida
30 Statutes, is amended to read:

31 370.16 Noncultured shellfish harvesting.--

1 (6) SEIZURE OF VESSELS AND CARGOES VIOLATING OYSTER
2 AND CLAM LAWS, ETC.--Vessels, with their cargoes, violating
3 the provisions of the laws relating to oysters and clams may
4 be seized by anyone duly and lawfully authorized to make
5 arrests under this section or by any sheriff or the sheriff's
6 deputies, and taken into custody, and when not arrested by the
7 sheriff or the sheriff's deputies, delivered to the sheriff of
8 the county in which the seizure is made, and shall be liable
9 to forfeiture, on appropriate proceedings being instituted by
10 the Fish and Wildlife Conservation Commission, before the
11 courts of that county. In such case the cargo shall at once
12 be disposed of by the sheriff, for account of whom it may
13 concern. Should the master or any of the crew of said vessel
14 be found guilty of using dredges or other instruments in
15 fishing oysters on natural reefs contrary to law, or fishing
16 on the natural oyster or clam reefs out of season, or
17 unlawfully taking oysters or clams belonging to a lessee, such
18 vessel shall be declared forfeited by the court, and ordered
19 sold and the proceeds of the sale shall be deposited with the
20 Chief Financial Officer ~~Treasurer~~ to the credit of the General
21 Revenue Fund; any person guilty of such violations shall not
22 be permitted to have any license provided for in this chapter
23 within a period of 1 year from the date of conviction.
24 Pending proceedings such vessel may be released upon the owner
25 furnishing bond, with good and solvent security in double the
26 value of the vessel, conditioned upon its being returned in
27 good condition to the sheriff to abide the judgment of the
28 court.
29 Section 408. Paragraph (b) of subsection (5) and
30 subsection (6) of section 370.19, Florida Statutes, are
31 amended to read:

1 370.19 Atlantic States Marine Fisheries Compact;
2 implementing legislation.--

3 (5) ACCOUNTS TO BE KEPT BY COMMISSION; EXAMINATION.--

4 (b) The Department of Financial Services ~~Banking and~~
5 ~~Finance~~ is hereby authorized and empowered from time to time
6 to examine the accounts and books of the commission, including
7 its receipts, disbursements and such other items referring to
8 its financial standing as such department deems ~~may deem~~
9 proper and to report the results of such examination to the
10 governor of such state.

11 (6) APPROPRIATION FOR EXPENSES OF COMMISSION.--The sum
12 of \$600, annually, or so much thereof as may be necessary, is
13 hereby appropriated out of any moneys in the State Treasury
14 not otherwise appropriated, for the expenses of the commission
15 created by the compact authorized by this law. The moneys
16 hereby appropriated shall be paid out of the State Treasury on
17 the audit and warrant of the Chief Financial Officer
18 ~~Comptroller~~ upon vouchers certified by the chair of the
19 commission in the manner prescribed by law.

20 Section 409. Subsection (5) of section 370.20, Florida
21 Statutes, is amended to read:

22 370.20 Gulf States Marine Fisheries Compact;
23 implementing legislation.--

24 (5) ACCOUNTS TO BE KEPT BY COMMISSION;
25 EXAMINATION.--The commission shall keep accurate accounts of
26 all receipts and disbursements and shall report to the
27 Governor and the Legislature of the State of Florida on or
28 before the 10th day of December in each year, setting forth in
29 detail the transactions conducted by it during the 12 months
30 preceding December 1 of that year and shall make
31 recommendations for any legislative action deemed by it

1 advisable, including amendments to the statutes of the State
2 of Florida which may be necessary to carry out the intent and
3 purposes of the compact between the signatory states.

4 The Department of Financial Services ~~Banking and~~
5 ~~Finance~~ is hereby authorized and empowered from time to time
6 to examine the accounts and books of the commission, including
7 its receipts, disbursements and such other items referring to
8 its financial standing as such department deems ~~may deem~~
9 proper and to report the results of such examination to the
10 governor of such state.

11 Section 410. Subsection (5) of section 373.503,
12 Florida Statutes, is amended to read:

13 373.503 Manner of taxation.--

14 (5) Each water management district created under this
15 chapter which does not receive state shared revenues under
16 part II of chapter 218 shall, before January 1 of each year,
17 certify compliance or noncompliance with s. 200.065 to the
18 Department of Financial Services ~~Banking and Finance~~.
19 Specific grounds for noncompliance shall be stated in the
20 certification. In its annual report required by s. 218.32(2),
21 the Department of Financial Services ~~Banking and Finance~~ shall
22 report to the Governor and the Legislature those water
23 management districts certifying noncompliance or not
24 reporting.

25 Section 411. Paragraph (e) of subsection (10) of
26 section 373.59, Florida Statutes, is amended to read:

27 373.59 Water Management Lands Trust Fund.--

28 (10)

29 (e) Payment in lieu of taxes pursuant to this
30 subsection shall be made annually to qualifying counties and
31 local governments after certification by the Department of

1 Revenue that the amounts applied for are reasonably
2 appropriate, based on the amount of actual taxes paid on the
3 eligible property, and after the water management districts
4 have provided supporting documents to the Chief Financial
5 Officer ~~Comptroller~~ and have requested that payment be made in
6 accordance with the requirements of this section.

7 Section 412. Subsection (2) of section 373.6065,
8 Florida Statutes, is amended to read:

9 373.6065 Adoption benefits for water management
10 district employees.--

11 (2) The Chief Financial Officer ~~Comptroller~~ and the
12 Department of Management Services shall transfer funds to
13 water management districts to pay eligible water management
14 district employees for these child adoption monetary benefits
15 in accordance with s. 215.32(1)(c)5., as long as funds remain
16 available for the program described under s. 110.152.

17 Section 413. Subsection (2) of section 374.983,
18 Florida Statutes, is amended to read:

19 374.983 Governing body.--

20 (2) The present board of commissioners of the district
21 shall continue to hold office until their respective terms
22 shall expire. Thereafter the members of the board shall
23 continue to be appointed by the Governor for a term of 4 years
24 and until their successors shall be duly appointed.

25 Specifically, commencing on January 10, 1997, the Governor
26 shall appoint the commissioners from Broward, Indian River,
27 Martin, St. Johns, and Volusia Counties and on January 10,
28 1999, the Governor shall appoint the commissioners from
29 Brevard, Dade, Duval, Flagler, Palm Beach, and St. Lucie
30 Counties. Each new appointee must be confirmed by the Senate.
31 Whenever a vacancy occurs among the commissioners, the person

1 appointed to fill such vacancy shall hold office for the
2 unexpired portion of the term of the commissioner whose place
3 he or she is selected to fill. Each commissioner under this
4 act before he or she assumes office shall be required to give
5 a good and sufficient surety bond in the sum of \$10,000
6 payable to the Governor and his or her successors in office,
7 conditioned upon the faithful performance of the duties of his
8 or her office, such ~~said~~ bond to be approved by and filed with
9 the Chief Financial Officer ~~Comptroller~~. Any and all premiums
10 upon such ~~said~~ surety bonds shall be paid by the board of
11 commissioners of such ~~said~~ district as a necessary expense of
12 the district.

13 Section 414. Subsection (2) of section 374.986,
14 Florida Statutes, is amended to read:

15 374.986 Taxing authority.--

16 (2) The board may annually assess and levy against the
17 taxable property in the district a tax not to exceed one-tenth
18 mill on the dollar for each year, and the proceeds from such
19 tax shall be used by the district for all expenses of the
20 district including the purchase price of right-of-way and
21 other property. The board shall, on or before the 31st day of
22 July of each year, prepare a tentative annual written budget
23 of the district's expected income and expenditures. In
24 addition, the board shall compute a proposed millage rate to
25 be levied as taxes for that year upon the taxable property in
26 the district for the purposes of said district. The proposed
27 budget shall be submitted to the Department of Environmental
28 Protection for its approval. Prior to adopting a final budget,
29 the district shall comply with the provisions of s. 200.065,
30 relating to the method of fixing millage, and shall fix the
31 final millage rate by resolution of the district and shall

1 also, by resolution, adopt a final budget pursuant to chapter
2 200. Copies of such resolutions executed in the name of the
3 board by its chair, and attested by its secretary, shall be
4 made and delivered to the county officials specified in s.
5 200.065 of each and every county in the district, to the
6 Department of Revenue, and to the Chief Financial Officer
7 ~~Comptroller~~. Thereupon, it shall be the duty of the property
8 assessor of each of said counties to assess, and the tax
9 collector of each of said counties to collect, a tax at the
10 rate fixed by said resolution of the board upon all of the
11 real and personal taxable property in said counties for said
12 year (and such officers shall perform such duty) and said levy
13 shall be included in the warrant of the tax assessors of each
14 of said counties and attached to the assessment roll of taxes
15 for each of said counties. The tax collectors of each of said
16 counties shall collect such taxes so levied by the board in
17 the same manner as other taxes are collected, and shall pay
18 the same within the time and in the manner prescribed by law,
19 to the treasurer of the board. It shall be the duty of the
20 Chief Financial Officer ~~Comptroller~~ to assess and levy on all
21 railroad lines and railroad property and telegraph lines and
22 telegraph property in the district a tax at the rate
23 prescribed by resolution of the board, and to collect the tax
24 thereon in the same manner as he or she is required by law to
25 assess and collect taxes for state and county purposes and to
26 remit the same to the treasurer of the board. All such taxes
27 shall be held by the treasurer of the district for the credit
28 of the district and paid out by him or her as provided herein.
29 The tax assessor and property appraiser of each of said
30 counties shall be entitled to payment as provided for by
31 general laws.

1 Section 415. subsection (3) of section 376.11, Florida
2 Statutes, is amended to read:

3 376.11 Florida Coastal Protection Trust Fund.--

4 (3) Moneys in the fund that are not needed currently
5 to meet the obligations of the department in the exercise of
6 its responsibilities under ss. 376.011-376.21 shall be
7 deposited with the Chief Financial Officer ~~Treasurer~~ to the
8 credit of the fund and may be invested in such manner as is
9 provided for by statute. Interest received on such investment
10 shall be credited to the fund, except as otherwise specified
11 herein.

12 Section 416. Subsection (5) of section 376.123,
13 Florida Statutes, is amended to read:

14 376.123 Claims against the Florida Coastal Protection
15 Trust Fund.--

16 (5) The secretary shall establish the amount to be
17 awarded and shall certify the amount of the award and the name
18 of the claimant to the Chief Financial Officer ~~State~~
19 ~~Treasurer~~, who shall pay the award from the fund, subject to
20 the provisions of subsection (12). If the claimant agrees
21 with the established amount of award, the settlement shall be
22 binding upon both parties as to all issues and cannot be
23 further attacked, collaterally or by separate action, in the
24 future.

25 Section 417. Subsection (6) of section 376.307,
26 Florida Statutes, is amended to read:

27 376.307 Water Quality Assurance Trust Fund.--

28 (6) Moneys in the fund which are not needed currently
29 to meet the obligations of the department in the exercise of
30 its responsibilities under this section shall be deposited
31 with the Chief Financial Officer ~~Treasurer~~ to the credit of

1 the fund and may be invested in such manner as is provided for
2 by statute. The interest received on such investment shall be
3 credited to the fund. Any provisions of law to the contrary
4 notwithstanding, such interest may be freely transferred
5 between this trust fund and the Inland Protection Trust Fund,
6 in the discretion of the department.

7 Section 418. Subsection (8) and paragraph (k) of
8 subsection (12) of section 376.3071, Florida Statutes, are
9 amended to read:

10 376.3071 Inland Protection Trust Fund; creation;
11 purposes; funding.--

12 (8) INVESTMENTS; INTEREST.--Moneys in the fund which
13 are not needed currently to meet the obligations of the
14 department in the exercise of its responsibilities under this
15 section and s. 376.3073 shall be deposited with the Chief
16 Financial Officer ~~Treasurer~~ to the credit of the fund and may
17 be invested in such manner as is provided for by statute. The
18 interest received on such investment shall be credited to the
19 fund. Any provisions of law to the contrary notwithstanding,
20 such interest may be freely transferred between this trust
21 fund and the Water Quality Assurance Trust Fund, in the
22 discretion of the department.

23 (12) REIMBURSEMENT FOR CLEANUP EXPENSES.--Except as
24 provided in s. 2(3), chapter 95-2, Laws of Florida, this
25 subsection shall not apply to any site rehabilitation program
26 task initiated after March 29, 1995. Effective August 1, 1996,
27 no further site rehabilitation work on sites eligible for
28 state-funded cleanup from the Inland Protection Trust Fund
29 shall be eligible for reimbursement pursuant to this
30 subsection. The person responsible for conducting site
31 rehabilitation may seek reimbursement for site rehabilitation

1 program task work conducted after March 28, 1995, in
2 accordance with s. 2(2) and (3), chapter 95-2, Laws of
3 Florida, regardless of whether the site rehabilitation program
4 task is completed. A site rehabilitation program task shall
5 be considered to be initiated when actual onsite work or
6 engineering design, pursuant to chapter 62-770, Florida
7 Administrative Code, which is integral to performing a site
8 rehabilitation program task has begun and shall not include
9 contract negotiation and execution, site research, or project
10 planning. All reimbursement applications pursuant to this
11 subsection must be submitted to the department by January 3,
12 1997. The department shall not accept any applications for
13 reimbursement or pay any claims on applications for
14 reimbursement received after that date; provided, however if
15 an application filed on or prior to January 3, 1997, was
16 returned by the department on the grounds of untimely filing,
17 it shall be refiled within 30 days after the effective date of
18 this act in order to be processed.

19 (k) Audits.--

20 1. The department is authorized to perform financial
21 and technical audits in order to certify site restoration
22 costs and ensure compliance with this chapter. The department
23 shall seek recovery of any overpayments based on the findings
24 of these audits. The department must commence any audit within
25 5 years after the date of reimbursement, except in cases where
26 the department alleges specific facts indicating fraud.

27 2. Upon determination by the department that any
28 portion of costs which have been reimbursed are disallowed,
29 the department shall give written notice to the applicant
30 setting forth with specificity the allegations of fact which
31 justify the department's proposed action and ordering

1 repayment of disallowed costs within 60 days of notification
2 of the applicant.

3 3. In the event the applicant does not make payment to
4 the department within 60 days of receipt of such notice, the
5 department shall seek recovery in a court of competent
6 jurisdiction to recover reimbursement overpayments made to the
7 person responsible for conducting site rehabilitation, unless
8 the department finds the amount involved too small or the
9 likelihood of recovery too uncertain.

10 4. In addition to the amount of any overpayment, the
11 applicant shall be liable to the department for interest of 1
12 percent per month or the prime rate, whichever is less, on the
13 amount of overpayment, from the date of overpayment by the
14 department until the applicant satisfies the department's
15 request for repayment pursuant to this paragraph. The
16 calculation of interest shall be tolled during the pendency of
17 any litigation.

18 5. Financial and technical audits frequently are
19 conducted under this section many years after the site
20 rehabilitation activities were performed and the costs
21 examined in the course of the audit were incurred by the
22 person responsible for site rehabilitation. During the
23 intervening span of years, the department's rule requirements
24 and its related guidance and other nonrule policy directives
25 may have changed significantly. The Legislature finds that it
26 may be appropriate for the department to provide relief to
27 persons subject to such requirements in financial and
28 technical audits conducted pursuant to this section.

29 a. The department is authorized to grant variances and
30 waivers from the documentation requirements of subparagraph
31 (e)2. and from the requirements of rules applicable in

1 technical and financial audits conducted under this section.
2 Variances and waivers shall be granted when the person
3 responsible for site rehabilitation demonstrates to the
4 department that application of a financial or technical
5 auditing requirement would create a substantial hardship or
6 would violate principles of fairness. For purposes of this
7 subsection, "substantial hardship" means a demonstrated
8 economic, technological, legal, or other type of hardship to
9 the person requesting the variance or waiver. For purposes of
10 this subsection, "principles of fairness" are violated when
11 the application of a requirement affects a particular person
12 in a manner significantly different from the way it affects
13 other similarly situated persons who are affected by the
14 requirement or when the requirement is being applied
15 retroactively without due notice to the affected parties.

16 b. A person whose reimbursed costs are subject to a
17 financial and technical audit under this section may file a
18 written request to the department for grant of a variance or
19 waiver. The request shall specify:

20 (I) The requirement from which a variance or waiver is
21 requested.

22 (II) The type of action requested.

23 (III) The specific facts which would justify a waiver
24 or variance.

25 (IV) The reason or reasons why the requested variance
26 or waiver would serve the purposes of this section.

27 c. Within 90 days after receipt of a written request
28 for variance or waiver under this subsection, the department
29 shall grant or deny the request. If the request is not granted
30 or denied within 90 days of receipt, the request shall be
31 deemed approved. An order granting or denying the request

1 shall be in writing and shall contain a statement of the
2 relevant facts and reasons supporting the department's action.
3 The department's decision to grant or deny the petition shall
4 be supported by competent substantial evidence and is subject
5 to ss. 120.569 and 120.57. Once adopted, model rules
6 promulgated by the Administration Commission under s. 120.542
7 shall govern the processing of requests under this provision.

8 6. The Chief Financial Officer ~~Comptroller~~ may audit
9 the records of persons who receive or who have received
10 payments pursuant to this chapter in order to verify site
11 restoration costs, ensure compliance with this chapter, and
12 verify the accuracy and completeness of audits performed by
13 the department pursuant to this paragraph. The Chief
14 Financial Officer ~~Comptroller~~ may contract with entities or
15 persons to perform audits pursuant to this subparagraph. The
16 Chief Financial Officer ~~Comptroller~~ shall commence any audit
17 within 1 year after the department's completion of an audit
18 conducted pursuant to this paragraph, except in cases where
19 the department or the Chief Financial Officer ~~Comptroller~~
20 alleges specific facts indicating fraud.

21 Section 419. Paragraphs (b) and (c) of subsection (5)
22 of section 376.3072, Florida Statutes, are amended to read:

23 376.3072 Florida Petroleum Liability and Restoration
24 Insurance Program.--

25 (5)

26 (b) The Department of Financial Services ~~Insurance~~
27 shall offer assistance as requested by the department to
28 implement the program.

29 (c) Any insurance company, reinsurance company, or
30 other entity contracted with by the department shall be
31 subject to the same rules and regulations of the Department of

1 Financial Services Insurance applicable to other insurers,
2 reinsurers, and other entities.

3 Section 420. Subsection (2) of section 376.3075,
4 Florida Statutes, is amended to read:

5 376.3075 Inland Protection Financing Corporation.--

6 (2) The corporation shall be governed by a board of
7 directors consisting of the Governor or the Governor's
8 designee, the Chief Financial Officer ~~Comptroller~~ or the Chief
9 Financial Officer's Comptroller's designee, ~~the Treasurer or~~
10 ~~the Treasurer's designee~~, the chair of the Florida Black
11 Business Investment Board, and the secretary of the Department
12 of Environmental Protection. The executive director of the
13 State Board of Administration shall be the chief executive
14 officer of the corporation and shall direct and supervise the
15 administrative affairs of the corporation and shall control,
16 direct, and supervise the operation of the corporation. The
17 corporation shall also have such other officers as may be
18 determined by the board of directors.

19 Section 421. Subsection (10) of section 376.3078,
20 Florida Statutes, is amended to read:

21 376.3078 Drycleaning facility restoration; funds;
22 uses; liability; recovery of expenditures.--

23 (10) INSURANCE REQUIREMENTS.--The owner or operator of
24 an operating drycleaning facility or wholesale supply facility
25 shall, by January 1, 1999, have purchased third-party
26 liability insurance for \$1 million of coverage for each
27 operating facility. The owner or operator shall maintain such
28 insurance while operating as a drycleaning facility or
29 wholesale supply facility and provide proof of such insurance
30 to the department upon registration renewal each year
31 thereafter. Such requirement applies only if such insurance

1 becomes available to the owner or operator at a reasonable
2 rate and covers liability for contamination subsequent to the
3 effective date of the policy and prior to the effective date,
4 retroactive to the commencement of operations at the
5 drycleaning facility or wholesale supply facility. Such
6 insurance may be offered in group coverage policies with a
7 minimum coverage of \$1 million for each member of the group
8 per year. For the purposes of this subsection, reasonable rate
9 means the rate developed based on exposure to loss and
10 underwriting and administrative costs as determined by the
11 Department of Financial Services Insurance, in consultation
12 with representatives of the drycleaning industry.

13 Section 422. Paragraphs (b) and (c) of subsection (4)
14 of section 376.3079, Florida Statutes, are amended to read:

15 376.3079 Third-party liability insurance.--

16 (4)

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 of the Department of Financial
23 Services Insurance applicable to other insurers, reinsurers,
24 and other entities.

25 Section 423. Subsection (6) of section 376.40, Florida
26 Statutes, is amended to read:

27 376.40 Petroleum exploration and production; purposes;
28 funding.--

29 (6) INVESTMENTS; INTEREST.--Moneys in the trust fund
30 which are not needed currently to meet the obligations of the
31 department in the exercise of its responsibilities under this

1 section shall be deposited with the Chief Financial Officer
2 ~~Treasurer~~ to the credit of the trust fund and may be invested
3 as provided by law.

4 Section 424. Section 377.23, Florida Statutes. is
5 amended to read:

6 377.23 Monthly reports to division.--Every producer of
7 oil or gas in the state shall submit to the division, on forms
8 prescribed by the division, a monthly report of the actual
9 production from each and every oil and gas well operated by
10 him or her. Such ~~said~~ producer shall submit a duplicate copy
11 of such ~~said~~ report at the same time to the Department of
12 Financial Services ~~Banking and Finance~~; and such ~~said~~ reports
13 shall be submitted through the medium of the United States
14 mails, and it shall be unlawful for the same to be transmitted
15 or received in any other way.

16 Section 425. Paragraph (a) of subsection (1) of
17 section 377.2425, Florida Statutes, is amended to read:

18 377.2425 Manner of providing security for geophysical
19 exploration, drilling, and production.--

20 (1) Prior to granting a permit to conduct geophysical
21 operations; drilling of exploratory, injection, or production
22 wells; producing oil and gas from a wellhead; or transporting
23 oil and gas through a field-gathering system, the department
24 shall require the applicant or operator to provide surety that
25 these operations will be conducted in a safe and
26 environmentally compatible manner.

27 (a) The applicant for a drilling, production, or
28 injection well permit or a geophysical permit may provide the
29 following types of surety to the department for this purpose:

30 1. A deposit of cash or other securities made payable
31 to the Minerals Trust Fund. Such cash or securities so

1 deposited shall be held at interest by the Chief Financial
2 Officer ~~Comptroller~~ to satisfy safety and environmental
3 performance provisions of this chapter. The interest shall be
4 credited to the Minerals Trust Fund. Such cash or other
5 securities shall be released by the Chief Financial Officer
6 ~~Comptroller~~ upon request of the applicant and certification by
7 the department that all safety and environmental performance
8 provisions established by the department for permitted
9 activities have been fulfilled.

10 2. A bond of a surety company authorized to do
11 business in the state in an amount as provided by rule.

12 3. A surety in the form of an irrevocable letter of
13 credit in an amount as provided by rule guaranteed by an
14 acceptable financial institution.

15 Section 426. Paragraph (c) of subsection (4) of
16 section 377.705, Florida Statutes, is amended to read:

17 377.705 Solar Energy Center; development of solar
18 energy standards.--

19 (4) FLORIDA SOLAR ENERGY CENTER TO SET STANDARDS,
20 REQUIRE DISCLOSURE, SET TESTING FEES.--

21 (c) The center shall be entitled to receive a testing
22 fee sufficient to cover the costs of such testing. All
23 testing fees shall be transmitted by the center to the Chief
24 Financial Officer ~~State Treasurer~~ to be deposited in the Solar
25 Energy Center Testing Trust Fund, which is hereby created in
26 the State Treasury, and disbursed for the payment of expenses
27 incurred in testing solar energy systems.

28 Section 427. Paragraph (a) of subsection (2) of
29 section 378.035, Florida Statutes, is amended to read:

30 378.035 Department responsibilities and duties with
31 respect to Nonmandatory Land Reclamation Trust Fund.--

1 (2)(a) The department shall verify that reclamation
2 activities or portions thereof have been accomplished in
3 accordance with the reclamation contract and shall certify the
4 cost of such reclamation activities to the Chief Financial
5 Officer ~~Comptroller~~ for reimbursement.

6 Section 428. Section 378.037, Florida Statutes, is
7 amended to read:

8 378.037 Chief Financial Officer ~~Comptroller~~;
9 responsibilities and duties with respect to reimbursement of
10 reclamation costs.--

11 (1) The Chief Financial Officer ~~Comptroller~~ shall
12 reimburse approved reclamation costs, less any amount
13 reasonably retained to ensure completion of the approved
14 reclamation program, subject to the following limitations:

15 (a) A landowner shall not be entitled to payments in
16 excess of the funds available in the Nonmandatory Land
17 Reclamation Trust Fund.

18 (b) Cost reimbursement shall not exceed the least of:

19 1. The amount actually expended and reasonably
20 necessary to effect the reclamation consistent with the
21 standards of the approved master reclamation plan;

22 2. The reclamation contract amount; or

23 3. The amount allowed based on prereclamation land
24 form, to include mined-out areas at \$4,000 per reclaimed acre
25 and clay settling areas and other land forms at \$2,500 per
26 reclaimed acre adjusted annually by the appropriate
27 inflationary index for construction.

28 (2) The Chief Financial Officer ~~Comptroller~~ shall
29 adopt rules to implement the payment provisions of the master
30 reclamation plan and this section, including, but not limited
31 to, periodic reimbursements and competitive procurement of

1 services and commodities to the extent practicable, unless a
2 landowner elects to utilize his or her own personnel and
3 equipment. The landowner may select a method of reimbursement
4 from the alternatives adopted by the Chief Financial Officer
5 ~~Comptroller~~.

6 Section 429. Subsection (3) of section 378.208,
7 Florida Statutes, is amended to read:

8 378.208 Financial responsibility.--

9 (3) The amount of financial responsibility shall be
10 established by the secretary and shall not exceed \$4,000 per
11 acre for each reclamation program, adjusted annually by the
12 appropriate inflationary index for construction. The
13 Department of Financial Services ~~Insurance~~ shall be available
14 to assist the secretary in making this determination. In
15 establishing the amount of financial responsibility, the
16 secretary shall consider:

17 (a) The amount and type of reclamation involved.

18 (b) The probable cost of proper reclamation.

19 (c) Inflation rates.

20 (d) Changes in mining operations.

21 Section 430. Subsection (2) of section 381.765,
22 Florida Statutes, is amended to read:

23 381.765 Retention of title to and disposal of
24 equipment.--

25 (2) The department may offer for sale any surplus
26 items acquired in operating the brain and spinal cord injury
27 program when they are no longer necessary or exchange them for
28 necessary items that may be used to greater advantage. When
29 any such surplus equipment is sold or exchanged, a receipt for
30 the equipment shall be taken from the purchaser showing the
31 consideration given for such equipment and forwarded to the

1 Chief Financial Officer ~~Treasurer~~, and any funds received by
2 the brain and spinal cord injury program pursuant to any such
3 transaction shall be deposited in the Brain and Spinal Cord
4 Injury Rehabilitation Trust Fund and shall be available for
5 expenditure for any purpose consistent with this part.

6 Section 431. Subsection (3) of section 381.90, Florida
7 Statutes, is amended to read:

8 381.90 Health Information Systems Council; legislative
9 intent; creation, appointment, duties.--

10 (3) The council shall be composed of the following
11 members or their senior executive-level designees:

12 (a) The secretary of the Department of Health;

13 (b) The secretary of the Department of Business and
14 Professional Regulation;

15 (c) The secretary of the Department of Children and
16 Family Services;

17 (d) The Secretary of Health Care Administration;

18 (e) The secretary of the Department of Corrections;

19 (f) The Attorney General;

20 (g) The executive director of the Correctional Medical
21 Authority;

22 (h) Two members representing county health
23 departments, one from a small county and one from a large
24 county, appointed by the Governor;

25 (i) A representative from the Florida Association of
26 Counties;

27 (j) The Chief Financial Officer ~~State Treasurer and~~
28 ~~Insurance Commissioner~~;

29 (k) A representative from the Florida Healthy Kids
30 Corporation;

31

1 (1) A representative from a school of public health
2 chosen by the Board of Regents;

3 (m) The Commissioner of Education;

4 (n) The secretary of the Department of Elderly
5 Affairs; and

6 (o) The secretary of the Department of Juvenile
7 Justice.

8
9 Representatives of the Federal Government may serve without
10 voting rights.

11 Section 432. Subsection (5) of section 388.201,
12 Florida Statutes, is amended to read:

13 388.201 District budgets; hearing.--

14 (5) County commissioners' mosquito and arthropod
15 control budgets shall be made and adopted as prescribed by
16 subsections (1) and (2); summary figures shall be incorporated
17 into the county budgets as prescribed by the Department of
18 Financial Services ~~Banking and Finance~~.

19 Section 433. Section 388.301, Florida Statutes, is
20 amended to read:

21 388.301 Payment of state funds; supplies and
22 services.--State funds shall be payable quarterly, in
23 accordance with the rules of the department, upon requisition
24 by the department to the Chief Financial Officer ~~Comptroller~~.
25 The department is authorized to furnish insecticides,
26 chemicals, materials, equipment, vehicles, and personnel in
27 lieu of state funds where mass purchasing may save funds for
28 the state, or where it would be more practical and economical
29 to use equipment, supplies, and services between two or more
30 counties or districts.

31

1 Section 434. Subsection (3) of section 391.025,
2 Florida Statutes, is amended to read:

3 391.025 Applicability and scope.--

4 (3) The Children's Medical Services program shall not
5 be deemed an insurer and is not subject to the licensing
6 requirements of the Florida Insurance Code or the rules of the
7 Department of Financial Services Insurance, when providing
8 services to children who receive Medicaid benefits, other
9 Medicaid-eligible children with special health care needs, and
10 children participating in the Florida Kidcare program.

11 Section 435. Subsection (2) of section 391.221,
12 Florida Statutes, is amended to read:

13 391.221 Statewide Children's Medical Services Network
14 Advisory Council.--

15 (2) The council shall be composed of 12 members
16 representing the private health care provider sector, families
17 with children who have special health care needs, the Agency
18 for Health Care Administration, the Department of Financial
19 Services Insurance, the Florida Chapter of the American
20 Academy of Pediatrics, an academic health center pediatric
21 program, and the health insurance industry. Members shall be
22 appointed for 4-year, staggered terms. In no case shall an
23 employee of the Department of Health serve as a member or as
24 an ex officio member of the advisory council. A vacancy shall
25 be filled for the remainder of the unexpired term in the same
26 manner as the original appointment. A member may not be
27 appointed to more than two consecutive terms. However, a
28 member may be reappointed after being off the council for at
29 least 2 years.

30 Section 436. Subsection (2) of section 392.69, Florida
31 Statutes, is amended to read:

1 392.69 Appropriation, sinking, and maintenance trust
2 funds; additional powers of the department.--

3 (2) All moneys required to be paid by the several
4 counties and patients for the care and maintenance of patients
5 hospitalized by the department for tuberculosis shall be paid
6 to the department, and the department shall immediately
7 transmit these moneys to the Chief Financial Officer
8 ~~Treasurer~~, who shall deposit the moneys in the Operations and
9 Maintenance Trust Fund, which shall contain all moneys
10 appropriated by the Legislature or received from patients or
11 other third parties and shall be expended for the operation
12 and maintenance of the state-operated tuberculosis hospital.

13 Section 437. Subsection (5) of section 393.002,
14 Florida Statutes, is amended to read:

15 393.002 Transfer of Florida Developmental Disabilities
16 Council as formerly created in this chapter to private
17 nonprofit corporation.--

18 (5) Pursuant to the applicable provisions of chapter
19 284, the Division of Risk Management of the Department of
20 Financial Services ~~Insurance~~ is authorized to insure this
21 nonprofit corporation under the same general terms and
22 conditions as the Florida Developmental Disabilities Council
23 was insured in the Department of Children and Family Services
24 by the division prior to the transfer of its functions
25 authorized by this section.

26 Section 438. Subsection (2) of section 393.075,
27 Florida Statutes, is amended to read:

28 393.075 General liability coverage.--

29 (2) The Division of Risk Management of the Department
30 of Financial Services ~~Insurance~~ shall provide coverage through
31 the Department of Children and Family Services to any person

1 who owns or operates a foster care facility or group home
2 facility solely for the Department of Children and Family
3 Services, who cares for children placed by developmental
4 services staff of the department, and who is licensed pursuant
5 to s. 393.067 to provide such supervision and care in his or
6 her place of residence. The coverage shall be provided from
7 the general liability account of the State Risk Management
8 Trust Fund. The coverage is limited to general liability
9 claims arising from the provision of supervision and care of
10 children in a foster care facility or group home facility
11 pursuant to an agreement with the department and pursuant to
12 guidelines established through policy, rule, or statute.
13 Coverage shall be subject to the limits provided in ss. 284.38
14 and 284.385, and the exclusions set forth therein, together
15 with other exclusions as may be set forth in the certificate
16 of coverage issued by the trust fund. A person covered under
17 the general liability account pursuant to this subsection
18 shall immediately notify the Division of Risk Management of
19 the Department of Financial Services ~~Insurance~~ of any
20 potential or actual claim.

21 Section 439. Section 394.482, Florida Statutes, is
22 amended to read:

23 394.482 Payment of financial obligations imposed by
24 compact.--The compact administrator, subject to the approval
25 of the Chief Financial Officer ~~Comptroller~~, may make or
26 arrange for any payments necessary to discharge any financial
27 obligations imposed upon this state by the compact or by any
28 supplementary agreement entered into thereunder.

29 Section 440. Paragraphs (a) and (c) of subsection (4)
30 of section 400.0238, Florida Statutes, are amended to read:

31 400.0238 Punitive damages; limitation.--

1 (4) Notwithstanding any other law to the contrary, the
2 amount of punitive damages awarded pursuant to this section
3 shall be equally divided between the claimant and the Quality
4 of Long-Term Care Facility Improvement Trust Fund, in
5 accordance with the following provisions:

6 (a) The clerk of the court shall transmit a copy of
7 the jury verdict to the Chief Financial Officer ~~State~~
8 ~~Treasurer~~ by certified mail. In the final judgment, the court
9 shall order the percentages of the award, payable as provided
10 herein.

11 (c) The Department of Financial Services ~~Banking and~~
12 ~~Finance~~ shall collect or cause to be collected all payments
13 due the state under this section. Such payments are made to
14 the Chief Financial Officer ~~Comptroller~~ and deposited in the
15 appropriate fund specified in this subsection.

16 Section 441. Subsection (2) of section 400.063,
17 Florida Statutes, is amended to read:

18 400.063 Resident Protection Trust Fund.--

19 (2) The agency is authorized to establish for each
20 facility, subject to intervention by the agency, a separate
21 bank account for the deposit to the credit of the agency of
22 any moneys received from the Resident Protection Trust Fund or
23 any other moneys received for the maintenance and care of
24 residents in the facility, and the agency is authorized to
25 disburse moneys from such account to pay obligations incurred
26 for the purposes of this section. The agency is authorized to
27 requisition moneys from the Resident Protection Trust Fund in
28 advance of an actual need for cash on the basis of an estimate
29 by the agency of moneys to be spent under the authority of
30 this section. Any bank account established under this section
31 need not be approved in advance of its creation as required by

1 s. 18.101, but shall be secured by depository insurance equal
2 to or greater than the balance of such account or by the
3 pledge of collateral security in conformance with criteria
4 established in s. 18.11. The agency shall notify the Chief
5 Financial Officer ~~Treasurer and the Comptroller~~ of any such
6 account so established and shall make a quarterly accounting
7 to the Chief Financial Officer ~~Comptroller~~ for all moneys
8 deposited in such account.

9 Section 442. Paragraph (c) of subsection (4) of
10 section 400.071, Florida Statutes, as amended by section 18 of
11 chapter 2001-377, Laws of Florida, is amended to read:

12 400.071 Application for license.--

13 (4) Each applicant for licensure must comply with the
14 following requirements:

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 health care or assisted living licensure requirements of this
19 state is acceptable in fulfillment of paragraph (a). Proof of
20 compliance with background screening which has been submitted
21 within the previous 5 years to fulfill the requirements of the
22 Department of Financial Services ~~Insurance~~ pursuant to chapter
23 651 as part of an application for a certificate of authority
24 to operate a continuing care retirement community is
25 acceptable in fulfillment of the Department of Law Enforcement
26 and Federal Bureau of Investigation background check.

27 Section 443. Paragraph (b) of subsection (1) of
28 section 400.4174, Florida Statutes, is amended to read:

29 400.4174 Background screening; exemptions.--

30 (1)
31

1 (b) Proof of compliance with level 2 screening
2 standards which has been submitted within the previous 5 years
3 to meet any facility or professional licensure requirements of
4 the agency or the Department of Health satisfies the
5 requirements of this subsection, provided that such proof is
6 accompanied, under penalty of perjury, by an affidavit of
7 compliance with the provisions of chapter 435. Proof of
8 compliance with the background screening requirements of the
9 Department of Financial Services ~~Insurance~~ for applicants for
10 a certificate of authority to operate a continuing care
11 retirement community under chapter 651, submitted within the
12 last 5 years, satisfies the Department of Law Enforcement and
13 Federal Bureau of Investigation portions of a level 2
14 background check.

15 Section 444. Paragraphs (a) and (c) of subsection (4)
16 of section 400.4298, Florida Statutes, are amended to read:

17 400.4298 Punitive damages; limitation.--

18 (4) Notwithstanding any other law to the contrary, the
19 amount of punitive damages awarded pursuant to this section
20 shall be equally divided between the claimant and the Quality
21 of Long-Term Care Facility Improvement Trust Fund, in
22 accordance with the following provisions:

23 (a) The clerk of the court shall transmit a copy of
24 the jury verdict to the Chief Financial Officer ~~State~~
25 ~~Treasurer~~ by certified mail. In the final judgment, the court
26 shall order the percentages of the award, payable as provided
27 herein.

28 (c) The Department of Financial Services ~~Banking and~~
29 ~~Finance~~ shall collect or cause to be collected all payments
30 due the state under this section. Such payments are made to
31

1 the Chief Financial Officer ~~Comptroller~~ and deposited in the
2 appropriate fund specified in this subsection.

3 Section 445. Paragraph (c) of subsection (4) of
4 section 400.471, Florida Statutes, is amended to read:

5 400.471 Application for license; fee; provisional
6 license; temporary permit.--

7 (4) Each applicant for licensure must comply with the
8 following requirements:

9 (c) Proof of compliance with the level 2 background
10 screening requirements of chapter 435 which has been submitted
11 within the previous 5 years in compliance with any other
12 health care or assisted living licensure requirements of this
13 state is acceptable in fulfillment of paragraph (a). Proof of
14 compliance with background screening which has been submitted
15 within the previous 5 years to fulfill the requirements of the
16 Department of Financial Services ~~Insurance~~ pursuant to chapter
17 651 as part of an application for a certificate of authority
18 to operate a continuing care retirement community is
19 acceptable in fulfillment of the Department of Law Enforcement
20 and Federal Bureau of Investigation background check.

21 Section 446. Paragraph (c) of subsection (10) of
22 section 400.962, Florida Statutes, is amended to read:

23 400.962 License required; license application.--
24 (10)

25 (c) Proof of compliance with the level 2 background
26 screening requirements of chapter 435 which has been submitted
27 within the previous 5 years in compliance with any other
28 licensure requirements under this chapter satisfies the
29 requirements of paragraph (a). Proof of compliance with
30 background screening which has been submitted within the
31 previous 5 years to fulfill the requirements of the Department

1 of Financial Services ~~Insurance~~ under chapter 651 as part of
2 an application for a certificate of authority to operate a
3 continuing care retirement community satisfies the
4 requirements for the Department of Law Enforcement and Federal
5 Bureau of Investigation background checks.

6 Section 447. Paragraph (b) of subsection (2) of
7 section 401.245, Florida Statutes, is amended to read:

8 401.245 Emergency Medical Services Advisory Council.--

9 (2)

10 (b) Representation on the Emergency Medical Services
11 Advisory Council shall include: two licensed physicians who
12 are "medical directors" as defined in s. 401.23(15) or whose
13 medical practice is closely related to emergency medical
14 services; two emergency medical service administrators, one of
15 whom is employed by a fire service; two certified paramedics,
16 one of whom is employed by a fire service; two certified
17 emergency medical technicians, one of whom is employed by a
18 fire service; one emergency medical services educator; one
19 emergency nurse; one hospital administrator; one
20 representative of air ambulance services; one representative
21 of a commercial ambulance operator; and two laypersons who are
22 in no way connected with emergency medical services, one of
23 whom is a representative of the elderly. Ex officio members of
24 the advisory council from state agencies shall include, but
25 shall not be limited to, representatives from the Department
26 of Education, the Department of Management Services, the
27 Department of Financial Services ~~Insurance~~, the Department of
28 Highway Safety and Motor Vehicles, the Department of
29 Transportation, and the Department of Community Affairs.

30 Section 448. Paragraph (c) of subsection (2) of
31 section 401.25, Florida Statutes, is amended to read:

1 401.25 Licensure as a basic life support or an
2 advanced life support service.--

3 (2) The department shall issue a license for operation
4 to any applicant who complies with the following requirements:

5 (c) The applicant has furnished evidence of adequate
6 insurance coverage for claims arising out of injury to or
7 death of persons and damage to the property of others
8 resulting from any cause for which the owner of such business
9 or service would be liable. The applicant must provide
10 insurance in such sums and under such terms as required by the
11 department. In lieu of such insurance, the applicant may
12 furnish a certificate of self-insurance evidencing that the
13 applicant has established an adequate self-insurance plan to
14 cover such risks and that the plan has been approved by the
15 Department of Financial Services Insurance.

16 Section 449. Section 402.04, Florida Statutes, is
17 amended to read:

18 402.04 Award of scholarships and stipends;
19 disbursement of funds; administration.--The award of
20 scholarships or stipends provided for herein shall be made by
21 the Department of Children and Family Services, hereinafter
22 referred to as the department. The department shall handle the
23 administration of the scholarship or stipend and the
24 Department of Education shall, for and on behalf of the
25 department, handle the notes issued for the payment of the
26 scholarships or stipends provided for herein and the
27 collection of same. The department shall prescribe
28 regulations governing the payment of scholarships or stipends
29 to the school, college, or university for the benefit of the
30 scholarship or stipend holders. All scholarship awards,
31 expenses and costs of administration shall be paid from moneys

1 appropriated by the Legislature and shall be paid upon
2 vouchers approved by the department and properly certified by
3 the Chief Financial Officer ~~Comptroller~~.

4 Section 450. Paragraph (b) of subsection (1) and
5 subsection (4) of section 402.17, Florida Statutes, are
6 amended to read:

7 402.17 Claims for care and maintenance; trust
8 property.--The Department of Children and Family Services
9 shall protect the financial interest of the state with respect
10 to claims which the state may have for the care and
11 maintenance of clients of the department. The department
12 shall, as trustee, hold in trust and administer money of
13 clients and property designated for the personal benefit of
14 clients. The department shall act as trustee of clients' money
15 and property entrusted to it in accordance with the usual
16 fiduciary standards applicable generally to trustees, and
17 shall act to protect both the short-term and long-term
18 interests of the clients for whose benefit it is holding such
19 money and property.

20 (1) CLAIMS FOR CARE AND MAINTENANCE.--

21 (b) The Department of Children and Family Services may
22 charge off accounts if it certifies that the accounts are
23 uncollectible after diligent efforts have been made to collect
24 them. If the department certifies an account to the
25 Department of Financial Services ~~Banking and Finance~~, setting
26 forth the circumstances upon which it predicates the
27 uncollectibility, and if, pursuant to s. 17.04, the Department
28 of Financial Services ~~Banking and Finance~~ concurs, the account
29 shall be charged off.

30 (4) DISPOSITION OF UNCLAIMED TRUST FUNDS.--Upon the
31 death of any client affected by the provisions of this

1 section, any unclaimed money held in trust by the department
2 or by the Chief Financial Officer ~~Treasurer~~ for him or her
3 shall be applied first to the payment of any unpaid claim of
4 the state against the client, and any balance remaining
5 unclaimed for a period of 1 year shall escheat to the state as
6 unclaimed funds held by fiduciaries.

7 Section 451. Paragraph (a) of subsection (8) of
8 section 402.33, Florida Statutes, is amended to read:

9 402.33 Department authority to charge fees for
10 services provided.--

11 (8)(a) Unpaid fees for services provided by the
12 department to a client constitute a lien on any property owned
13 by the client or the client's responsible party which property
14 is not exempt by s. 4, Art. X of the State Constitution. If
15 fees are not paid within 6 months after they are billed, the
16 department shall charge interest on the unpaid balance at a
17 rate equal to the average rate of interest earned by the State
18 Treasury on state funds deposited in commercial banks as
19 reported by the Chief Financial Officer ~~Treasurer~~ for the
20 previous year. The department is authorized to negotiate and
21 settle any delinquent account, and to charge off any
22 delinquent account even though the claim of the department may
23 be against the client, a responsible party, or a payor of
24 third-party benefits, either directly for the department or as
25 a fiduciary for the client or responsible party.

26 Section 452. Paragraph (a) of subsection (8) of
27 section 403.1835, Florida Statutes, is amended to read:

28 403.1835 Water pollution control financial
29 assistance.--

30 (8)(a) If a local governmental agency becomes
31 delinquent on its loan, the department shall so certify to the

1 Chief Financial Officer ~~Comptroller~~, who shall forward the
2 amount delinquent to the department from any unobligated funds
3 due to the local governmental agency under any revenue-sharing
4 or tax-sharing fund established by the state, except as
5 otherwise provided by the State Constitution. Certification of
6 delinquency shall not limit the department from pursuing other
7 remedies available for default on a loan. The department may
8 impose a penalty for delinquent loan payments in an amount not
9 to exceed an interest rate of 18 percent per annum on the
10 amount due in addition to charging the cost to handle and
11 process the debt. Penalty interest shall accrue on any amount
12 due and payable beginning on the 30th day following the date
13 upon which payment is due.

14 Section 453. Subsection (2) of section 403.1837,
15 Florida Statutes, is amended to read:

16 403.1837 Florida Water Pollution Control Financing
17 Corporation.--

18 (2) The corporation shall be governed by a board of
19 directors consisting of the Governor's Budget Director or the
20 budget director's designee, the Chief Financial Officer
21 ~~Comptroller~~ or the Chief Financial Officer's ~~Comptroller's~~
22 designee, ~~the Treasurer or the Treasurer's designee~~, and the
23 Secretary of Environmental Protection or the secretary's
24 designee, ~~until January 7, 2003, at which time the board shall~~
25 ~~include the Chief Financial Officer or the Chief Financial~~
26 ~~Officer's designee in place of the Treasurer and Comptroller.~~

27 The executive director of the State Board of Administration
28 shall be the chief executive officer of the corporation; shall
29 direct and supervise the administrative affairs of the
30 corporation; and shall control, direct, and supervise

31

1 operation of the corporation. The corporation shall have such
2 other officers as may be determined by the board of directors.

3 Section 454. Subsection (21) of section 403.706,
4 Florida Statutes, is amended to read:

5 403.706 Local government solid waste
6 responsibilities.--

7 (21) In addition to any other penalties provided by
8 law, a local government that does not comply with the
9 requirements of subsections (2) and (4) shall not be eligible
10 for grants from the Solid Waste Management Trust Fund, and the
11 department may notify the Chief Financial Officer State
12 ~~Treasurer~~ to withhold payment of all or a portion of funds
13 payable to the local government by the department from the
14 General Revenue Fund or by the department from any other state
15 fund, to the extent not pledged to retire bonded indebtedness,
16 unless the local government demonstrates that good faith
17 efforts to meet the requirements of subsections (2) and (4)
18 have been made or that the funds are being or will be used to
19 finance the correction of a pollution control problem that
20 spans jurisdictional boundaries.

21 Section 455. Subsection (3) of section 403.724,
22 Florida Statutes, is amended to read:

23 403.724 Financial responsibility.--

24 (3) The amount of financial responsibility required
25 shall be approved by the department upon each issuance,
26 renewal, or modification of a hazardous waste facility permit.
27 Such factors as inflation rates and changes in operation may
28 be considered when approving financial responsibility for the
29 duration of the permit. The Department of Financial Services
30 ~~Insurance~~ shall be available to assist the department in
31 making this determination. In approving or modifying the

1 amount of financial responsibility, the department shall
2 consider:

3 (a) The amount and type of hazardous waste involved;

4 (b) The probable damage to human health and the
5 environment;

6 (c) The danger and probable damage to private and
7 public property near the facility;

8 (d) The probable time that the hazardous waste and
9 facility involved will endanger the public health, safety, and
10 welfare or the environment; and

11 (e) The probable costs of properly closing the
12 facility.

13 Section 456. Paragraph (a) of subsection (15) of
14 section 403.8532, Florida Statutes, is amended to read:

15 403.8532 Drinking water state revolving loan fund;
16 use; rules.--

17 (15)(a) If a local governmental agency defaults under
18 the terms of its loan agreement, the department shall so
19 certify to the Chief Financial Officer ~~Comptroller~~, who shall
20 forward the amount delinquent to the department from any
21 unobligated funds due to the local governmental agency under
22 any revenue-sharing or tax-sharing fund established by the
23 state, except as otherwise provided by the State Constitution.
24 Certification of delinquency shall not limit the department
25 from pursuing other remedies available for default on a loan,
26 including accelerating loan repayments, eliminating all or
27 part of the interest rate subsidy on the loan, and court
28 appointment of a receiver to manage the public water system.

29 Section 457. Paragraphs (a), (b), (c), and (e) of
30 subsection (2) of section 404.111, Florida Statutes, are
31 amended to read:

1 404.111 Surety requirements.--

2 (2) In lieu of posting a bond as required under
3 subsection (1), a licensee may:

4 (a) Deposit with the Chief Financial Officer ~~Treasurer~~
5 securities of the type eligible for deposit by insurers under
6 s. 625.52, which securities must have at all times a market
7 value of not less than the amount of the bond required under
8 subsection (1).

9 (b) Whenever the market value of the securities
10 deposited with the Chief Financial Officer ~~Treasurer~~ is less
11 than 95 percent of the amount required by the department, the
12 licensee shall deposit additional securities or otherwise
13 increase the deposit to the amount required.

14 (c) The state is responsible for the safekeeping of
15 all securities deposited with the Chief Financial Officer
16 ~~Treasurer~~ under this section. Such securities are not, on
17 account of being in this state, subject to taxation but shall
18 be held exclusively and solely to guarantee the faithful
19 performance by the licensee of its obligations.

20 (e) Such deposit shall be maintained unimpaired so
21 long as the licensee continues in business in this state.
22 Whenever the licensee ceases to do business in this state and
23 furnishes the department satisfactory proof that it has
24 discharged or otherwise adequately provided for all its
25 obligations in this state, the Chief Financial Officer
26 ~~Treasurer~~ shall release the deposit securities to the parties
27 entitled thereto, on the receipt of authorization from the
28 department.

29 Section 458. Paragraph (b) of subsection (2) of
30 section 408.040, Florida Statutes, is amended to read:

31 408.040 Conditions and monitoring.--

1 (2)

2 (b) A certificate of need issued to an applicant
3 holding a provisional certificate of authority under chapter
4 651 shall terminate 1 year after the applicant receives a
5 valid certificate of authority from the Department of
6 Financial Services Insurance.

7 Section 459. Paragraph (a) of subsection (8) of
8 section 408.05, Florida Statutes, is amended to read:

9 408.05 State Center for Health Statistics.--

10 (8) STATE COMPREHENSIVE HEALTH INFORMATION SYSTEM
11 ADVISORY COUNCIL.--

12 (a) There is established in the agency the State
13 Comprehensive Health Information System Advisory Council to
14 assist the center in reviewing the comprehensive health
15 information system and to recommend improvements for such
16 system. The council shall consist of the following members:

17 1. An employee of the Executive Office of the
18 Governor, to be appointed by the Governor.

19 2. An employee of the Department of Financial Services
20 Insurance, to be appointed by the Chief Financial Officer
21 ~~Insurance Commissioner~~.

22 3. An employee of the Department of Education, to be
23 appointed by the Commissioner of Education.

24 4. Ten persons, to be appointed by the Secretary of
25 Health Care Administration, representing other state and local
26 agencies, state universities, the Florida Association of
27 Business/Health Coalitions, local health councils,
28 professional health-care-related associations, consumers, and
29 purchasers.

30 Section 460. Subsection (4) of section 408.08, Florida
31 Statutes, is amended to read:

1 408.08 Inspections and audits; violations; penalties;
2 fines; enforcement.--

3 (4) If a health insurer does not comply with the
4 requirements of s. 408.061, the agency shall report a health
5 insurer's failure to comply to the Department of Financial
6 Services Insurance, which shall take into account the failure
7 by the health insurer to comply in conjunction with its
8 approval authority under s. 627.410. The agency shall adopt
9 any rules necessary to carry out its responsibilities required
10 by this subsection.

11 Section 461. Paragraph (a) of subsection (4) and
12 subsection (9) of section 408.18, Florida Statutes, are
13 amended to read:

14 408.18 Health Care Community Antitrust Guidance Act;
15 antitrust no-action letter; market-information collection and
16 education.--

17 (4)(a) Members of the health care community who seek
18 antitrust guidance may request a review of their proposed
19 business activity by the Attorney General's office. In
20 conducting its review, the Attorney General's office may seek
21 whatever documentation, data, or other material it deems
22 necessary from the Agency for Health Care Administration, the
23 State Center for Health Statistics, and the Department of
24 Financial Services Insurance.

25 (9) When the member of the health care community
26 seeking the no-action letter is regulated by the Department of
27 Financial Services Insurance, the Department of Financial
28 Services Insurance shall make available to the Attorney
29 General's office, as needed, any information it maintains in
30 its regulatory capacity.

31

1 Section 462. Subsection (1) of section 408.50, Florida
2 Statutes, is amended to read:

3 408.50 Prospective payment arrangements.--

4 (1) Hospitals as defined in s. 395.002, and health
5 insurers regulated pursuant to parts VI and VII of chapter
6 627, shall establish prospective payment arrangements that
7 provide hospitals with financial incentives to contain costs.
8 Each hospital shall enter into a rate agreement with each
9 health insurer which represents 10 percent or more of the
10 private-pay patients of the hospital to establish a
11 prospective payment arrangement. Hospitals and health insurers
12 regulated pursuant to this section shall report annually the
13 results of each specific prospective payment arrangement
14 adopted by each hospital and health insurer to the board. The
15 agency shall report a health insurer's failure to comply to
16 the Department of Financial Services Insurance, which shall
17 take into account the failure by the health insurer to comply
18 in conjunction with its approval authority under s. 627.410.
19 The agency shall adopt any rules necessary to carry out its
20 responsibilities required by this section.

21 Section 463. Paragraph (b) of subsection (1),
22 subsection (13), and paragraph (b) of subsection (15) of
23 section 408.7056, Florida Statutes, are amended to read:

24 408.7056 Statewide Provider and Subscriber Assistance
25 Program.--

26 (1) As used in this section, the term:

27 (b) "Department" means the Department of Financial
28 Services Insurance.

29 (13) Any information which would identify a subscriber
30 or the spouse, relative, or guardian of a subscriber and which
31 is contained in a report obtained by the department ~~of~~

1 ~~Insurance~~ pursuant to this section is confidential and exempt
2 from the provisions of s. 119.07(1) and s. 24(a), Art. I of
3 the State Constitution.

4 (15)

5 (b) Meetings of the panel shall be open to the public
6 unless the provider or subscriber whose grievance will be
7 heard requests a closed meeting or the agency or the
8 department ~~of Insurance~~ determines that information of a
9 sensitive personal nature which discloses the subscriber's
10 medical treatment or history; or information which constitutes
11 a trade secret as defined by s. 812.081; or information
12 relating to internal risk management programs as defined in s.
13 641.55(5)(c), (6), and (8) may be revealed at the panel
14 meeting, in which case that portion of the meeting during
15 which such sensitive personal information, trade secret
16 information, or internal risk management program information
17 is discussed shall be exempt from the provisions of s. 286.011
18 and s. 24(b), Art. I of the State Constitution. All closed
19 meetings shall be recorded by a certified court reporter.

20
21 This subsection is subject to the Open Government Sunset
22 Review Act of 1995 in accordance with s. 119.15, and shall
23 stand repealed on October 2, 2003, unless reviewed and saved
24 from repeal through reenactment by the Legislature.

25 Section 464. Subsection (1) of section 408.902,
26 Florida Statutes, is amended to read:

27 408.902 MedAccess program; creation; program title.--

28 (1) Effective July 1, 1994, there is hereby created
29 the MedAccess program to be administered by the Agency for
30 Health Care Administration. The MedAccess program shall not
31 be subject to the requirements of the Department of Financial

1 Services ~~Insurance~~ or chapter 627. The secretary of the agency
2 shall appoint an administrator of the MedAccess program.

3 Section 465. Paragraph (f) of subsection (5) and
4 paragraph (a) of subsection (14) of section 409.175, Florida
5 Statutes, are amended to read:

6 409.175 Licensure of family foster homes, residential
7 child-caring agencies, and child-placing agencies.--

8 (5)

9 (f) All residential child-caring agencies must meet
10 firesafety standards for such agencies adopted by the Division
11 of State Fire Marshal of the Department of Financial Services
12 ~~Insurance~~ and must be inspected annually. At the request of
13 the department, firesafety inspections shall be conducted by
14 the Division of State Fire Marshal or a local fire department
15 official who has been certified by the division as having
16 completed the training requirements for persons inspecting
17 such agencies. Inspection reports shall be furnished to the
18 department within 30 days of a request.

19 (14)(a) The Division of Risk Management of the
20 Department of Financial Services ~~Insurance~~ shall provide
21 coverage through the Department of Children and Family
22 Services to any person who owns or operates a family foster
23 home solely for the Department of Children and Family Services
24 and who is licensed to provide family foster home care in her
25 or his place of residence. The coverage shall be provided
26 from the general liability account of the State Risk
27 Management Trust Fund, and the coverage shall be primary. The
28 coverage is limited to general liability claims arising from
29 the provision of family foster home care pursuant to an
30 agreement with the department and pursuant to guidelines
31 established through policy, rule, or statute. Coverage shall

1 be limited as provided in ss. 284.38 and 284.385, and the
2 exclusions set forth therein, together with other exclusions
3 as may be set forth in the certificate of coverage issued by
4 the trust fund, shall apply. A person covered under the
5 general liability account pursuant to this subsection shall
6 immediately notify the Division of Risk Management of the
7 Department of Financial Services ~~Insurance~~ of any potential or
8 actual claim.

9 Section 466. Subsection (10) of section 409.25656,
10 Florida Statutes, is amended to read:

11 409.25656 Garnishment.--

12 (10) The department shall provide notice to the Chief
13 Financial Officer ~~Comptroller~~, in electronic or other form
14 specified by the Chief Financial Officer ~~Comptroller~~, listing
15 the obligors for whom warrants are outstanding. Pursuant to
16 subsection (1), the Chief Financial Officer ~~Comptroller~~ shall,
17 upon notice from the department, withhold all payments to any
18 obligor who provides commodities or services to the state,
19 leases real property to the state, or constructs a public
20 building or public work for the state. The department may levy
21 upon the withheld payments in accordance with subsection (3).
22 Section 215.422 does not apply from the date the notice is
23 filed with the Chief Financial Officer ~~Comptroller~~ until the
24 date the department notifies the Chief Financial Officer
25 ~~Comptroller~~ of its consent to make payment to the person or 60
26 days after receipt of the department's notice in accordance
27 with subsection (1), whichever occurs earlier.

28 Section 467. Subsections (1), (2), (3), and (4) of
29 section 409.25658, Florida Statutes, are amended to read:

30 409.25658 Use of unclaimed property for past due
31 support.--

1 (1) In a joint effort to facilitate the collection and
2 payment of past due support, the Department of Revenue, in
3 cooperation with the Department of Financial Services ~~Banking~~
4 ~~and Finance~~, shall identify persons owing support collected
5 through a court who are presumed to have abandoned property
6 held by the Department of Financial Services ~~Banking and~~
7 ~~Finance~~.

8 (2) The department shall periodically provide the
9 Department of Financial Services ~~Banking and Finance~~ with an
10 electronic file of support obligors who owe past due support.
11 The Department of Financial Services ~~Banking and Finance~~ shall
12 conduct a data match of the file against all apparent owners
13 of abandoned property under chapter 717 and provide the
14 resulting match list to the department.

15 (3) Upon receipt of the data match list, the
16 department shall provide to the Department of Financial
17 Services ~~Banking and Finance~~ the obligor's last known address.
18 The Department of Financial Services ~~Banking and Finance~~ shall
19 follow the notification procedures under s. 717.118.

20 (4) Prior to paying an obligor's approved claim, the
21 Department of Financial Services ~~Banking and Finance~~ shall
22 notify the department that such claim has been approved. Upon
23 confirmation that the Department of Financial Services ~~Banking~~
24 ~~and Finance~~ has approved the claim, the department shall
25 immediately send a notice by certified mail to the obligor,
26 with a copy to the Department of Financial Services ~~Banking~~
27 ~~and Finance~~, advising the obligor of the department's intent
28 to intercept the approved claim up to the amount of the past
29 due support, and informing the obligor of the obligor's right
30 to request a hearing under chapter 120. The Department of
31 Financial Services ~~Banking and Finance~~ shall retain custody of

1 the property until a final order has been entered and any
2 appeals thereon have been concluded. If the obligor fails to
3 request a hearing, the department shall enter a final order
4 instructing the Department of Financial Services ~~Banking and~~
5 ~~Finance~~ to transfer to the department the property in the
6 amount stated in the final order. Upon such transfer, the
7 Department of Financial Services ~~Banking and Finance~~ shall be
8 released from further liability related to the transferred
9 property.

10 Section 468. Subsections (4) and (7) of section
11 409.2673, Florida Statutes, are amended to read:

12 409.2673 Shared county and state health care program
13 for low-income persons.--

14 (4) The levels of financial participation by counties
15 and the state for this program shall be determined as follows:

16 (a) If on July 1, 1988, a county funded inpatient
17 hospital services for those who would have been eligible for
18 the program, the county shall fund 35 percent of the cost of
19 this program and the state shall provide the remaining 65
20 percent of the funding required for this program. A county
21 participating at this level shall use that portion of its
22 budget that previously would have funded these inpatient
23 hospital services and that, under this program, has been
24 offset by state funding for funding other health programs.

25 (b) If a county has not reached its maximum ad valorem
26 millage rate as authorized by law and certified to the
27 Department of Revenue and the county does not currently fund
28 inpatient hospital services for those who would be eligible
29 for this program, the county:

30 1. Shall provide 35 percent of the cost for this
31 program from within the county's existing budget, and the

1 state shall provide the remaining 65 percent of the funding
2 required for this program; however, under no circumstances
3 will county funding which had been used for funding the county
4 health department under chapter 154 be utilized for funding
5 the county's portion of this program; or

6 2. Shall levy an additional ad valorem millage to fund
7 the county's portion of this program. The state shall provide
8 the remaining portion of program funding if:

9 a. A county levies additional ad valorem millage up to
10 the maximum authorized by law and certified to the Department
11 of Revenue and still does not have sufficient funds to meet
12 its 35 percent of the funding of this program; and

13 b. A county has exhausted all revenue sources which
14 can statutorily be used as possible funding sources for this
15 program.

16 (c) A county will be eligible for 100-percent state
17 funding of this program if:

18 1. On July 1, 1988, the county did not fund inpatient
19 hospital services for those who would have been eligible for
20 this program;

21 2. The county has reached its maximum ad valorem
22 millage as authorized by law and certified to the Department
23 of Revenue; and

24 3. The county has exhausted all revenue sources which
25 can statutorily be used as possible funding sources for this
26 program.

27
28 Reporting forms specifically designed to capture the
29 information necessary to determine the above levels of
30 participation will be developed as part of the joint
31 rulemaking required for the shared county and state program.

1 For purposes of this program, the counties will be required to
2 report necessary information to the Department of Financial
3 Services ~~Banking and Finance~~.

4 (7) A county that participates in the program at any
5 level may not reduce its total per capita expenditures being
6 devoted to health care if any of these funds were previously
7 utilized for the provision of inpatient hospital services to
8 those persons made eligible for the shared county and state
9 program. It is the intent of the Legislature that, as a
10 result of the shared county and state program, local funds
11 which were previously used for the provision of inpatient
12 hospital services to persons made eligible by the program be
13 used by counties for funding other health care programs which,
14 for purposes of this section, are health expenditures as
15 reported annually to the Department of Financial Services
16 ~~Banking and Finance~~ pursuant to s. 218.32, provided that this
17 subsection does not apply to reductions in county funding
18 resulting from the expiration of special sales taxes levied
19 pursuant to chapter 84-373, Laws of Florida.

20 Section 469. Subsection (3) of section 409.8132,
21 Florida Statutes, is amended to read:

22 409.8132 Medikids program component.--

23 (3) INSURANCE LICENSURE NOT REQUIRED.--The Medikids
24 program component shall not be subject to the licensing
25 requirements of the Florida Insurance Code or rules of the
26 Department of Financial Services ~~Insurance~~.

27 Section 470. Section 409.817, Florida Statutes, is
28 amended to read:

29 409.817 Approval of health benefits coverage;
30 financial assistance.--In order for health insurance coverage
31 to qualify for premium assistance payments for an eligible

1 child under ss. 409.810-409.820, the health benefits coverage
2 must:

3 (1) Be certified by the Department of Financial
4 Services Insurance under s. 409.818 as meeting, exceeding, or
5 being actuarially equivalent to the benchmark benefit plan;

6 (2) Be guarantee issued;

7 (3) Be community rated;

8 (4) Not impose any preexisting condition exclusion for
9 covered benefits; however, group health insurance plans may
10 permit the imposition of a preexisting condition exclusion,
11 but only insofar as it is permitted under s. 627.6561;

12 (5) Comply with the applicable limitations on premiums
13 and cost-sharing in s. 409.816;

14 (6) Comply with the quality assurance and access
15 standards developed under s. 409.820; and

16 (7) Establish periodic open enrollment periods, which
17 may not occur more frequently than quarterly.

18 Section 471. Paragraph (c) of subsection (2),
19 paragraphs (a) and (f) of subsection (3), and subsections (4)
20 and (6) of section 409.818, Florida Statutes, are amended to
21 read:

22 409.818 Administration.--In order to implement ss.
23 409.810-409.820, the following agencies shall have the
24 following duties:

25 (2) The Department of Health shall:

26 (c) Chair a state-level coordinating council to review
27 and make recommendations concerning the implementation and
28 operation of the program. The coordinating council shall
29 include representatives from the department, the Department of
30 Children and Family Services, the agency, the Florida Healthy
31 Kids Corporation, the Department of Financial Services

1 ~~Insurance~~, local government, health insurers, health
2 maintenance organizations, health care providers, families
3 participating in the program, and organizations representing
4 low-income families.

5 (3) The Agency for Health Care Administration, under
6 the authority granted in s. 409.914(1), shall:

7 (a) Calculate the premium assistance payment necessary
8 to comply with the premium and cost-sharing limitations
9 specified in s. 409.816. The premium assistance payment for
10 each enrollee in a health insurance plan participating in the
11 Florida Healthy Kids Corporation shall equal the premium
12 approved by the Florida Healthy Kids Corporation and the
13 Department of Financial Services ~~Insurance~~ pursuant to ss.
14 627.410 and 641.31, less any enrollee's share of the premium
15 established within the limitations specified in s. 409.816.
16 The premium assistance payment for each enrollee in an
17 employer-sponsored health insurance plan approved under ss.
18 409.810-409.820 shall equal the premium for the plan adjusted
19 for any benchmark benefit plan actuarial equivalent benefit
20 rider approved by the Department of Financial Services
21 ~~Insurance~~ pursuant to ss. 627.410 and 641.31, less any
22 enrollee's share of the premium established within the
23 limitations specified in s. 409.816. In calculating the
24 premium assistance payment levels for children with family
25 coverage, the agency shall set the premium assistance payment
26 levels for each child proportionately to the total cost of
27 family coverage.

28 (f) Approve health benefits coverage for participation
29 in the program, following certification by the Department of
30 Financial Services ~~Insurance~~ under subsection (4).

31

1 The agency is designated the lead state agency for Title XXI
2 of the Social Security Act for purposes of receipt of federal
3 funds, for reporting purposes, and for ensuring compliance
4 with federal and state regulations and rules.

5 (4) The Department of Financial Services ~~Insurance~~
6 shall certify that health benefits coverage plans that seek to
7 provide services under the Florida Kidcare program, except
8 those offered through the Florida Healthy Kids Corporation or
9 the Children's Medical Services network, meet, exceed, or are
10 actuarially equivalent to the benchmark benefit plan and that
11 health insurance plans will be offered at an approved rate. In
12 determining actuarial equivalence of benefits coverage, the
13 Department of Financial Services ~~Insurance~~ and health
14 insurance plans must comply with the requirements of s. 2103
15 of Title XXI of the Social Security Act. The department shall
16 adopt rules necessary for certifying health benefits coverage
17 plans.

18 (6) The agency, the Department of Health, the
19 Department of Children and Family Services, the Florida
20 Healthy Kids Corporation, and the Department of Financial
21 Services ~~Insurance~~, after consultation with and approval of
22 the Speaker of the House of Representatives and the President
23 of the Senate, are authorized to make program modifications
24 that are necessary to overcome any objections of the United
25 States Department of Health and Human Services to obtain
26 approval of the state's child health insurance plan under
27 Title XXI of the Social Security Act.

28 Section 472. Subsection (20) of section 409.910,
29 Florida Statutes, is amended to read:

30 409.910 Responsibility for payments on behalf of
31 Medicaid-eligible persons when other parties are liable.--

1 (20) Entities providing health insurance as defined in
2 s. 624.603, and health maintenance organizations and prepaid
3 health clinics as defined in chapter 641, shall provide such
4 records and information as are necessary to accomplish the
5 purpose of this section, unless such requirement results in an
6 unreasonable burden.

7 (a) The director of the agency and the Chief Financial
8 Officer ~~Insurance Commissioner~~ shall enter into a cooperative
9 agreement for requesting and obtaining information necessary
10 to effect the purpose and objective of this section.

11 1. The agency shall request only that information
12 necessary to determine whether health insurance as defined
13 pursuant to s. 624.603, or those health services provided
14 pursuant to chapter 641, could be, should be, or have been
15 claimed and paid with respect to items of medical care and
16 services furnished to any person eligible for services under
17 this section.

18 2. All information obtained pursuant to subparagraph
19 1. is confidential and exempt from s. 119.07(1).

20 3. The cooperative agreement or rules adopted under
21 this subsection may include financial arrangements to
22 reimburse the reporting entities for reasonable costs or a
23 portion thereof incurred in furnishing the requested
24 information. Neither the cooperative agreement nor the rules
25 shall require the automation of manual processes to provide
26 the requested information.

27 (b) The agency and the Department of Financial
28 Services ~~Insurance~~ jointly shall adopt rules for the
29 development and administration of the cooperative agreement.
30 The rules shall include the following:

31

1 1. A method for identifying those entities subject to
2 furnishing information under the cooperative agreement.

3 2. A method for furnishing requested information.

4 3. Procedures for requesting exemption from the
5 cooperative agreement based on an unreasonable burden to the
6 reporting entity.

7 Section 473. Paragraph (a) of subsection (3),
8 subsections (5), (14), and (17), and paragraph (a) of
9 subsection (35) of section 409.912, Florida Statutes, as
10 amended by sections 8 and 9 of chapter 2001-377, Laws of
11 Florida, are amended to read:

12 409.912 Cost-effective purchasing of health care.--The
13 agency shall purchase goods and services for Medicaid
14 recipients in the most cost-effective manner consistent with
15 the delivery of quality medical care. The agency shall
16 maximize the use of prepaid per capita and prepaid aggregate
17 fixed-sum basis services when appropriate and other
18 alternative service delivery and reimbursement methodologies,
19 including competitive bidding pursuant to s. 287.057, designed
20 to facilitate the cost-effective purchase of a case-managed
21 continuum of care. The agency shall also require providers to
22 minimize the exposure of recipients to the need for acute
23 inpatient, custodial, and other institutional care and the
24 inappropriate or unnecessary use of high-cost services. The
25 agency may establish prior authorization requirements for
26 certain populations of Medicaid beneficiaries, certain drug
27 classes, or particular drugs to prevent fraud, abuse, overuse,
28 and possible dangerous drug interactions. The Pharmaceutical
29 and Therapeutics Committee shall make recommendations to the
30 agency on drugs for which prior authorization is required. The
31 agency shall inform the Pharmaceutical and Therapeutics

1 Committee of its decisions regarding drugs subject to prior
2 authorization.

3 (3) The agency may contract with:

4 (a) An entity that provides no prepaid health care
5 services other than Medicaid services under contract with the
6 agency and which is owned and operated by a county, county
7 health department, or county-owned and operated hospital to
8 provide health care services on a prepaid or fixed-sum basis
9 to recipients, which entity may provide such prepaid services
10 either directly or through arrangements with other providers.
11 Such prepaid health care services entities must be licensed
12 under parts I and III by January 1, 1998, and until then are
13 exempt from the provisions of part I of chapter 641. An entity
14 recognized under this paragraph which demonstrates to the
15 satisfaction of the Department of Financial Services ~~Insurance~~
16 that it is backed by the full faith and credit of the county
17 in which it is located may be exempted from s. 641.225.

18 (5) The agency may contract on a prepaid or fixed-sum
19 basis with any health insurer that:

20 (a) Pays for health care services provided to enrolled
21 Medicaid recipients in exchange for a premium payment paid by
22 the agency;

23 (b) Assumes the underwriting risk; and

24 (c) Is organized and licensed under applicable
25 provisions of the Florida Insurance Code and is currently in
26 good standing with the Department of Financial Services
27 ~~Insurance~~.

28 (14) An entity contracting on a prepaid or fixed-sum
29 basis shall, in addition to meeting any applicable statutory
30 surplus requirements, also maintain at all times in the form
31 of cash, investments that mature in less than 180 days

1 allowable as admitted assets by the Department of Financial
2 Services Insurance, and restricted funds or deposits
3 controlled by the agency or the Department of Financial
4 Services Insurance, a surplus amount equal to one-and-one-half
5 times the entity's monthly Medicaid prepaid revenues. As used
6 in this subsection, the term "surplus" means the entity's
7 total assets minus total liabilities. If an entity's surplus
8 falls below an amount equal to one-and-one-half times the
9 entity's monthly Medicaid prepaid revenues, the agency shall
10 prohibit the entity from engaging in marketing and
11 preenrollment activities, shall cease to process new
12 enrollments, and shall not renew the entity's contract until
13 the required balance is achieved. The requirements of this
14 subsection do not apply:

15 (a) Where a public entity agrees to fund any deficit
16 incurred by the contracting entity; or

17 (b) Where the entity's performance and obligations are
18 guaranteed in writing by a guaranteeing organization which:

19 1. Has been in operation for at least 5 years and has
20 assets in excess of \$50 million; or

21 2. Submits a written guarantee acceptable to the
22 agency which is irrevocable during the term of the contracting
23 entity's contract with the agency and, upon termination of the
24 contract, until the agency receives proof of satisfaction of
25 all outstanding obligations incurred under the contract.

26 (17) When a merger or acquisition of a Medicaid
27 prepaid contractor has been approved by the Department of
28 Financial Services Insurance pursuant to s. 628.4615, the
29 agency shall approve the assignment or transfer of the
30 appropriate Medicaid prepaid contract upon request of the
31 surviving entity of the merger or acquisition if the

1 contractor and the other entity have been in good standing
2 with the agency for the most recent 12-month period, unless
3 the agency determines that the assignment or transfer would be
4 detrimental to the Medicaid recipients or the Medicaid
5 program. To be in good standing, an entity must not have
6 failed accreditation or committed any material violation of
7 the requirements of s. 641.52 and must meet the Medicaid
8 contract requirements. For purposes of this section, a merger
9 or acquisition means a change in controlling interest of an
10 entity, including an asset or stock purchase.

11 (35) The Agency for Health Care Administration is
12 directed to issue a request for proposal or intent to
13 negotiate to implement on a demonstration basis an outpatient
14 specialty services pilot project in a rural and urban county
15 in the state. As used in this subsection, the term
16 "outpatient specialty services" means clinical laboratory,
17 diagnostic imaging, and specified home medical services to
18 include durable medical equipment, prosthetics and orthotics,
19 and infusion therapy.

20 (a) The entity that is awarded the contract to provide
21 Medicaid managed care outpatient specialty services must, at a
22 minimum, meet the following criteria:

23 1. The entity must be licensed by the Department of
24 Financial Services ~~Insurance~~ under part II of chapter 641.

25 2. The entity must be experienced in providing
26 outpatient specialty services.

27 3. The entity must demonstrate to the satisfaction of
28 the agency that it provides high-quality services to its
29 patients.

30 4. The entity must demonstrate that it has in place a
31 complaints and grievance process to assist Medicaid recipients

1 enrolled in the pilot managed care program to resolve
2 complaints and grievances.

3 Section 474. Subsections (2) and (3) of section
4 409.9124, Florida Statutes, are amended to read:

5 409.9124 Managed care reimbursement.--

6 (2) The agency shall by rule prescribe those items of
7 financial information which each managed care plan shall
8 report to the agency, in the time periods prescribed by rule.
9 In prescribing items for reporting and definitions of terms,
10 the agency shall consult with the Department of Financial
11 Services Insurance wherever possible.

12 (3) The agency shall quarterly examine the financial
13 condition of each managed care plan, and its performance in
14 serving Medicaid patients, and shall utilize examinations
15 performed by the Department of Financial Services Insurance
16 wherever possible.

17 Section 475. Subsections (5) and (6) of section
18 409.915, Florida Statutes, are amended to read:

19 409.915 County contributions to Medicaid.--Although
20 the state is responsible for the full portion of the state
21 share of the matching funds required for the Medicaid program,
22 in order to acquire a certain portion of these funds, the
23 state shall charge the counties for certain items of care and
24 service as provided in this section.

25 (5) The Department of Financial Services ~~Banking and~~
26 ~~Finance~~ shall withhold from the cigarette tax receipts or any
27 other funds to be distributed to the counties the individual
28 county share that has not been remitted within 60 days after
29 billing.

30 (6) In any county in which a special taxing district
31 or authority is located which will benefit from the medical

1 assistance programs covered by this section, the board of
2 county commissioners may divide the county's financial
3 responsibility for this purpose proportionately, and each such
4 district or authority must furnish its share to the board of
5 county commissioners in time for the board to comply with the
6 provisions of subsection (3). Any appeal of the proration made
7 by the board of county commissioners must be made to the
8 Department of Financial Services ~~Banking and Finance~~, which
9 shall then set the proportionate share of each party.

10 Section 476. Paragraph (c) of subsection (7) of
11 section 411.01, Florida Statutes, is amended to read:

12 411.01 Florida Partnership for School Readiness;
13 school readiness coalitions.--

14 (7) PARENTAL CHOICE.--

15 (c) The Office of the Chief Financial Officer
16 ~~Comptroller~~ shall establish an electronic transfer system for
17 the disbursement of funds in accordance with this subsection.
18 School readiness coalitions shall fully implement the
19 electronic funds transfer system within 2 years after plan
20 approval unless a waiver is obtained from the partnership.

21 Section 477. Subsection (2) of section 413.32, Florida
22 Statutes, is amended to read:

23 413.32 Retention of title to and disposal of
24 equipment.--

25 (2) The division is authorized to offer for sale any
26 surplus items acquired in the operation of the program when
27 they are no longer necessary or to exchange them for necessary
28 items which may be used to greater advantage. When any such
29 surplus equipment is sold or exchanged a receipt for same
30 shall be taken from the purchaser showing the consideration
31 given for such equipment and forwarded to the Chief Financial

1 Officer ~~treasurer~~, and any funds received by the division
2 pursuant to any such transactions shall be deposited in the
3 State Treasury in the appropriate federal or state
4 rehabilitation funds and shall be available for expenditure
5 for any purpose consistent with this part.

6 Section 478. Section 414.27, Florida Statutes, is
7 amended to read:

8 414.27 Temporary cash assistance; payment on death.--

9 (1) Upon the death of any person receiving temporary
10 cash assistance through the Department of Children and Family
11 Services, all temporary cash accrued to such person from the
12 date of last payment to the date of death shall be paid to the
13 person who shall have been designated by her or him on a form
14 prescribed by the department and filed with the department
15 during the lifetime of the person making such designation. If
16 no designation is made, or the person so designated is no
17 longer living or cannot be found, then payment shall be made
18 to such person as may be designated by the circuit judge of
19 the county where the recipient of temporary cash assistance
20 resided. Designation by the circuit judge may be made on a
21 form provided by the department or by letter or memorandum to
22 the Chief Financial Officer ~~Comptroller~~. No filing or
23 recording of the designation shall be required, and the
24 circuit judge shall receive no compensation for such service.
25 If a warrant has not been issued and forwarded prior to notice
26 by the department of the recipient's death, upon notice
27 thereof, the department shall promptly requisition the Chief
28 Financial Officer ~~Comptroller~~ to issue a warrant in the amount
29 of the accrued temporary cash assistance payable to the person
30 designated to receive it and shall attach to the requisition
31 the original designation of the deceased recipient, or if

1 none, the designation made by the circuit judge, as well as a
2 notice of death. The Chief Financial Officer ~~Comptroller~~ shall
3 issue a warrant in the amount payable.

4 (2) If a warrant has been issued and not cashed by the
5 recipient payee prior to her or his death, such warrant shall
6 be promptly returned to the department, together with notice
7 of the death of the recipient. The original warrant shall be
8 endorsed on the back by an authorized employee of the
9 department. The endorsement must be on a form prescribed by
10 the department and approved by the Chief Financial Officer
11 ~~Comptroller~~ which must contain the name of the deceased
12 recipient, a statement of the recipient's death, and the date
13 thereof and state that it is payable to the order of the
14 designated beneficiary, without recourse. The form shall be
15 signed by the authorized employee or employees of the
16 department, and thereupon such warrant shall be payable to the
17 designated beneficiary as fully and completely as if made
18 payable to her or him when issued. The department shall
19 furnish to the Chief Financial Officer ~~Comptroller~~ each month
20 a list of such deceased recipients, the designated
21 beneficiaries or persons to whom such warrants are endorsed,
22 and a description of such warrants as herein provided. The
23 department shall cause all persons receiving temporary cash
24 assistance to make the designations as soon as conveniently
25 may be, and shall preserve such designations in a safe place
26 for use.

27 Section 479. Subsection (8) of section 414.28, Florida
28 Statutes, is amended to read:

29 414.28 Public assistance payments to constitute debt
30 of recipient.--

31

1 (8) DISPOSITION OF FUNDS RECOVERED.--All funds
2 collected under this section shall be deposited with the
3 Department of Financial Services ~~Banking and Finance~~ and a
4 report of such deposit made to the department. After payment
5 of costs the sums so collected shall be credited to the
6 department and used by it.

7 Section 480. Section 420.0005, Florida Statutes, is
8 amended to read:

9 420.0005 State Housing Trust Fund; State Housing
10 Fund.--There is hereby established in the State Treasury a
11 separate trust fund to be named the "State Housing Trust
12 Fund." There shall be deposited in the fund all moneys
13 appropriated by the Legislature, or moneys received from any
14 other source, for the purpose of this chapter, and all
15 proceeds derived from the use of such moneys. The fund shall
16 be administered by the Florida Housing Finance Corporation on
17 behalf of the department, as specified in this chapter. Money
18 deposited to the fund and appropriated by the Legislature
19 must, notwithstanding the provisions of chapter 216 or s.
20 420.504(3), be transferred quarterly in advance, to the extent
21 available, or, if not so available, as soon as received into
22 the State Housing Trust Fund, and subject to the provisions of
23 s. 420.5092(6)(a) and (b) by the Chief Financial Officer
24 ~~Comptroller~~ to the corporation upon certification by the
25 Secretary of Community Affairs that the corporation is in
26 compliance with the requirements of s. 420.0006. The
27 certification made by the secretary shall also include the
28 split of funds among programs administered by the corporation
29 and the department as specified in chapter 92-317, Laws of
30 Florida, as amended. Moneys advanced by the Chief Financial
31 Officer ~~Comptroller~~ must be deposited by the corporation into

1 a separate fund established with a qualified public depository
2 meeting the requirements of chapter 280 to be named the "State
3 Housing Fund" and used for the purposes of this chapter.
4 Administrative and personnel costs incurred in implementing
5 this chapter may be paid from the State Housing Fund, but such
6 costs may not exceed 5 percent of the moneys deposited into
7 such fund. To the State Housing Fund shall be credited all
8 loan repayments, penalties, and other fees and charges
9 accruing to such fund under this chapter. It is the intent of
10 this chapter that all loan repayments, penalties, and other
11 fees and charges collected be credited in full to the program
12 account from which the loan originated. Moneys in the State
13 Housing Fund which are not currently needed for the purposes
14 of this chapter shall be invested in such manner as is
15 provided for by statute. The interest received on any such
16 investment shall be credited to the State Housing Fund.

17 Section 481. Section 420.0006, Florida Statutes, is
18 amended to read:

19 420.0006 Authority to contract with corporation;
20 contract requirements; nonperformance.--The secretary of the
21 department shall contract, notwithstanding the provisions of
22 part I of chapter 287, with the Florida Housing Finance
23 Corporation on a multiyear basis to stimulate, provide, and
24 foster affordable housing in the state. The contract must
25 incorporate the performance measures required by s. 420.511
26 and must be consistent with the provisions of the
27 corporation's strategic plan prepared in accordance with s.
28 420.511 and compatible with s. 216.0166. The contract must
29 provide that, in the event the corporation fails to comply
30 with any of the performance measures required by s. 420.511,
31 the secretary shall notify the Governor and shall refer the

1 nonperformance to the department's inspector general for
2 review and determination as to whether such failure is due to
3 forces beyond the corporation's control or whether such
4 failure is due to inadequate management of the corporation's
5 resources. Advances shall continue to be made pursuant to s.
6 420.0005 during the pendency of the review by the department's
7 inspector general. If such failure is due to outside forces,
8 it shall not be deemed a violation of the contract. If such
9 failure is due to inadequate management, the department's
10 inspector general shall provide recommendations regarding
11 solutions. The Governor is authorized to resolve any
12 differences of opinion with respect to performance under the
13 contract and may request that advances continue in the event
14 of a failure under the contract due to inadequate management.
15 The Chief Financial Officer ~~Comptroller~~ shall approve the
16 request absent a finding by the Chief Financial Officer
17 ~~Comptroller~~ that continuing such advances would adversely
18 impact the state; however, in any event the Chief Financial
19 Officer ~~Comptroller~~ shall provide advances sufficient to meet
20 the debt service requirements of the corporation and
21 sufficient to fund contracts committing funds from the State
22 Housing Trust Fund so long as such contracts are in accordance
23 with the laws of this state. The department inspector general
24 shall perform for the corporation the functions set forth in
25 s. 20.055 and report to the secretary of the department. The
26 corporation shall be deemed an agency for the purposes of s.
27 20.055.

28 Section 482. Paragraph (d) of subsection (1) of
29 section 420.101, Florida Statutes, is amended to read:

30 420.101 Housing Development Corporation of Florida;
31 creation, membership, and purposes.--

1 (1) Twenty-five or more persons, a majority of whom
2 shall be residents of this state, who may desire to create a
3 housing development corporation under the provisions of this
4 part for the purpose of promoting and developing housing and
5 advancing the prosperity and economic welfare of the state
6 and, to that end, to exercise the powers and privileges
7 hereinafter provided, may be incorporated by filing in the
8 Department of State, as hereinafter provided, articles of
9 incorporation. The articles of incorporation shall contain:

10 (d) The names and post office addresses of the members
11 of the first board of directors. The first board of directors
12 shall be elected by and from the stockholders of the
13 corporation and shall consist of 21 members. However, four
14 ~~five~~ of such members shall consist of the following persons,
15 who shall be nonvoting members: the secretary of the
16 Department of Community Affairs or her or his designee; the
17 head of the Department of Financial Services ~~Banking and~~
18 ~~Finance~~ or her or his designee; ~~the head of the Department of~~
19 ~~Insurance or her or his designee;~~ one state senator appointed
20 by the President of the Senate; and one representative
21 appointed by the Speaker of the House of Representatives.

22 Section 483. Subsection (1) of section 420.123,
23 Florida Statutes, is amended to read:

24 420.123 Stockholders; loan requirement.--

25 (1) Any financial institution may request membership
26 in the corporation by making application to the board of
27 directors on such form and in such manner as the board of
28 directors may require, and membership shall become effective
29 upon acceptance of the application in the manner designated by
30 the board. Each member stockholder of the corporation shall
31 make loans to the corporation as and when called upon by it to

1 do so on such terms and other conditions as shall be approved
2 from time to time by the board of directors, except that the
3 total amount outstanding on loans to the corporation made by
4 any member at any one time, when added to the amount of the
5 investment in the capital stock of the corporation then held
6 by such member, shall not exceed the following limit, to be
7 determined as of the time such member becomes a member on the
8 basis of the audited balance sheet of such member at the close
9 of its fiscal year immediately preceding its application for
10 membership or, in the case of an insurance company, its last
11 annual statement to the Department of Financial Services
12 ~~insurance~~: 5 percent of the capital and surplus of commercial
13 banks and trust companies; 5 percent of the total outstanding
14 loans made by savings and loan associations and building and
15 loan associations; 5 percent of the capital and unassigned
16 surplus of stock insurance companies, except fire insurance
17 companies; 5 percent of the unassigned surplus of mutual
18 insurance companies, except fire insurance companies; 0.2
19 percent of the assets of fire insurance companies; and such
20 limits as may be approved by the board of directors of the
21 corporation for other financial institutions.

22 Section 484. Subsection (1) of section 420.131,
23 Florida Statutes, is amended to read:

24 420.131 Articles of incorporation; method of
25 amending.--

26 (1) The articles of incorporation may be amended by
27 the vote of the stockholders of the corporation, and such
28 amendments shall require approval by the affirmative vote of
29 two-thirds of the votes to which the stockholders shall be
30 entitled. However, no amendment of the articles of
31 incorporation which is inconsistent with the general purposes

1 expressed herein or which eliminates or curtails the right of
2 the Department of Financial Services ~~Banking and Finance~~ to
3 examine the corporation or the obligation of the corporation
4 to make reports as provided in s. 420.141(2) shall be made.

5 Section 485. Subsection (2) of section 420.141,
6 Florida Statutes, is amended to read:

7 420.141 Housing Development Corporation of Florida;
8 deposits and examination.--

9 (2) The corporation shall be examined at least once
10 annually by the Department of Financial Services ~~Banking and~~
11 ~~Finance~~ and shall make reports of its condition not less than
12 annually to such ~~said~~ department, and more frequently upon
13 call of the department, which in turn shall make copies of
14 such reports available to the ~~Department of Insurance and the~~
15 Governor; and the corporation shall also furnish such other
16 information as may from time to time be required by the
17 Department of Financial Services ~~Banking and Finance~~ and the
18 Department of State. The Department of Financial Services
19 ~~Banking and Finance~~ shall exercise the same power and
20 authority over the corporation organized pursuant to this part
21 as is exercised over financial institutions under the
22 provisions of the financial institutions codes, when such
23 codes are not in conflict with this chapter.

24 Section 486. Subsection (6) of section 420.5092,
25 Florida Statutes, is amended to read:

26 420.5092 Florida Affordable Housing Guarantee
27 Program.--

28 (6)(a) If the primary revenue sources to be used for
29 repayment of revenue bonds used to establish the guarantee
30 fund are insufficient for such repayment, the annual principal
31 and interest due on each series of revenue bonds shall be

1 payable from funds in the annual debt service reserve. The
2 corporation shall, before June 1 of each year, perform a
3 financial audit to determine whether at the end of the state
4 fiscal year there will be on deposit in the guarantee fund an
5 annual debt service reserve from interest earned pursuant to
6 the investment of the guarantee fund, fees, charges, and
7 reimbursements received from issued affordable housing
8 guarantees and other revenue sources available to the
9 corporation. Based upon the findings in such guarantee fund
10 financial audit, the corporation shall certify to the Chief
11 Financial Officer ~~Comptroller~~ the amount of any projected
12 deficiency in the annual debt service reserve for any series
13 of outstanding bonds as of the end of the state fiscal year
14 and the amount necessary to maintain such annual debt service
15 reserve. Upon receipt of such certification, the Chief
16 Financial Officer ~~Comptroller~~ shall transfer to the annual
17 debt service reserve, from the first available taxes
18 distributed to the State Housing Trust Fund pursuant to s.
19 201.15(9)(a) and (10)(a) during the ensuing state fiscal year,
20 the amount certified as necessary to maintain the annual debt
21 service reserve.

22 (b) If the claims payment obligations under affordable
23 housing guarantees from amounts on deposit in the guarantee
24 fund would cause the claims paying rating assigned to the
25 guarantee fund to be less than the third-highest rating
26 classification of any nationally recognized rating service,
27 which classifications being consistent with s. 215.84(3) and
28 rules adopted thereto by the State Board of Administration,
29 the corporation shall certify to the Chief Financial Officer
30 ~~Comptroller~~ the amount of such claims payment obligations.
31 Upon receipt of such certification, the Chief Financial

1 Officer ~~Comptroller~~ shall transfer to the guarantee fund, from
2 the first available taxes distributed to the State Housing
3 Trust Fund pursuant to s. 201.15(9)(a) and (10)(a) during the
4 ensuing state fiscal year, the amount certified as necessary
5 to meet such obligations, such transfer to be subordinate to
6 any transfer referenced in paragraph (a) and not to exceed 50
7 percent of the amounts distributed to the State Housing Trust
8 Fund pursuant to s. 201.15(9)(a) and (10)(a) during the
9 preceding state fiscal year.

10 Section 487. Section 430.42, Florida Statutes, is
11 amended to read:

12 430.42 Department of Elderly Affairs Tobacco
13 Settlement Trust Fund.--

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

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

27 Section 488. Subsection (6) of section 430.703,
28 Florida Statutes, is amended to read:

29 430.703 Definitions.--As used in this act, the term:

30 (6) "Managed care organization" means an entity that
31 meets the requirements of the Department of Financial Services

1 ~~Insurance~~ for operation as a health maintenance organization
2 and meets the qualifications for participation as a managed
3 care organization established by the agency and the
4 department.

5 Section 489. Section 440.103, Florida Statutes, is
6 amended to read:

7 440.103 Building permits; identification of minimum
8 premium policy.--Except as otherwise provided in this chapter,
9 every employer shall, as a condition to receiving a building
10 permit, show proof that it has secured compensation for its
11 employees under this chapter as provided in ss. 440.10 and
12 440.38. Such proof of compensation must be evidenced by a
13 certificate of coverage issued by the carrier, a valid
14 exemption certificate approved by the division, or a copy of
15 the employer's authority to self-insure and shall be presented
16 each time the employer applies for a building permit. As
17 provided in s. 627.413(5), each certificate of coverage must
18 show, on its face, whether or not coverage is secured under
19 the minimum premium provisions of rules adopted by rating
20 organizations licensed by the Department of Financial Services
21 ~~Insurance~~. The words "minimum premium policy" or equivalent
22 language shall be typed, printed, stamped, or legibly
23 handwritten.

24 Section 490. Paragraph (a) of subsection (3) of
25 section 440.105, Florida Statutes, is amended to read:

26 440.105 Prohibited activities; reports; penalties;
27 limitations.--

28 (3) Whoever violates any provision of this subsection
29 commits a misdemeanor of the first degree, punishable as
30 provided in s. 775.082 or s. 775.083.

31

1 (a) It shall be unlawful for any employer to knowingly
2 fail to update applications for coverage as required by s.
3 440.381(1) and Department of Financial Services Insurance
4 rules, or to post notice of coverage pursuant to s. 440.40.

5 Section 491. Subsection (1) of section 440.1051,
6 Florida Statutes, is amended to read:

7 440.1051 Fraud reports; civil immunity; criminal
8 penalties.--

9 (1) The Bureau of Workers' Compensation Insurance
10 Fraud of the Division of Insurance Fraud of the Department of
11 Financial Services Insurance shall establish a toll-free
12 telephone number to receive reports of workers' compensation
13 fraud committed by an employee, employer, insurance provider,
14 physician, attorney, or other person.

15 Section 492. Subsection (3) of section 440.106,
16 Florida Statutes, is amended to read:

17 440.106 Civil remedies; administrative penalties.--

18 (3) Whenever any group or individual self-insurer,
19 carrier, rating bureau, or agent or other representative of
20 any carrier or rating bureau is determined to have violated s.
21 440.105, the Department of Financial Services Insurance may
22 revoke or suspend the authority or certification of any group
23 or individual self-insurer, carrier, agent, or broker.

24 Section 493. Paragraph (b) of subsection (11) and
25 paragraph (a) of subsection (12) of section 440.13, Florida
26 Statutes, are amended to read:

27 440.13 Medical services and supplies; penalty for
28 violations; limitations.--

29 (11) AUDITS BY DIVISION; JURISDICTION.--

30 (b) The division shall monitor and audit carriers to
31 determine if medical bills are paid in accordance with this

1 section and division rules. Any employer, if self-insured, or
2 carrier found by the division not to be within 90 percent
3 compliance as to the payment of medical bills after July 1,
4 1994, must be assessed a fine not to exceed 1 percent of the
5 prior year's assessment levied against such entity under s.
6 440.51 for every quarter in which the entity fails to attain
7 90-percent compliance. The division shall fine an employer or
8 carrier, pursuant to rules adopted by the division, for each
9 late payment of compensation that is below the minimum
10 90-percent performance standard. Any carrier that is found to
11 be not in compliance in subsequent consecutive quarters must
12 implement a medical-bill review program approved by the
13 division, and the carrier is subject to disciplinary action by
14 the Department of Financial Services Insurance.

15 (12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM
16 REIMBURSEMENT ALLOWANCES.--

17 (a) A three-member panel is created, consisting of the
18 Chief Financial Officer Insurance Commissioner, or his or her
19 ~~the Insurance Commissioner's~~ designee, and two members to be
20 appointed by the Governor, subject to confirmation by the
21 Senate, one member who, on account of present or previous
22 vocation, employment, or affiliation, shall be classified as a
23 representative of employers, the other member who, on account
24 of previous vocation, employment, or affiliation, shall be
25 classified as a representative of employees. The panel shall
26 determine statewide schedules of maximum reimbursement
27 allowances for medically necessary treatment, care, and
28 attendance provided by physicians, hospitals, ambulatory
29 surgical centers, work-hardening programs, pain programs, and
30 durable medical equipment. The maximum reimbursement
31 allowances for inpatient hospital care shall be based on a

1 schedule of per diem rates, to be approved by the three-member
2 panel no later than March 1, 1994, to be used in conjunction
3 with a precertification manual as determined by the division.
4 All compensable charges for hospital outpatient care shall be
5 reimbursed at 75 percent of usual and customary charges. Until
6 the three-member panel approves a schedule of per diem rates
7 for inpatient hospital care and it becomes effective, all
8 compensable charges for hospital inpatient care must be
9 reimbursed at 75 percent of their usual and customary charges.
10 Annually, the three-member panel shall adopt schedules of
11 maximum reimbursement allowances for physicians, hospital
12 inpatient care, hospital outpatient care, ambulatory surgical
13 centers, work-hardening programs, and pain programs. However,
14 the maximum percentage of increase in the individual
15 reimbursement allowance may not exceed the percentage of
16 increase in the Consumer Price Index for the previous year. An
17 individual physician, hospital, ambulatory surgical center,
18 pain program, or work-hardening program shall be reimbursed
19 either the usual and customary charge for treatment, care, and
20 attendance, the agreed-upon contract price, or the maximum
21 reimbursement allowance in the appropriate schedule, whichever
22 is less.

23 Section 494. Subsections (23) and (24) of section
24 440.134, Florida Statutes, are amended to read:

25 440.134 Workers' compensation managed care
26 arrangement.--

27 (23) The agency shall immediately notify the
28 Department of Financial Services ~~Insurance~~ and the Department
29 of Labor and Employment Security whenever it issues an
30 administrative complaint or an order or otherwise initiates
31

1 legal proceedings resulting in, or which may result in,
2 suspension or revocation of an insurer's authorization.

3 (24) Nothing in this part shall be deemed to authorize
4 any entity to transact any insurance business, assume risk, or
5 otherwise engage in any other type of insurance unless it is
6 authorized as an insurer or a health maintenance organization
7 under a certificate of authority issued by the Department of
8 Financial Services ~~Insurance~~ under the provisions of the
9 Florida Insurance Code.

10 Section 495. Subsections (1), (2), (3), and (5) of
11 section 440.135, Florida Statutes, are amended to read:

12 440.135 Pilot programs for medical and remedial care
13 in workers' compensation.--

14 (1) It is the intent of the Legislature to determine
15 whether the costs of the workers' compensation system can be
16 effectively contained by monitoring more closely the medical,
17 hospital, and remedial care required by s. 440.13, while
18 providing injured workers with more prompt and effective care
19 and earlier restoration of earning capacity without diminution
20 of the quality of such care. It is the further intent of the
21 Legislature to determine whether the total cost to an employer
22 that provides a policy or plan of health insurance and a
23 separate policy or plan of workers' compensation and
24 employer's liability insurance for its employees can be
25 reduced by combining both coverages under a policy or plan
26 that provides 24-hour health insurance coverage as set forth
27 in this section. Therefore, the Legislature authorizes the
28 establishment of one or more pilot programs to be administered
29 by the Department of Financial Services ~~Insurance~~ after
30 consulting with the division. Each pilot program shall
31 terminate 2 years after the first date of operation of the

1 program, unless extended by act of the Legislature. In order
2 to evaluate the feasibility of implementing these pilot
3 programs, the Department of Financial Services ~~Insurance~~ shall
4 consult with the division regarding:

5 (a) Establishing alternate delivery systems using a
6 health maintenance organization model, which includes
7 physician fees, competitive bidding, or capitation models.

8 (b) Controlling and enhancing the selection of
9 providers of medical, hospital, and remedial care and using
10 the peer review and utilization review procedures in s.
11 440.13(1) to control the utilization of care by physicians
12 providing treatment pursuant to s. 440.13(2)(a).

13 (c) Establishing, by agreement, appropriate fees for
14 medical, hospital, and remedial care pursuant to this chapter.

15 (d) Promoting effective and timely utilization of
16 medical, hospital, and remedial care by injured workers.

17 (e) Coordinating the duration of payment of disability
18 benefits with determination made by qualified participating
19 providers of medical, hospital, or remedial care.

20 (f) Initiating one or more pilot programs under which
21 participating employers would provide a 24-hour health
22 insurance policy to their employees under a single insurance
23 policy or self-insured plan. The policy or plan must provide a
24 level of health insurance benefits which meets criteria
25 established by the Department of Financial Services ~~Insurance~~
26 but which provides medical benefits for at least occupational
27 injuries and illnesses comparable to those required by this
28 chapter and which may use deductibles and coinsurance
29 provisions that require the employee to pay a portion of the
30 actual medical care received by the employee, notwithstanding
31 any other provisions of this chapter. The policy or plan may

1 also provide indemnity benefits as specified in s.
2 440.38(1)(e). The employer shall pay the entire premium for
3 the 24-hour health insurance policy or self-insured plan other
4 than the portion of the premium which relates to dependent
5 coverage.

6 (g) Other methods of monitoring reduced costs within
7 the workers' compensation system while maintaining quality
8 care.

9 (2) The Department of Financial Services Insurance,
10 after consulting with the division, may, without a bidding
11 process, negotiate and enter into such contracts as may be
12 necessary or appropriate in its judgment to implement the
13 pilot program.

14 (3) The Department of Financial Services Insurance may
15 also accept grants and moneys from any source and may expend
16 such grants and moneys for the purposes of the program.

17 ~~The Department of Insurance shall make an interim~~
18 ~~report on or before December 1, 1991, and a final report on or~~
19 ~~before the termination date specified in subsection (1) to the~~
20 ~~Speaker of the House of Representatives, the President of the~~
21 ~~Senate, the Minority Leader of the Senate, the Minority Leader~~
22 ~~of the House of Representatives, and the Governor, on the~~
23 ~~activities, findings, and recommendations of the Department of~~
24 ~~Insurance relative to the pilot programs.~~The Department of
25 Financial Services Insurance shall monitor, evaluate, and
26 report the following information regarding physicians,
27 hospitals, and other remedial care providers:

- 28 (a) Cost savings.
29 (b) Effectiveness.
30 (c) Effect on earning capacity and indemnity payments.
31 (d) Complaints from injured workers and providers.

1 (e) Concurrent review of quality of care.

2 (f) Other pertinent matters.

3

4 The information from the pilot programs shall be reported in a
5 format to permit comparisons to other similar data.

6 Section 496. Subsection (10), paragraphs (a) and (e)
7 of subsection (15), and subsection (16) of section 440.20,
8 Florida Statutes, are amended to read:

9 440.20 Time for payment of compensation; penalties for
10 late payment.--

11 (10) Whenever the division deems it advisable, it may
12 require any employer to make a deposit with the Chief
13 Financial Officer ~~Treasurer~~ to secure the prompt and
14 convenient payments of such compensation; and payments
15 therefrom upon any awards shall be made upon order of the
16 division or judge of compensation claims.

17 (15)(a) The division shall examine on an ongoing basis
18 claims files in order to identify questionable claims-handling
19 techniques, questionable patterns or practices of claims, or a
20 pattern of repeated unreasonably controverted claims by
21 employers, carriers, self-insurers, health care providers,
22 health care facilities, training and education providers, or
23 any others providing services to employees pursuant to this
24 chapter and may certify its findings to the Department of
25 Financial Services ~~Insurance~~. Such questionable techniques,
26 patterns, or repeated unreasonably controverted claims as
27 constitute a general business practice of a carrier in the
28 judgment of the division shall be certified in its findings by
29 the division to the Department of Financial Services ~~Insurance~~
30 or such other appropriate licensing agency. Such certification
31 by the division is exempt from the provisions of chapter 120.

1 Upon receipt of any such certification, the Department of
2 Financial Services Insurance shall take appropriate action so
3 as to bring such general business practices to a halt pursuant
4 to s. 440.38(3)(a). The division may initiate investigations
5 of questionable techniques, patterns, practices, or repeated
6 unreasonably controverted claims. The division may by rule
7 establish forms and procedures for corrective action plans and
8 for auditing carriers.

9 (e) The division shall publish annually a report which
10 indicates the promptness of first payment of compensation
11 records of each carrier or self-insurer so as to focus
12 attention on those carriers or self-insurers with poor payment
13 records for the preceding year. A copy of such report shall be
14 certified to the Department of Financial Services Insurance
15 which shall take appropriate steps so as to cause such poor
16 carrier payment practices to halt pursuant to s. 440.38(3)(a).
17 In addition, the division shall take appropriate action so as
18 to halt such poor payment practices of self-insurers. "Poor
19 payment practice" means a practice of late payment sufficient
20 to constitute a general business practice.

21 (16) No penalty assessed under this section may be
22 recouped by any carrier or self-insurer in the rate base, the
23 premium, or any rate filing. In the case of carriers, the
24 Department of Financial Services Insurance shall enforce this
25 subsection; and in the case of self-insurers, the division
26 shall enforce this subsection.

27 Section 497. Subsection (2) of section 440.24, Florida
28 Statutes, is amended to read:

29 440.24 Enforcement of compensation orders;
30 penalties.--

31

1 (2) In any case where the employer is insured and the
2 carrier fails to comply with any compensation order of a judge
3 of compensation claims or court within 10 days after such
4 order becomes final, the division shall notify the Department
5 of Financial Services Insurance of such failure, and the
6 Department of Financial Services Insurance shall thereupon
7 suspend the license of such carrier to do an insurance
8 business in this state, until such carrier has complied with
9 such order.

10 Section 498. Subsection (1), paragraph (a) of
11 subsection (3), and paragraph (a) of subsection (4) of section
12 440.38, Florida Statutes, are amended to read:

13 440.38 Security for compensation; insurance carriers
14 and self-insurers.--

15 (1) Every employer shall secure the payment of
16 compensation under this chapter:

17 (a) By insuring and keeping insured the payment of
18 such compensation with any stock company or mutual company or
19 association or exchange, authorized to do business in the
20 state;

21 (b) By furnishing satisfactory proof to the division
22 of its financial ability to pay such compensation individually
23 and on behalf of its subsidiary and affiliated companies with
24 employees in this state and receiving an authorization from
25 the division to pay such compensation directly in accordance
26 with the following provisions:

27 1. The division may require an employer to deposit
28 with the division a qualifying security deposit. The division
29 shall determine the type and amount of the qualifying security
30 deposit and shall prescribe conditions for the qualifying
31 security deposit, which shall include authorization for the

1 division to call the qualifying security deposit in the case
2 of default. In addition, the division shall require, as a
3 condition to authorization to self-insure, proof that the
4 employer has provided for competent personnel with whom to
5 deliver benefits and to provide a safe working environment.
6 Further, the division shall require such employer to carry
7 reinsurance at levels that will ensure the actuarial soundness
8 of such employer in accordance with rules promulgated by the
9 division. The division may by rule require that, in the event
10 of an individual self-insurer's insolvency, such qualifying
11 security deposits and reinsurance policies are payable to the
12 Florida Self-Insurers Guaranty Association, Incorporated,
13 created pursuant to s. 440.385. Any employer securing
14 compensation in accordance with the provisions of this
15 paragraph shall be known as a self-insurer and shall be
16 classed as a carrier of her or his own insurance.

17 2. If the employer fails to maintain the foregoing
18 requirements, the division shall revoke the employer's
19 authority to self-insure, unless the employer provides to the
20 division the certified opinion of an independent actuary who
21 is a member of the American Society of Actuaries as to the
22 actuarial present value of the employer's determined and
23 estimated future compensation payments based on cash reserves,
24 using a 4-percent discount rate, and a qualifying security
25 deposit equal to 1.5 times the value so certified. The
26 employer shall thereafter annually provide such a certified
27 opinion until such time as the employer meets the requirements
28 of subparagraph 1. The qualifying security deposit shall be
29 adjusted at the time of each such annual report. Upon the
30 failure of the employer to timely provide such opinion or to
31 timely provide a security deposit in an amount equal to 1.5

1 times the value certified in the latest opinion, the division
2 shall then revoke such employer's authorization to
3 self-insure, and such failure shall be deemed to constitute an
4 immediate serious danger to the public health, safety, or
5 welfare sufficient to justify the summary suspension of the
6 employer's authorization to self-insure pursuant to s. 120.68.

7 3. Upon the suspension or revocation of the employer's
8 authorization to self-insure, the employer shall provide to
9 the division and to the Florida Self-Insurers Guaranty
10 Association, Incorporated, created pursuant to s. 440.385 the
11 certified opinion of an independent actuary who is a member of
12 the American Society of Actuaries of the actuarial present
13 value of the determined and estimated future compensation
14 payments of the employer for claims incurred while the member
15 exercised the privilege of self-insurance, using a discount
16 rate of 4 percent. The employer shall provide such an opinion
17 at 6-month intervals thereafter until such time as the latest
18 opinion shows no remaining value of claims. With each such
19 opinion, the employer shall deposit with the division a
20 qualifying security deposit in an amount equal to the value
21 certified by the actuary. The association has a cause of
22 action against an employer, and against any successor of the
23 employer, who fails to timely provide such opinion or who
24 fails to timely maintain the required security deposit with
25 the division. The association shall recover a judgment in the
26 amount of the actuarial present value of the determined and
27 estimated future compensation payments of the employer for
28 claims incurred while the employer exercised the privilege of
29 self-insurance, together with attorney's fees. For purposes
30 of this section, the successor of an employer means any
31 person, business entity, or group of persons or business

1 entities, which holds or acquires legal or beneficial title to
2 the majority of the assets or the majority of the shares of
3 the employer.

4 4. A qualifying security deposit shall consist, at the
5 option of the employer, of:

6 a. Surety bonds, in a form and containing such terms
7 as prescribed by the division, issued by a corporation surety
8 authorized to transact surety business by the Department of
9 Financial Services ~~Insurance~~, and whose policyholders' and
10 financial ratings, as reported in A.M. Best's Insurance
11 Reports, Property-Liability, are not less than "A" and "V",
12 respectively.

13 b. Irrevocable letters of credit in favor of the
14 division issued by financial institutions located within this
15 state, the deposits of which are insured through the Federal
16 Deposit Insurance Corporation.

17 5. The qualifying security deposit shall be held by
18 the division exclusively for the benefit of workers'
19 compensation claimants. The security shall not be subject to
20 assignment, execution, attachment, or any legal process
21 whatsoever, except as necessary to guarantee the payment of
22 compensation under this chapter. No surety bond may be
23 terminated, and no letter of credit may be allowed to expire,
24 without 90 days' prior notice to the division and deposit by
25 the self-insuring employer of some other qualifying security
26 deposit of equal value within 10 business days after such
27 notice. Failure to provide such notice or failure to timely
28 provide qualifying replacement security after such notice
29 shall constitute grounds for the division to call or sue upon
30 the surety bond or to exercise its rights under a letter of
31 credit. Current self-insured employers must comply with this

1 section on or before December 31, 2001, or upon the maturity
2 of existing security deposits, whichever occurs later. The
3 division may specify by rule the amount of the qualifying
4 security deposit required prior to authorizing an employer to
5 self-insure and the amount of net worth required for an
6 employer to qualify for authorization to self-insure;

7 (c) By entering into a contract with a public utility
8 under an approved utility-provided self-insurance program as
9 set forth in s. 624.46225 in effect as of July 1, 1983. The
10 division shall adopt rules to implement this paragraph;

11 (d) By entering into an interlocal agreement with
12 other local governmental entities to create a local government
13 pool pursuant to s. 624.4622;

14 (e) In accordance with s. 440.135, an employer, other
15 than a local government unit, may elect coverage under the
16 Workers' Compensation Law and retain the benefit of the
17 exclusiveness of liability provided in s. 440.11 by obtaining
18 a 24-hour health insurance policy from an authorized property
19 and casualty insurance carrier or an authorized life and
20 health insurance carrier, or by participating in a fully or
21 partially self-insured 24-hour health plan that is established
22 or maintained by or for two or more employers, so long as the
23 law of this state is not preempted by the Employee Retirement
24 Income Security Act of 1974, Pub. L. No. 93-406, or any
25 amendment to that law, which policy or plan must provide, for
26 at least occupational injuries and illnesses, medical benefits
27 that are comparable to those required by this chapter. A local
28 government unit, as a single employer, in accordance with s.
29 440.135, may participate in the 24-hour health insurance
30 coverage plan referenced in this paragraph. Disputes and
31 remedies arising under policies issued under this section are

1 governed by the terms and conditions of the policies and under
2 the applicable provisions of the Florida Insurance Code and
3 rules adopted under the insurance code and other applicable
4 laws of this state. The 24-hour health insurance policy may
5 provide for health care by a health maintenance organization
6 or a preferred provider organization. The premium for such
7 24-hour health insurance policy shall be paid entirely by the
8 employer. The 24-hour health insurance policy may use
9 deductibles and coinsurance provisions that require the
10 employee to pay a portion of the actual medical care received
11 by the employee. If an employer obtains a 24-hour health
12 insurance policy or self-insured plan to secure payment of
13 compensation as to medical benefits, the employer must also
14 obtain an insurance policy or policies that provide indemnity
15 benefits as follows:

16 1. If indemnity benefits are provided only for
17 occupational-related disability, such benefits must be
18 comparable to those required by this chapter.

19 2. If indemnity benefits are provided for both
20 occupational-related and nonoccupational-related disability,
21 such benefits must be comparable to those required by this
22 chapter, except that they must be based on 60 percent of the
23 average weekly wages.

24 3. The employer shall provide for each of its
25 employees life insurance with a death benefit of \$100,000.

26 4. Policies providing coverage under this subsection
27 must use prescribed and acceptable underwriting standards,
28 forms, and policies approved by the Department of Financial
29 Services Insurance. If any insurance policy that provides
30 coverage under this section is canceled, terminated, or
31 nonrenewed for any reason, the cancellation, termination, or

1 nonrenewal is ineffective until the self-insured employer or
2 insurance carrier or carriers notify the division and the
3 Department of Financial Services Insurance of the
4 cancellation, termination, or nonrenewal, and until the
5 division has actually received the notification. The division
6 must be notified of replacement coverage under a workers'
7 compensation and employer's liability insurance policy or plan
8 by the employer prior to the effective date of the
9 cancellation, termination, or nonrenewal; or
10 (f) By entering into a contract with an individual
11 self-insurer under an approved individual
12 self-insurer-provided self-insurance program as set forth in
13 s. 624.46225. The division may adopt rules to administer this
14 subsection.
15 (3)(a) The license of any stock company or mutual
16 company or association or exchange authorized to do insurance
17 business in the state shall for good cause, upon
18 recommendation of the division, be suspended or revoked by the
19 Department of Financial Services Insurance. No suspension or
20 revocation shall affect the liability of any carrier already
21 incurred.
22 (4)(a) A carrier of insurance, including the parties
23 to any mutual, reciprocal, or other association, may not write
24 any compensation insurance under this chapter without a permit
25 from the Department of Financial Services Insurance. Such
26 permit shall be given, upon application therefor, to any
27 insurance or mutual or reciprocal insurance association upon
28 the department's being satisfied of the solvency of such
29 corporation or association and its ability to perform all its
30 undertakings. The Department of Financial Services Insurance
31

1 may revoke any permit so issued for violation of any provision
2 of this chapter.

3 Section 499. Subsections (1) and (3) of section
4 440.381, Florida Statutes, are amended to read:

5 440.381 Application for coverage; reporting payroll;
6 payroll audit procedures; penalties.--

7 (1) Applications by an employer to a carrier for
8 coverage required by s. 440.38 must be made on a form
9 prescribed by the Department of Financial Services Insurance.
10 The Department of Financial Services Insurance shall adopt
11 rules for applications for coverage required by s. 440.38. The
12 rules must provide that an application include information on
13 the employer, the type of business, past and prospective
14 payroll, estimated revenue, previous workers' compensation
15 experience, employee classification, employee names, and any
16 other information necessary to enable a carrier to accurately
17 underwrite the applicant. The rules must include a provision
18 that a carrier or self-insurance fund may require that an
19 employer update an application monthly to reflect any change
20 in the required application information.

21 (3) The Department of Financial Services Insurance and
22 the Department of Labor and Employment Security shall
23 establish by rule minimum requirements for audits of payroll
24 and classifications in order to ensure that the appropriate
25 premium is charged for workers' compensation coverage. The
26 rules shall ensure that audits performed by both carriers and
27 employers are adequate to provide that all sources of payments
28 to employees, subcontractors, and independent contractors have
29 been reviewed and that the accuracy of classification of
30 employees has been verified. The rules shall provide that
31 employers in all classes other than the construction class be

1 audited not less frequently than biennially and may provide
2 for more frequent audits of employers in specified
3 classifications based on factors such as amount of premium,
4 type of business, loss ratios, or other relevant factors. In
5 no event shall employers in the construction class, generating
6 more than the amount of premium required to be experience
7 rated, be audited less than annually. The annual audits
8 required for construction classes shall consist of physical
9 onsite audits. Payroll verification audit rules must include,
10 but need not be limited to, the use of state and federal
11 reports of employee income, payroll and other accounting
12 records, certificates of insurance maintained by
13 subcontractors, and duties of employees.

14 Section 500. Subsection (13) of section 440.385,
15 Florida Statutes, is amended to read:

16 440.385 Florida Self-Insurers Guaranty Association,
17 Incorporated.--

18 (13) CORPORATE INCOME TAX CREDIT.--Any sums acquired
19 by a member by refund, dividend, or otherwise from the
20 association shall be payable within 30 days of receipt to the
21 Department of Revenue for deposit with the Chief Financial
22 Officer ~~Treasurer~~ to the credit of the General Revenue Fund.
23 All provisions of chapter 220 relating to penalties and
24 interest on delinquent corporate income tax payments apply to
25 payments due under this subsection.

26 Section 501. Subsection (6) of section 440.44, Florida
27 Statutes, is amended to read:

28 440.44 Workers' compensation; staff organization.--

29 (6) SEAL.--The division and the judges of compensation
30 claims shall have a seal upon which shall be inscribed the
31 words "State of Florida Department of Financial

1 Services--Seal~~Insurance--Seal~~ and "Division of
2 Administrative Hearings--Seal," respectively.

3 Section 502. Paragraph (d) of subsection (1) of
4 section 440.4416, Florida Statutes, is amended to read:

5 440.4416 Workers' Compensation Oversight Board.--

6 (1) There is created within the Department of Labor
7 and Employment Security the Workers' Compensation Oversight
8 Board. The board shall be composed of the following members,
9 each of whom has knowledge of, or experience with, the
10 workers' compensation system:

11 (d) Additionally, the Chief Financial Officer
12 ~~Insurance Commissioner~~ and the secretary of the Department of
13 Labor and Employment Security shall be nonvoting ex officio
14 members.

15 Section 503. Paragraphs (a), (b), and (d) of
16 subsection (9) of section 440.49, Florida Statutes, are
17 amended to read:

18 440.49 Limitation of liability for subsequent injury
19 through Special Disability Trust Fund.--

20 (9) SPECIAL DISABILITY TRUST FUND.--

21 (a) There is established in the State Treasury a
22 special fund to be known as the "Special Disability Trust
23 Fund," which shall be available only for the purposes stated
24 in this section; and the assets thereof may not at any time be
25 appropriated or diverted to any other use or purpose. The
26 Chief Financial Officer ~~Treasurer~~ shall be the custodian of
27 such fund, and all moneys and securities in such fund shall be
28 held in trust by such Chief Financial Officer ~~Treasurer~~ and
29 shall not be the money or property of the state. The Chief
30 Financial Officer ~~Treasurer~~ is authorized to disburse moneys
31 from such fund only when approved by the division or

1 corporation ~~and upon the order of the Comptroller~~. The Chief
2 Financial Officer ~~Treasurer~~ shall deposit any moneys paid into
3 such fund into such depository banks as the division may
4 designate and is authorized to invest any portion of the fund
5 which, in the opinion of the division, is not needed for
6 current requirements, in the same manner and subject to all
7 the provisions of the law with respect to the deposits of
8 state funds by such Chief Financial Officer ~~Treasurer~~. All
9 interest earned by such portion of the fund as may be invested
10 by the Chief Financial Officer ~~Treasurer~~ shall be collected by
11 her or him and placed to the credit of such fund.

12 (b)1. The Special Disability Trust Fund shall be
13 maintained by annual assessments upon the insurance companies
14 writing compensation insurance in the state, the commercial
15 self-insurers under ss. 624.462 and 624.4621, the assessable
16 mutuals under s. 628.601, and the self-insurers under this
17 chapter, which assessments shall become due and be paid
18 quarterly at the same time and in addition to the assessments
19 provided in s. 440.51. The division shall estimate annually in
20 advance the amount necessary for the administration of this
21 subsection and the maintenance of this fund and shall make
22 such assessment in the manner hereinafter provided.

23 2. The annual assessment shall be calculated to
24 produce during the ensuing fiscal year an amount which, when
25 combined with that part of the balance in the fund on June 30
26 of the current fiscal year which is in excess of \$100,000, is
27 equal to the average of:

28 a. The sum of disbursements from the fund during the
29 immediate past 3 calendar years, and

30 b. Two times the disbursements of the most recent
31 calendar year.

1
2 Such amount shall be prorated among the insurance companies
3 writing compensation insurance in the state and the
4 self-insurers. Provided however, for those carriers that have
5 excluded ceded reinsurance premiums from their assessments on
6 or before January 1, 2000, no assessments on ceded reinsurance
7 premiums shall be paid by those carriers until such time as
8 the division advises each of those carriers of the impact that
9 the inclusion of ceded reinsurance premiums has on their
10 assessment. The division may not recover any past
11 underpayments of assessments levied against any carrier that
12 on or before January 1, 2000, excluded ceded reinsurance
13 premiums from their assessment prior to the point that the
14 division advises of the appropriate assessment that should
15 have been paid.

16 3. The net premiums written by the companies for
17 workers' compensation in this state and the net premium
18 written applicable to the self-insurers in this state are the
19 basis for computing the amount to be assessed as a percentage
20 of net premiums. Such payments shall be made by each carrier
21 and self-insurer to the division for the Special Disability
22 Trust Fund in accordance with such regulations as the division
23 prescribes.

24 4. The Chief Financial Officer ~~Treasurer~~ is authorized
25 to receive and credit to such Special Disability Trust Fund
26 any sum or sums that may at any time be contributed to the
27 state by the United States under any Act of Congress, or
28 otherwise, to which the state may be or become entitled by
29 reason of any payments made out of such fund.

30 (d) The Special Disability Trust Fund shall be
31 supplemented by a \$250 notification fee on each notice of

1 claim filed or refiled after July 1, 1997, and a \$500 fee on
2 each proof of claim filed in accordance with subsection (7).
3 Revenues from the fee shall be deposited into the Special
4 Disability Trust Fund and are exempt from the deduction
5 required by s. 215.20. The fees provided in this paragraph
6 shall not be imposed upon any insurer which is in receivership
7 with the Department of Financial Services Insurance.

8 Section 504. Paragraph (a) of subsection (1) and
9 subsections (2) and (3) of section 440.50, Florida Statutes,
10 are amended to read:

11 440.50 Workers' Compensation Administration Trust
12 Fund.--

13 (1)(a) There is established in the State Treasury a
14 special fund to be known as the "Workers' Compensation
15 Administration Trust Fund" for the purpose of providing for
16 the payment of all expenses in respect to the administration
17 of this chapter, including the vocational rehabilitation of
18 injured employees as provided in s. 440.49 and the payments
19 due under s. 440.15(1)(f), the funding of the fixed
20 administrative expenses of the plan, and the funding of the
21 Bureau of Workers' Compensation Fraud within the Department of
22 Financial Services Insurance. Such fund shall be administered
23 by the division.

24 (2) The Chief Financial Officer ~~Treasurer~~ is
25 authorized to disburse moneys from such fund only when
26 approved by the division ~~and upon the order of the~~
27 ~~Comptroller~~.

28 (3) The Chief Financial Officer ~~Treasurer~~ shall
29 deposit any moneys paid into such fund into such depository
30 banks as the division may designate and is authorized to
31 invest any portion of the fund which, in the opinion of the

1 division, is not needed for current requirements, in the same
2 manner and subject to all the provisions of the law with
3 respect to the deposit of state funds by such Chief Financial
4 Officer ~~Treasurer~~. All interest earned by such portion of the
5 fund as may be invested by the Chief Financial Officer
6 ~~Treasurer~~ shall be collected by him or her and placed to the
7 credit of such fund.

8 Section 505. Paragraph (a) of subsection (1),
9 subsection (3), paragraph (b) of subsection (6), and
10 subsections (11) and (12) of section 440.51, Florida Statutes,
11 are amended to read:

12 440.51 Expenses of administration.--

13 (1) The division shall estimate annually in advance
14 the amounts necessary for the administration of this chapter,
15 in the following manner.

16 (a) The division shall, by July 1 of each year, notify
17 carriers and self-insurers of the assessment rate, which shall
18 be based on the anticipated expenses of the administration of
19 this chapter for the next calendar year. Such assessment rate
20 shall take effect January 1 of the next calendar year and
21 shall be included in workers' compensation rate filings
22 approved by the Department of Financial Services ~~Insurance~~
23 which become effective on or after January 1 of the next
24 calendar year. Assessments shall become due and be paid
25 quarterly.

26 (3) If any carrier fails to pay the amounts assessed
27 against him or her under the provisions of this section within
28 60 days from the time such notice is served upon him or her,
29 the Department of Financial Services ~~Insurance~~ upon being
30 advised by the division may suspend or revoke the
31 authorization to insure compensation in accordance with the

1 procedure in s. 440.38(3)(a). The division may permit a
2 carrier to remit any underpayment of assessments for
3 assessments levied after January 1, 2001.

4 (6)

5 (b) The Department of Financial Services ~~Insurance~~ may
6 require from each self-insurer, at such time and in accordance
7 with such regulations as the Department of Financial Services
8 ~~Insurance~~ prescribes, reports in respect to wages paid, the
9 amount of premiums such self-insurer would have to pay if
10 insured, and all payments of compensation made by such
11 self-insurer during each prior period, and may determine the
12 amounts paid by each self-insurer and the amounts paid by all
13 self-insurers during such period. For the purposes of this
14 section, the payroll records of each self-insurer shall be
15 open to annual inspection and audit by the Department of
16 Financial Services ~~Insurance~~ or its authorized representative,
17 during regular business hours; and if any audit of such
18 records of a self-insurer discloses a deficiency in the
19 amounts reported to the Department of Financial Services
20 ~~Insurance~~ or in the amounts paid to the Department of
21 Financial Services ~~Insurance~~ by a self-insurer pursuant to
22 this section, the Department of Financial Services ~~Insurance~~
23 may assess the cost of such audit against the self-insurer.

24 (11) The division shall furnish to any employer or
25 carrier, upon request, its individual experience. The
26 division shall furnish to the Department of Financial Services
27 ~~Insurance~~, upon request, the Florida experience as developed
28 under accident year or calendar year.

29 (12) In addition to any other penalties provided by
30 this law, the failure to submit any report or other
31 information required by this law shall be just cause to

1 suspend the right of a self-insurer to operate as such, or,
2 upon certification by the division to the Department of
3 Financial Services Insurance that a carrier has failed or
4 refused to furnish such reports, shall be just cause for the
5 Department of Financial Services Insurance to suspend or
6 revoke the license of such carrier.

7 Section 506. Section 440.515, Florida Statutes, is
8 amended to read:

9 440.515 Reports from self-insurers;
10 confidentiality.--The Department of Financial Services
11 ~~Insurance~~ shall maintain the reports filed in accordance with
12 s. 440.51(6)(b) as confidential and exempt from the provisions
13 of s. 119.07(1), and such reports shall be released only for
14 bona fide research or educational purposes or after receipt of
15 consent from the employer.

16 Section 507. Subsections (3) and (4) of section
17 440.52, Florida Statutes, are amended to read:

18 440.52 Registration of insurance carriers; notice of
19 cancellation or expiration of policy; suspension or revocation
20 of authority.--

21 (3) If the division finds, after due notice and a
22 hearing at which the insurance carrier is entitled to be heard
23 in person or by counsel and present evidence, that the
24 insurance carrier has repeatedly failed to comply with its
25 obligations under this chapter, the division may request the
26 Department of Financial Services Insurance to suspend or
27 revoke the authorization of such insurance carrier to write
28 workers' compensation insurance under this chapter. Such
29 suspension or revocation shall not affect the liability of any
30 such insurance carrier under policies in force prior to the
31 suspension or revocation.

1 (4) In addition to the penalties prescribed in
2 subsection (3), violation of s. 440.381 by an insurance
3 carrier shall result in the imposition of a fine not to exceed
4 \$1,000 per audit, if the insurance carrier fails to act on
5 said audits by correcting errors in employee classification or
6 accepted applications for coverage where it knew employee
7 classifications were incorrect. Such fines shall be levied by
8 the Department of Financial Services Insurance and deposited
9 into the Insurance ~~Commissioner's~~ Regulatory Trust Fund.

10 Section 508. Paragraph (a) of subsection (5) of
11 section 443.131, Florida Statutes, is amended to read:

12 443.131 Contributions.--

13 (5) FINANCING BENEFITS PAID TO EMPLOYEES OF THE STATE
14 AND POLITICAL SUBDIVISIONS OF THE STATE.--Benefits paid to
15 employees of this state or any instrumentality of this state,
16 or to employees of any political subdivision of this state or
17 any instrumentality thereof, based upon service defined in s.
18 443.036(21)(b), shall be financed in accordance with this
19 subsection.

20 (a)1. Unless an election is made as provided in
21 paragraph (c), the state or any political subdivision of the
22 state shall pay into the Unemployment Compensation Trust Fund
23 an amount equivalent to the amount of regular benefits,
24 short-time compensation benefits, and extended benefits paid
25 to individuals, based on wages paid by the state or the
26 political subdivision for service defined in s.
27 443.036(21)(b).

28 2. Should any state agency become more than 120 days
29 delinquent on reimbursements due to the Unemployment
30 Compensation Trust Fund, the division shall certify to the
31 Chief Financial Officer ~~Comptroller~~ the amount due and the

1 Chief Financial Officer ~~Comptroller~~ shall transfer the amount
2 due to the Unemployment Compensation Trust Fund from the funds
3 of such agency that may legally be used for such purpose. In
4 the event any political subdivision of the state or any
5 instrumentality thereof becomes more than 120 days delinquent
6 on reimbursements due to the Unemployment Compensation Trust
7 Fund, then, upon request by the division after a hearing, the
8 Department of Revenue or the Department of Financial Services
9 ~~Banking and Finance~~, as the case may be, shall deduct the
10 amount owed by the political subdivision or instrumentality
11 from any funds to be distributed by it to the county, city,
12 special district, or consolidated form of government for
13 further distribution to the trust fund in accordance with this
14 chapter. Should any employer for whom the city or county tax
15 collector collects taxes fail to make the reimbursements to
16 the Unemployment Compensation Trust Fund required by this
17 chapter, the tax collector after a hearing, at the request of
18 the division and upon receipt of a certificate showing the
19 amount owed by the employer, shall deduct the amount so
20 certified from any taxes collected for the employer and remit
21 same to the Department of Labor and Employment Security for
22 further distribution to the trust fund in accordance with this
23 chapter. This subparagraph does not apply to those amounts due
24 for benefits paid prior to October 1, 1979. This subparagraph
25 does not apply to amounts owed by a political subdivision for
26 benefits erroneously paid where the claimant is required to
27 repay to the division under s. 443.151(6)(a) or (b) any sum as
28 benefits received.

29 Section 509. Subsections (2), (3), and (4) of section
30 443.191, Florida Statutes, are amended to read:

31

1 443.191 Unemployment Compensation Trust Fund;
2 establishment and control.--

3 (2) The Chief Financial Officer ~~Treasurer~~ is the ex
4 officio treasurer and custodian of the fund and shall
5 administer the fund in accordance with the directions of the
6 division. All payments from the fund must be approved by the
7 division or by a duly authorized agent ~~and must be made by the~~
8 ~~Treasurer upon warrants issued by the Comptroller, except as~~
9 ~~hereinafter provided.~~ The Chief Financial Officer ~~Treasurer~~
10 shall maintain within the fund three separate accounts:

- 11 (a) A clearing account;
12 (b) An Unemployment Compensation Trust Fund account;
13 and
14 (c) A benefit account.

15
16 All moneys payable to the fund, including moneys received from
17 the United States as reimbursement for extended benefits paid
18 by the division, upon receipt thereof by the division, must be
19 forwarded to the Chief Financial Officer ~~Treasurer~~, who shall
20 immediately deposit them in the clearing account. Refunds
21 payable under s. 443.141 may be paid from the clearing account
22 ~~upon warrants issued by the Comptroller.~~ After clearance, all
23 other moneys in the clearing account must be immediately
24 deposited with the Secretary of the Treasury of the United
25 States to the credit of the account of this state in the
26 Unemployment Compensation Trust Fund established and
27 maintained under s. 904 of the Social Security Act, as
28 amended, any provisions of the law in this state relating to
29 the deposit, administration, release, or disbursement of
30 moneys in the possession or custody of this state to the
31 contrary notwithstanding. The benefit account shall consist

1 of all moneys requisitioned from this state's account in the
2 Unemployment Compensation Trust Fund. Except as otherwise
3 provided, moneys in the clearing and benefit accounts may be
4 deposited by the Chief Financial Officer ~~Treasurer~~, under the
5 direction of the division, in any bank or public depository in
6 which general funds of the state may be deposited, but no
7 public deposit insurance charge or premium may be paid out of
8 the fund. If any warrant issued against the clearing account
9 or the benefit account is not presented for payment within 1
10 year after issuance thereof, the Chief Financial Officer
11 ~~Comptroller~~ must cancel the same and credit without
12 restriction the amount of such warrant to the account upon
13 which it is drawn. When the payee or person entitled to any
14 warrant so canceled requests payment thereof, the Chief
15 Financial Officer ~~Comptroller~~, upon direction of the division,
16 must issue a new warrant therefor, to be paid out of the
17 account against which the canceled warrant had been drawn.

18 (3) Moneys shall be requisitioned from the state's
19 account in the Unemployment Compensation Trust Fund solely for
20 the payment of benefits and extended benefits and in
21 accordance with rules prescribed by the division, except that
22 money credited to this state's account pursuant to s. 903 of
23 the Social Security Act, as amended, shall be used exclusively
24 as provided in subsection (5). The division, through the
25 Chief Financial Officer ~~Treasurer~~, shall from time to time
26 requisition from the Unemployment Compensation Trust Fund such
27 amounts, not exceeding the amounts standing to this state's
28 account therein, as it deems necessary for the payment of
29 benefits and extended benefits for a reasonable future period.
30 Upon receipt thereof, the Chief Financial Officer ~~Treasurer~~
31 shall deposit such moneys in the benefit account in the State

1 Treasury and warrants for the payment of benefits and extended
2 benefits shall be drawn ~~by the Comptroller~~ upon the order of
3 the division against such benefit account. All warrants for
4 benefits and extended benefits shall be payable directly to
5 the ultimate beneficiary. Expenditures of such moneys in the
6 benefit account and refunds from the clearing account shall
7 not be subject to any provisions of law requiring specific
8 appropriations or other formal release by state officers of
9 money in their custody. All warrants issued for the payment of
10 benefits and refunds shall bear the signature of the Chief
11 Financial Officer ~~Comptroller~~ as above set forth. Any balance
12 of moneys requisitioned from the Unemployment Compensation
13 Trust Fund which remains unclaimed or unpaid in the benefit
14 account after the expiration of the period for which such sums
15 were requisitioned shall either be deducted from estimates
16 for, and may be utilized for the payment of, benefits and
17 extended benefits during succeeding periods, or, in the
18 discretion of the division, shall be redeposited with the
19 Secretary of the Treasury of the United States, to the credit
20 of this state's account in the Unemployment Compensation Trust
21 Fund, as provided in subsection (2).

22 (4) The provisions of subsections (1), (2), and (3),
23 to the extent that they relate to the Unemployment
24 Compensation Trust Fund, shall be operative only so long as
25 such unemployment trust fund continues to exist and so long as
26 the Secretary of the Treasury of the United States continues
27 to maintain for this state a separate book account of all
28 funds deposited therein by this state for benefit purposes,
29 together with this state's proportionate share of the earnings
30 of such Unemployment Compensation Trust Fund, from which no
31 other state is permitted to make withdrawals. If and when

1 such Unemployment Compensation Trust Fund ceases to exist, or
2 such separate book account is no longer maintained, all
3 moneys, properties, or securities therein belonging to the
4 Unemployment Compensation Trust Fund of this state shall be
5 transferred to the treasurer of the Unemployment Compensation
6 Trust Fund, who shall hold, invest, transfer, sell, deposit,
7 and release such moneys, properties, or securities in a manner
8 approved by the division in accordance with the provisions of
9 this chapter; however, such moneys shall be invested in the
10 following readily marketable classes of securities: bonds or
11 other interest-bearing obligations of the United States or of
12 the state. Further, such investment shall at all times be so
13 made that all the assets of the fund shall always be readily
14 convertible into cash when needed for the payment of benefits.
15 The treasurer shall dispose of securities or other properties
16 belonging to the Unemployment Compensation Trust Fund only
17 under the direction of the division.

18 Section 510. Subsections (1) and (2) of section
19 443.211, Florida Statutes, are amended to read:

20 443.211 Employment Security Administration Trust Fund;
21 appropriation; reimbursement.--

22 (1) EMPLOYMENT SECURITY ADMINISTRATION TRUST
23 FUND.--There is created in the State Treasury a special fund
24 to be known as the "Employment Security Administration Trust
25 Fund." All moneys that are deposited into this fund remain
26 continuously available to the division for expenditure in
27 accordance with the provisions of this chapter and do not
28 lapse at any time and may not be transferred to any other
29 fund. All moneys in this fund which are received from the
30 Federal Government or any agency thereof or which are
31 appropriated by this state for the purposes described in ss.

1 443.171 and 443.181, except money received under s.
2 443.191(5)(c), must be expended solely for the purposes and in
3 the amounts found necessary by the authorized cooperating
4 federal agencies for the proper and efficient administration
5 of this chapter. The fund shall consist of all moneys
6 appropriated by this state; all moneys received from the
7 United States or any agency thereof; all moneys received from
8 any other source for such purpose; any moneys received from
9 any agency of the United States or any other state as
10 compensation for services or facilities supplied to such
11 agency; any amounts received pursuant to any surety bond or
12 insurance policy or from other sources for losses sustained by
13 the Employment Security Administration Trust Fund or by reason
14 of damage to equipment or supplies purchased from moneys in
15 such fund; and any proceeds realized from the sale or
16 disposition of any such equipment or supplies which may no
17 longer be necessary for the proper administration of this
18 chapter. Notwithstanding any provision of this section, all
19 money requisitioned and deposited in this fund under s.
20 443.191(5)(c) remains part of the Unemployment Compensation
21 Trust Fund and must be used only in accordance with the
22 conditions specified in s. 443.191(5). All moneys in this
23 fund must be deposited, administered, and disbursed in the
24 same manner and under the same conditions and requirements as
25 is provided by law for other special funds in the State
26 Treasury. Such moneys must be secured by the depository in
27 which they are held to the same extent and in the same manner
28 as required by the general depository law of the state, and
29 collateral pledged must be maintained in a separate custody
30 account. All payments from the Employment Security
31 Administration Trust Fund must be approved by the division or

1 by a duly authorized agent and must be made by the Chief
2 Financial Officer ~~Treasurer~~ upon warrants issued by the
3 ~~Comptroller~~. Any balances in this fund do not lapse at any
4 time and must remain continuously available to the division
5 for expenditure consistent with this chapter.

6 (2) SPECIAL EMPLOYMENT SECURITY ADMINISTRATION TRUST
7 FUND.--There is created in the State Treasury a special fund,
8 to be known as the "Special Employment Security Administration
9 Trust Fund," into which shall be deposited or transferred all
10 interest on contributions, penalties, and fines or fees
11 collected under this chapter. Interest on contributions,
12 penalties, and fines or fees deposited during any calendar
13 quarter in the clearing account in the Unemployment
14 Compensation Trust Fund shall, as soon as practicable after
15 the close of such calendar quarter and upon certification of
16 the division, be transferred to the Special Employment
17 Security Administration Trust Fund. However, there shall be
18 withheld from any such transfer the amount certified by the
19 division to be required under this chapter to pay refunds of
20 interest on contributions, penalties, and fines or fees
21 collected and erroneously deposited into the clearing account
22 in the Unemployment Compensation Trust Fund. Such amounts of
23 interest and penalties so certified for transfer shall be
24 deemed to have been erroneously deposited in the clearing
25 account, and the transfer thereof to the Special Employment
26 Security Administration Trust Fund shall be deemed to be a
27 refund of such erroneous deposits. All moneys in this fund
28 shall be deposited, administered, and disbursed in the same
29 manner and under the same conditions and requirements as are
30 provided by law for other special funds in the State Treasury.
31 These moneys shall not be expended or be available for

1 expenditure in any manner which would permit their
2 substitution for, or permit a corresponding reduction in,
3 federal funds which would, in the absence of these moneys, be
4 available to finance expenditures for the administration of
5 the Unemployment Compensation Law. But nothing in this
6 section shall prevent these moneys from being used as a
7 revolving fund to cover expenditures, necessary and proper
8 under the law, for which federal funds have been duly
9 requested but not yet received, subject to the charging of
10 such expenditures against such funds when received. The
11 moneys in this fund, with the approval of the Executive Office
12 of the Governor, shall be used by the Division of Unemployment
13 Compensation and the Agency for Workforce Innovation for the
14 payment of costs of administration which are found not to have
15 been properly and validly chargeable against funds obtained
16 from federal sources. All moneys in the Special Employment
17 Security Administration Trust Fund shall be continuously
18 available to the division for expenditure in accordance with
19 the provisions of this chapter and shall not lapse at any
20 time. All payments from the Special Employment Security
21 Administration Trust Fund shall be approved by the division or
22 by a duly authorized agent thereof and shall be made by the
23 Chief Financial Officer ~~Treasurer upon warrants issued by the~~
24 ~~Comptroller~~. The moneys in this fund are hereby specifically
25 made available to replace, as contemplated by subsection (3),
26 expenditures from the Employment Security Administration Trust
27 Fund, established by subsection (1), which have been found by
28 the Bureau of Employment Security, or other authorized federal
29 agency or authority, because of any action or contingency, to
30 have been lost or improperly expended. The Chief Financial
31 Officer ~~Treasurer~~ shall be liable on her or his official bond

1 for the faithful performance of her or his duties in
2 connection with the Special Employment Security Administration
3 Trust Fund.

4 Section 511. Section 447.12, Florida Statutes, is
5 amended to read:

6 447.12 Fees for registration.--All fees collected by
7 the department under this part shall be paid to the Chief
8 Financial Officer ~~Treasurer~~ and credited to the General
9 Revenue Fund.

10 Section 512. Subsection (1) of section 450.155,
11 Florida Statutes, is amended to read:

12 450.155 Child Labor Law Trust Fund.--

13 (1) There is created in the State Treasury an account
14 to be known as the Child Labor Law Trust Fund. Subject to such
15 appropriations as the Legislature may make therefor from time
16 to time, disbursements from this account may be made by the
17 division, subject to the approval of the department, in order
18 to carry out the proper responsibilities of administering the
19 Child Labor Law, to protect the working youth of the state,
20 and to provide education about the Child Labor Law to
21 employers, public school employees, the general public, and
22 working youth. The Child Labor Law Trust Fund and the moneys
23 deposited therein shall be under the direct supervision and
24 control of the department, and such moneys may be disbursed by
25 the Chief Financial Officer ~~Treasurer~~ from time to time as
26 determined by the department.

27 Section 513. Paragraph (h) of subsection (2) of
28 section 456.047, Florida Statutes, is amended to read:

29 456.047 Standardized credentialing for health care
30 practitioners.--

31 (2) DEFINITIONS.--As used in this section, the term:

1 (h) "Health care entity" means:
2 1. Any health care facility or other health care
3 organization licensed or certified to provide approved medical
4 and allied health services in this state;
5 2. Any entity licensed by the Department of Financial
6 Services Insurance as a prepaid health care plan or health
7 maintenance organization or as an insurer to provide coverage
8 for health care services through a network of providers or
9 similar organization licensed under chapter 627, chapter 636,
10 chapter 641, or chapter 651; or
11 3. Any accredited medical school in this state.
12 Section 514. Subsections (1) and (2) of section
13 468.392, Florida Statutes, are amended to read:
14 468.392 Auctioneer Recovery Fund.--There is created
15 the Auctioneer Recovery Fund as a separate account in the
16 Professional Regulation Trust Fund. The fund shall be
17 administered by the Florida Board of Auctioneers.
18 (1) The Chief Financial Officer ~~Treasurer~~ shall invest
19 the money not currently needed to meet the obligations of the
20 fund in the same manner as other public funds may be invested.
21 Interest that accrues from these investments shall be
22 deposited to the credit of the Auctioneer Recovery Fund and
23 shall be available for the same purposes as other moneys
24 deposited in the Auctioneer Recovery Fund.
25 (2) All payments and disbursements from the Auctioneer
26 Recovery Fund shall be made by the Chief Financial Officer
27 ~~Treasurer~~ upon a voucher signed by the Secretary of Business
28 and Professional Regulation or the secretary's designee.
29 Amounts transferred to the Auctioneer Recovery Fund shall not
30 be subject to any limitation imposed by an appropriation act
31 of the Legislature.

1 Section 515. Subsection (2) of section 473.3065,
2 Florida Statutes, is amended to read:

3 473.3065 Certified Public Accountant Education
4 Minority Assistance Program; advisory council.--

5 (2) All moneys used to provide scholarships under the
6 program shall be funded by a portion of existing license fees,
7 as set by the board, not to exceed \$10 per license. Such
8 moneys shall be deposited into the Professional Regulation
9 Trust Fund in a separate account maintained for that purpose.
10 The department is authorized to spend up to \$100,000 per year
11 for the program from this program account, but may not
12 allocate overhead charges to it. Moneys for scholarships
13 shall be disbursed annually upon recommendation of the
14 advisory council and approval by the board, based on the
15 adopted eligibility criteria and comparative evaluation of all
16 applicants. Funds in the program account may be invested by
17 the Chief Financial Officer ~~Treasurer~~ under the same
18 limitations as apply to investment of other state funds, and
19 all interest earned thereon shall be credited to the program
20 account.

21 Section 516. Subsection (7) of section 475.045,
22 Florida Statutes, is amended to read:

23 475.045 Florida Real Estate Commission Education and
24 Research Foundation.--

25 (7) The Chief Financial Officer ~~Treasurer~~ shall invest
26 \$3 million from the portion of the Professional Regulation
27 Trust Fund credited to the real estate profession, under the
28 same limitations as applied to investments of other state
29 funds, and the income earned thereon shall be available to the
30 foundation to fund the activities and projects authorized
31 under this section. However, any balance of such interest in

1 excess of \$1 million shall revert to the portion of the
2 Professional Regulation Trust Fund credited to the real estate
3 profession. In the event the foundation is abolished, the
4 funds in the trust fund shall revert to such portion of the
5 Professional Regulation Trust Fund.

6 Section 517. Subsection (6) of section 475.484,
7 Florida Statutes, is amended to read:

8 475.484 Payment from the fund.--

9 (6) All payments and disbursements from the Real
10 Estate Recovery Fund shall be made by the Chief Financial
11 Officer ~~Treasurer~~ upon a voucher signed by the secretary of
12 the department. Amounts transferred to the Real Estate
13 Recovery Fund shall not be subject to any limitation imposed
14 by an appropriation act of the Legislature.

15 Section 518. Section 475.485, Florida Statutes, is
16 amended to read:

17 475.485 Investment of the fund.--The funds in the Real
18 Estate Recovery Fund may be invested by the Chief Financial
19 Officer ~~Treasurer~~ under the same limitations as apply to
20 investment of other state funds, and the interest earned
21 thereon shall be deposited to the credit of the Real Estate
22 Recovery Fund and shall be available for the same purposes as
23 other moneys deposited in the Real Estate Recovery Fund.

24 Section 519. Section 489.144, Florida Statutes, is
25 amended to read:

26 489.144 Investment of the fund.--The funds in the
27 Construction Industries Recovery Fund may be invested by the
28 Chief Financial Officer ~~Treasurer~~ under the same limitations
29 as apply to the investment of other state funds, and the
30 interest earned thereon shall be deposited to the credit of
31 the Construction Industries Recovery Fund and shall be

1 available for the same purposes as other moneys deposited in
2 the Construction Industries Recovery Fund.

3 Section 520. Subsection (6) of section 489.145,
4 Florida Statutes, is amended to read:

5 489.145 Guaranteed energy performance savings
6 contracting.--

7 (6) PROGRAM ADMINISTRATION AND CONTRACT REVIEW.--The
8 Department of Management Services, with the assistance of the
9 Office of the Chief Financial Officer ~~Comptroller~~, may, within
10 available resources, provide technical assistance to state
11 agencies contracting for energy conservation measures and
12 engage in other activities considered appropriate by the
13 department for promoting and facilitating guaranteed energy
14 performance contracting by state agencies. The Office of the
15 Chief Financial Officer ~~Comptroller~~, with the assistance of
16 the Department of Management Services, may, within available
17 resources, develop model contractual and related documents for
18 use by state agencies. Prior to entering into a guaranteed
19 energy performance savings contract, any contract or lease for
20 third-party financing, or any combination of such contracts, a
21 state agency shall submit such proposed contract or lease to
22 the Office of the Chief Financial Officer ~~Comptroller~~ for
23 review and approval.

24 Section 521. Subsection (5) of section 489.533,
25 Florida Statutes, is amended to read:

26 489.533 Disciplinary proceedings.--

27 (5) When the board imposes administrative fines
28 pursuant to subsection (2) resulting from violation of chapter
29 633 or violation of the rules of the State Fire Marshal, 50
30 percent of the fine shall be paid into the Insurance
31 ~~Commissioner's~~ Regulatory Trust Fund to help defray the costs

1 of investigating the violations and obtaining the corrective
2 action. The State Fire Marshal may participate at its
3 discretion, but not as a party, in any proceedings before the
4 board relating to violation of chapter 633 or the rules of the
5 State Fire Marshal, in order to make recommendations as to the
6 appropriate penalty in such case. However, the State Fire
7 Marshal shall not have standing to bring disciplinary
8 proceedings regarding certification.

9 Section 522. Subsection (8) of section 494.001,
10 Florida Statutes, is amended to read:

11 494.001 Definitions.--As used in ss. 494.001-494.0077,
12 the term:

13 (8) "Department" means the Department of Financial
14 Services Banking and Finance.

15 Section 523. Subsection (3) of section 494.0011,
16 Florida Statutes, is amended to read:

17 494.0011 Powers and duties of the department.--

18 (3) All fees, charges, and fines collected by the
19 department pursuant to ss. 494.001-494.0077 shall be deposited
20 in the State Treasury to the credit of the Banking and Finance
21 Regulatory Trust Fund under the department.

22 Section 524. Subsections (1) and (2) of section
23 494.0017, Florida Statutes, are amended to read:

24 494.0017 Mortgage Brokerage Guaranty Fund.--

25 (1) The department shall make transfers from the
26 Banking and Finance Regulatory Trust Fund to the Mortgage
27 Brokerage Guaranty Fund to pay valid claims arising under
28 former ss. 494.042, 494.043, and 494.044, as provided in
29 former s. 494.00171.

30 (2) Any money paid to the Mortgage Brokerage Guaranty
31 Fund in excess of any liability to claimants against the

1 Mortgage Brokerage Guaranty Fund shall be transferred to the
2 Banking and Finance Regulatory Trust Fund.

3 Section 525. Paragraph (a) of subsection (7) of
4 section 494.00421, Florida Statutes, is amended to read:

5 494.00421 Fees earned upon obtaining a bona fide
6 commitment.--Notwithstanding the provisions of ss.
7 494.001-494.0077, any mortgage brokerage business which
8 contracts to receive from a borrower a mortgage brokerage fee
9 upon obtaining a bona fide commitment shall accurately
10 disclose in the mortgage brokerage agreement:

11 (7)(a) The following statement, in no less than
12 12-point boldface type immediately above the signature lines
13 for the borrowers:

14
15 "You are entering into a contract with a mortgage brokerage
16 business to obtain a bona fide mortgage loan commitment under
17 the same terms and conditions as stated hereinabove or in a
18 separate executed good faith estimate form. If the mortgage
19 brokerage business obtains a bona fide commitment under the
20 same terms and conditions, you will be obligated to pay the
21 mortgage brokerage business fees, including, but not limited
22 to, a mortgage brokerage fee, even if you choose not to
23 complete the loan transaction. If the provisions of s.
24 494.00421, Florida Statutes, are not met, the mortgage
25 brokerage fee can only be earned upon the funding of the
26 mortgage loan. The borrower may contact the Department of
27 Financial Services ~~Banking and Finance~~, Tallahassee, Florida,
28 regarding any complaints that the borrower may have against
29 the mortgage broker or the mortgage brokerage business. The
30 telephone number of the department as set by rule of the
31 department is: ...[insert telephone number]...."

1 Section 526. Subsection (16) of section 497.005,
2 Florida Statutes, is amended to read:

3 497.005 Definitions.--As used in this chapter:

4 (16) "Department" means the Department of Financial
5 Services ~~Banking and Finance~~.

6 Section 527. Subsection (1) of section 497.101,
7 Florida Statutes, is amended to read:

8 497.101 Board of Funeral and Cemetery Services;
9 membership; appointment; terms.--

10 (1) The Board of Funeral and Cemetery Services is
11 created within the department of ~~Banking and Finance~~ and shall
12 consist of seven members appointed by the Governor, from
13 nominations made by the Chief Financial Officer ~~Comptroller~~,
14 and confirmed by the Senate. The Chief Financial Officer
15 ~~Comptroller~~ shall nominate three persons for each vacancy on
16 the board, and the Governor shall fill each vacancy on the
17 board by appointing one of the three persons nominated by the
18 Chief Financial Officer ~~Comptroller~~ to fill that vacancy. If
19 the Governor objects to each of the three nominations for a
20 vacancy, she or he shall inform the Chief Financial Officer
21 ~~Comptroller~~ in writing. Upon notification of an objection by
22 the Governor, the Chief Financial Officer ~~Comptroller~~ shall
23 submit three additional nominations for that vacancy until the
24 vacancy is filled.

25 Section 528. Section 497.105, Florida Statutes, is
26 amended to read:

27 497.105 Department of ~~Banking and Finance~~; powers and
28 duties.--The department of ~~Banking and Finance~~ shall:

29 (1) Adopt rules establishing procedures for the
30 renewal of licenses, registrations, and certificates of
31 authority.

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 529. 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 530. 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 531. 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 532. 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 533. 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 534. 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 535. 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 536. 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 537. 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 538. 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 539. 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 540. 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 541. 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 542. 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 543. 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 544. 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 545. 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 546. 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 547. 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 548. 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 549. 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 550. 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 551. 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 552. 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 553. 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 554. 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 555. 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 556. 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 557. 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 558. 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 559. 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 560. 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 561. 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 562. 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 563. 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 564. 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 565. 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 566. 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 567. 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 568. 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 569. 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 570. 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 571. 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 572. 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 573. 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 574. 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 575. 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 576. 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 577. 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 578. 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 579. 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 580. 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 581. 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 582. 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 583. 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 584. 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 585. 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 586. 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 587. 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 588. 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 589. 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 590. 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 591. 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 592. 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 593. 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 594. 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 595. 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 596. 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 597. 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 598. 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 599. 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 600. 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 601. 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 602. 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 603. 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 604. 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 605. 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 606. 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 607. 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 608. 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 609. 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 610. 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 611. 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 612. 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 613. 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 614. 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 615. 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 616. 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 617. 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 618. 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 619. 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 620. 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 621. 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 622. 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 623. 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 624. 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 625. 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 626. 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 Director of the Division of Insurance ~~Insurance Commissioner~~.
14 Actuaries employed pursuant to this paragraph shall be members
15 of the Society of Actuaries or the Casualty Actuarial Society
16 and 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 627. 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 628. 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 629. 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 630. 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 631. 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 632. 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 633. 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 634. 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 635. 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 636. 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 637. 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 638. 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 639. 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 640. 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 641. 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 642. 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 643. 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 644. 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 645. 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 646. 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 647. 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 648. 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 649. 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 650. 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 651. 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 652. 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 653. 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 654. 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 655. 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 14 ~~12~~
16 other 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. One member, appointed by the Chief Financial
17 Officer from among three members nominated by the Florida
18 Association of Counties, representing rural counties;

19 12. One member, appointed by the Governor from among
20 three members nominated by the Florida Association of
21 Counties, representing urban counties; and

22 ~~13.11.~~ The State Health Officer or her or his
23 designee.

24 (6) LICENSING NOT REQUIRED; FISCAL OPERATION.--

25 (a) The corporation shall not be deemed an insurer.
26 The officers, directors, and employees of the corporation
27 shall not be deemed to be agents of an insurer. Neither the
28 corporation nor any officer, director, or employee of the
29 corporation is subject to the licensing requirements of the
30 insurance code or the rules of the Department of Financial
31 Services ~~Insurance~~. However, any marketing representative

1 utilized and compensated by the corporation must be appointed
2 as a representative of the insurers or health services
3 providers with which the corporation contracts.

4 (c) The Department of Financial Services ~~Insurance~~
5 shall supervise any liquidation or dissolution of the
6 corporation and shall have, with respect to such liquidation
7 or dissolution, all power granted to it pursuant to the
8 insurance code.

9 Section 656. Subsection (5) of section 625.161,
10 Florida Statutes, is amended to read:

11 625.161 Valuation of property.--

12 (5) In carrying out its responsibilities under this
13 section, in the event that the department and the insurer do
14 not agree on the value of real or personal property of such
15 insurer, the department may retain the services of a qualified
16 real or personal property appraiser. In the event it is
17 subsequently determined that the insurer has overvalued
18 assets, the department shall be reimbursed for the costs of
19 the services of any such appraiser incurred with respect to
20 its responsibilities under this section regarding an insurer
21 by said insurer and any reimbursement shall be deposited in
22 the Insurance ~~Commissioner's~~ Regulatory Trust Fund.

23 Section 657. Section 625.317, Florida Statutes, is
24 amended to read:

25 625.317 Corporate bonds and debentures.--An insurer
26 may invest in bonds, notes, or other interest-bearing or
27 interest-accruing obligations of any solvent corporation
28 organized under the laws of the United States or Canada or
29 under the laws of any state, the District of Columbia, any
30 territory or possession of the United States, or any Province
31 of Canada or in bonds or notes issued by the Florida Windstorm

1 Underwriting Association or a private nonprofit corporation, a
2 private nonprofit unincorporated association, or a nonprofit
3 mutual company organized by that association, all as
4 authorized in s. 627.351(2)(c), or any subsidiary or affiliate
5 thereof authorized by the Department of Insurance or the
6 Department of Financial Services to issue such bonds or notes.

7 Section 658. Paragraph (d) of subsection (3) of
8 section 625.52, Florida Statutes, is amended to read:

9 625.52 Securities eligible for deposit.--

10 (3) To be eligible for deposit under paragraph (1)(h),
11 any certificate of deposit must have the following
12 characteristics:

13 (d) The issuing bank, savings bank, or savings
14 association must agree to the terms and conditions of the
15 Chief Financial Officer ~~State Treasurer~~ regarding the rights
16 to the certificate of deposit and must have executed a written
17 certificate of deposit agreement with the Chief Financial
18 Officer ~~State Treasurer~~. The terms and conditions of such
19 agreement shall include, but need not be limited to:

20 1. Exclusive authorized signature authority for the
21 Chief Financial Officer ~~State Treasurer~~.

22 2. Agreement to pay, without protest, the proceeds of
23 its certificate of deposit to the department within 30
24 business days after presentation.

25 3. Prohibition against levies, setoffs, survivorship,
26 or other conditions that might hinder the department's ability
27 to recover the full face value of a certificate of deposit.

28 4. Instructions regarding interest payments, renewals,
29 taxpayer identification, and early withdrawal penalties.

30 5. Agreement to be subject to the jurisdiction of the
31 courts of this state, or those of the United States which are

1 located in this state, for the purposes of any litigation
2 arising out of this section.

3 6. Such other conditions as the department requires.

4 Section 659. Subsection (2) of section 625.53, Florida
5 Statutes, is amended to read:

6 625.53 Depository.--

7 (2) The Division of Treasury shall manage ~~department~~
8 ~~shall hold~~ all such deposits pursuant to s. 17.59 in
9 ~~safekeeping in the vaults located in the offices of the~~
10 ~~Treasurer.~~

11 Section 660. Section 625.83, Florida Statutes, is
12 amended to read:

13 625.83 Failure to file reporting forms.--Any insurer
14 who knowingly fails to file information, documents, or reports
15 required to be filed under s. 625.75 or any rule thereunder
16 shall forfeit to the state the sum of \$100 for each day such
17 failure to file continues. Such forfeiture shall be payable
18 to the Chief Financial Officer ~~Treasurer~~ to be deposited in
19 the Insurance ~~Commissioner's~~ Regulatory Trust Fund and shall
20 be recoverable in a civil suit in the name of the state. A
21 time for filing may be extended for a reasonable period by the
22 department.

23 Section 661. Section 626.266, Florida Statutes, is
24 amended to read:

25 626.266 Printing of examinations or related materials
26 to preserve examination security.--A contract let for the
27 development, administration, or grading of examinations or
28 related materials by the Department of Financial Services
29 ~~insurance~~ pursuant to the various agent, customer
30 representative, solicitor, or adjuster licensing and
31 examination provisions of this code may include the printing

1 or furnishing of these examinations or related materials in
2 order to preserve security. Any such contract shall be let as
3 a contract for a contractual service pursuant to s. 287.057.

4 Section 662. Subsections (5) and (6) of section
5 626.2815, Florida Statutes, are amended to read:

6 626.2815 Continuing education required; application;
7 exceptions; requirements; penalties.--

8 (5) The Department of Financial Services Insurance
9 shall refuse to renew the appointment of any agent who has not
10 had his or her continuing education requirements certified
11 unless the agent has been granted an extension by the
12 department. The department may not issue a new appointment of
13 the same or similar type, with any insurer, to an agent who
14 was denied a renewal appointment for failure to complete
15 continuing education as required until the agent completes his
16 or her continuing education requirement.

17 (6)(a) There is created an 11-member continuing
18 education advisory board to be appointed by the Chief
19 Financial Officer ~~Insurance Commissioner and Treasurer~~.
20 Appointments shall be for terms of 4 years. The purpose of
21 the board is to advise the department in determining standards
22 by which courses may be evaluated and categorized as basic,
23 intermediate, or advanced. The board shall establish such
24 criteria and the department shall implement such criteria by
25 January 1, 1997. The board shall submit recommendations to
26 the department of changes needed in such criteria not less
27 frequently than every 2 years thereafter. The department shall
28 require all approved course providers to submit courses for
29 approval to the department using the criteria. All materials,
30 brochures, and advertisements related to the approved courses
31 must specify the level assigned to the course.

1 (b) The board members shall be appointed as follows:

2 1. Seven members representing agents of which at least
3 one must be a representative from each of the following
4 organizations: the Florida Association of Insurance Agents;
5 the Florida Association of Life Underwriters; the Professional
6 Insurance Agents of Florida, Inc.; the Florida Association of
7 Health Underwriters; the Specialty Agents' Association; the
8 Latin American Agents' Association; and the National
9 Association of Insurance Women. Such board members must
10 possess at least a bachelor's degree or higher from an
11 accredited college or university with major coursework in
12 insurance, risk management, or education or possess the
13 designation of CLU, CPCU, CHFC, CFP, AAI, or CIC. In addition,
14 each member must possess 5 years of classroom instruction
15 experience or 5 years of experience in the development or
16 design of educational programs or 10 years of experience as a
17 licensed resident agent. Each organization may submit to the
18 department a list of recommendations for appointment. If one
19 organization does not submit a list of recommendations, the
20 Chief Financial Officer ~~Insurance Commissioner~~ may select more
21 than one recommended person from a list submitted by other
22 eligible organizations.

23 2. Two members representing insurance companies at
24 least one of whom must represent a Florida Domestic Company
25 and one of whom must represent the Florida Insurance Council.
26 Such board members must be employed within the training
27 department of the insurance company. At least one such member
28 must be a member of the Society of Insurance Trainers and
29 Educators.

30 3. One member representing the general public who is
31 not directly employed in the insurance industry. Such board

1 member must possess a minimum of a bachelor's degree or higher
2 from an accredited college or university with major coursework
3 in insurance, risk management, training, or education.

4 4. One member, appointed by the Chief Financial
5 Officer ~~Insurance Commissioner~~, who represents the department.

6 (c) The members of the board shall serve at the
7 pleasure of the Chief Financial Officer ~~Insurance Commissioner~~
8 ~~and Treasurer~~. Each board member shall be entitled to
9 reimbursement for expenses pursuant to s. 112.061. The board
10 shall designate one member as chair. The board shall meet at
11 the call of the chair or the Chief Financial Officer ~~Insurance~~
12 ~~Commissioner and Treasurer~~.

13 Section 663. Section 626.322, Florida Statutes, is
14 amended to read:

15 626.322 License, appointment; certain military
16 installations.--A natural person, not a resident of this
17 state, may be licensed and appointed to represent an
18 authorized life insurer domiciled in this state or an
19 authorized foreign life insurer which maintains a regional
20 home office in this state, provided such person represents
21 such insurer exclusively at a United States military
22 installation located in a foreign country. The department may,
23 upon request of the applicant and the insurer on application
24 forms furnished by the department and upon payment of fees as
25 prescribed in s. 624.501, issue a license and appointment to
26 such person. The insurer shall certify to the department that
27 the applicant has the necessary training to hold himself or
28 herself out as a life insurance representative, and the
29 insurer shall further certify that it is willing to be bound
30 by the acts of such applicant within the scope of his or her
31 employment. Appointments shall be continued as prescribed in

1 s. 626.381 and upon payment of a fee as prescribed in s.
2 624.501, unless sooner terminated. Such fees received shall
3 be credited to the Insurance ~~Commissioner's~~ Regulatory Trust
4 Fund as provided for in s. 624.523.

5 Section 664. Subsection (1) of section 626.592,
6 Florida Statutes, is amended to read:

7 626.592 Primary agents.--

8 (1) Each person operating an insurance agency and each
9 location of a multiple location agency shall designate a
10 primary agent for each insurance agency location and shall
11 file the name of the person so designated, and the address of
12 the insurance agency location where he or she is primary
13 agent, with the Department of Financial Services Insurance, on
14 a form approved by the department. The designation of the
15 primary agent may be changed at the option of the agency, and
16 any change shall be effective upon notification to the
17 department. Notice of change must be sent to the department
18 within 30 days after such change.

19 Section 665. Section 626.742, Florida Statutes, is
20 amended to read:

21 626.742 Nonresident agents; service of process.--

22 (1) Each licensed nonresident agent shall appoint the
23 Chief Financial Officer ~~Insurance Commissioner and Treasurer~~
24 as his or her attorney to receive service of legal process
25 issued against the agent in this state, upon causes of action
26 arising within this state out of transactions under the
27 agent's license and appointment. Service upon the Chief
28 Financial Officer ~~Insurance Commissioner and Treasurer~~ as
29 attorney shall constitute effective legal service upon the
30 agent.

31

1 (2) The appointment of the Chief Financial Officer
2 ~~Insurance Commissioner and Treasurer~~ for service of process
3 shall be irrevocable for as long as there could be any cause
4 of action against the agent arising out of his or her
5 insurance transactions in this state.

6 (3) Duplicate copies of such legal process against
7 such agent shall be served upon the Chief Financial Officer
8 ~~Insurance Commissioner and Treasurer~~ by a person competent to
9 serve a summons.

10 (4) Upon receiving such service, the Chief Financial
11 ~~Officer Insurance Commissioner and Treasurer~~ shall forthwith
12 send one of the copies of the process, by registered mail with
13 return receipt requested, to the defendant agent at his or her
14 last address of record with the department.

15 (5) The Chief Financial Officer ~~Insurance Commissioner~~
16 ~~and Treasurer~~ shall keep a record of the day and hour of
17 service upon him or her of all such legal process.

18 Section 666. Paragraph (e) of subsection (3) of
19 section 626.7492, Florida Statutes, is amended to read:

20 626.7492 Reinsurance intermediaries.--

21 (3) LICENSURE.--

22 (e) If the applicant for a reinsurance intermediary
23 license is a nonresident, the applicant, as a condition
24 precedent to receiving or holding a license, must designate
25 the Chief Financial Officer ~~Insurance Commissioner~~ as agent
26 for service of process in the manner, and with the same legal
27 effect, provided for by this section for designation of
28 service of process upon unauthorized insurers. Such applicant
29 shall also furnish the department with the name and address of
30 a resident of this state upon whom notices or orders of the
31 department or process affecting the nonresident reinsurance

1 intermediary may be served. The licensee shall promptly
2 notify the department in writing of each change in its
3 designated agent for service of process, and the change shall
4 not become effective until acknowledged by the department.

5 Section 667. Subsection (1) of section 626.8427,
6 Florida Statutes, is amended to read:

7 626.8427 Number of applications for licensure
8 required; exemption; effect of expiration of license.--

9 (1) After a license as a title insurance agent has
10 been issued to a title insurance agent, the agent is not
11 required to file another license application for a similar
12 license, irrespective of the number of insurers to be
13 represented by the agent, unless:

14 (a) The agent is specifically ordered by the
15 department to complete a new application; or

16 (b) During any period of 48 months since the filing of
17 the original license application, the agent was not appointed,
18 unless in the case of individuals the failure to be so
19 appointed was due to military service, in which event the
20 period within which a new application is not required may, in
21 the discretion of the Department of Financial Services
22 ~~Insurance~~, be extended for 12 months following the date of
23 discharge from military service if the military service does
24 not exceed 3 years, but in no event shall the period be
25 extended under this clause for a period of more than 6 years
26 from the date of filing the original application.

27 Section 668. Subsection (1) of section 626.8463,
28 Florida Statutes, is amended to read:

29 626.8463 Witnesses and evidence.--

30 (1) As to the subject of any examination,
31 investigation, or hearing being conducted by him or her under

1 s. 624.5015, ss. 626.8417-626.847, or s. 627.791, an examiner
2 appointed by the Department of Financial Services Insurance
3 may administer oaths, examine and cross-examine witnesses, and
4 receive oral and documentary evidence and shall have the power
5 to subpoena witnesses, compel their attendance and testimony,
6 and require by subpoena the production of books, papers,
7 records, files, correspondence, documents, or other evidence
8 which the examiner deems relevant to the inquiry.

9 Section 669. Section 626.8467, Florida Statutes, is
10 amended to read:

11 626.8467 Testimony compelled; immunity from
12 prosecution.--

13 (1) If a person asks to be excused from attending or
14 testifying or from producing any books, papers, records,
15 contracts, documents, or other evidence in connection with any
16 examination, hearing, or investigation being conducted under
17 s. 624.5015, ss. 626.8417-626.847, or s. 627.791 by the
18 department or its examiner on the ground that the testimony or
19 evidence required of the person may tend to incriminate him or
20 her or subject him or her to a penalty or forfeiture and
21 notwithstanding is directed to give such testimony or produce
22 such evidence, the person must, if so directed by the
23 Department of Financial Services Insurance and the Department
24 of Legal Affairs, nonetheless comply with such direction, but
25 he or she shall not thereafter be prosecuted or subjected to
26 any penalty or forfeiture for or on account of any
27 transaction, matter, or thing concerning which he or she may
28 have so testified or produced evidence, and no testimony so
29 given or evidence produced shall be received against the
30 person upon any criminal action, investigation, or proceeding.
31 However, a person so testifying shall not be exempt from

1 prosecution or punishment for any perjury committed by him or
2 her in such testimony, and the testimony or evidence so given
3 or produced shall be admissible against him or her upon any
4 criminal action, investigation, or proceeding concerning such
5 perjury; and such person shall not be exempt from the refusal,
6 suspension, or revocation of any license or appointment,
7 permission, or authority conferred or to be conferred pursuant
8 to s. 624.5015, ss. 626.8417-626.847, or s. 627.791.

9 (2) Any such person may execute, acknowledge, and file
10 in the office of the Department of Financial Services
11 ~~Insurance~~ a statement expressly waiving such immunity or
12 privilege with respect to any transaction, matter, or thing
13 specified in the statement, and thereupon the testimony of
14 such person or such evidence in relation to such transaction,
15 matter, or thing may be received or produced before any judge
16 or justice, court, tribunal, or grand jury or otherwise and,
17 if so received or produced, such person shall not be entitled
18 to any immunity or privilege on account of any testimony he or
19 she may so give or evidence so produced.

20 Section 670. Section 626.847, Florida Statutes, is
21 amended to read:

22 626.847 Penalty for refusal to testify.--A person who
23 refuses or fails, without lawful cause, to testify relative to
24 the affairs of any title insurer or other person when
25 subpoenaed under s. 626.8463 and requested by the Department
26 of Financial Services ~~Insurance~~ to so testify is guilty of a
27 misdemeanor of the second degree and, upon conviction, is
28 punishable as provided in s. 775.082 or s. 775.083.

29 Section 671. Section 626.8736, Florida Statutes, is
30 amended to read:

31

1 626.8736 Nonresident independent or public adjusters;
2 service of process.--

3 (1) Each licensed nonresident independent or public
4 adjuster shall appoint the Chief Financial Officer ~~Insurance~~
5 ~~Commissioner and Treasurer~~ and his or her successors in office
6 as his or her attorney to receive service of legal process
7 issued against the nonresident independent or public adjuster
8 in this state, upon causes of action arising within this state
9 out of transactions under his license and appointment. Service
10 upon the Chief Financial Officer ~~Insurance Commissioner and~~
11 ~~Treasurer~~ as attorney shall constitute effective legal service
12 upon the nonresident independent or public adjuster.

13 (2) The appointment of the Chief Financial Officer
14 ~~Insurance Commissioner and Treasurer~~ for service of process
15 shall be irrevocable for as long as there could be any cause
16 of action against the nonresident independent or public
17 adjuster arising out of his or her insurance transactions in
18 this state.

19 (3) Duplicate copies of legal process against the
20 nonresident independent or public adjuster shall be served
21 upon the Chief Financial Officer ~~Insurance Commissioner and~~
22 ~~Treasurer~~ by a person competent to serve a summons.

23 (4) Upon receiving the service, the Chief Financial
24 ~~Officer~~ ~~Insurance Commissioner and Treasurer~~ shall forthwith
25 send one of the copies of the process, by registered mail with
26 return receipt requested, to the defendant nonresident
27 independent or public adjuster at his or her last address of
28 record with the department.

29 (5) The Chief Financial Officer ~~Insurance Commissioner~~
30 ~~and Treasurer~~ shall keep a record of the day and hour of
31

1 service upon him or her of all legal process received under
2 this section.

3 Section 672. Section 626.906, Florida Statutes, is
4 amended to read:

5 626.906 Acts constituting Chief Financial Officer
6 ~~Insurance Commissioner and Treasurer~~ as process agent.--Any of
7 the following acts in this state, effected by mail or
8 otherwise, by an unauthorized foreign insurer, alien insurer,
9 or person representing or aiding such an insurer is equivalent
10 to and shall constitute an appointment by such insurer or
11 person representing or aiding such insurer of the Chief
12 Financial Officer ~~Insurance Commissioner and Treasurer~~, and
13 his or her successor or successors in office, to be its true
14 and lawful attorney, upon whom may be served all lawful
15 process in any action, suit, or proceeding instituted by or on
16 behalf of an insured or beneficiary, arising out of any such
17 contract of insurance; and any such act shall be signification
18 of the insurer's or person's agreement that such service of
19 process is of the same legal force and validity as personal
20 service of process in this state upon such insurer or person
21 representing or aiding such insurer:

22 (1) The issuance or delivery of contracts of insurance
23 to residents of this state or to corporations authorized to do
24 business therein;

25 (2) The solicitation of applications for such
26 contracts;

27 (3) The collection of premiums, membership fees,
28 assessments, or other considerations for such contracts; or

29 (4) Any other transaction of insurance.

30 Section 673. Subsection (1) of section 626.907,
31 Florida Statutes, is amended to read:

1 626.907 Service of process; judgment by default.--
2 (1) Service of process upon an insurer or person
3 representing or aiding such insurer pursuant to s. 626.906
4 shall be made by delivering to and leaving with the Chief
5 Financial Officer ~~Insurance Commissioner and Treasurer~~ or some
6 person in apparent charge of his or her office two copies
7 thereof. The Chief Financial Officer ~~Insurance Commissioner~~
8 ~~and Treasurer~~ shall forthwith mail by registered mail one of
9 the copies of such process to the defendant at the defendant's
10 last known principal place of business and shall keep a record
11 of all process so served upon him or her. The service of
12 process is sufficient, provided notice of such service and a
13 copy of the process are sent within 10 days thereafter by
14 registered mail by plaintiff or plaintiff's attorney to the
15 defendant at the defendant's last known principal place of
16 business, and the defendant's receipt, or receipt issued by
17 the post office with which the letter is registered, showing
18 the name of the sender of the letter and the name and address
19 of the person to whom the letter is addressed, and the
20 affidavit of the plaintiff or plaintiff's attorney showing a
21 compliance herewith are filed with the clerk of the court in
22 which the action is pending on or before the date the
23 defendant is required to appear, or within such further time
24 as the court may allow.

25 Section 674. Section 626.912, Florida Statutes, is
26 amended to read:

27 626.912 Exemptions from ss. 626.904-626.911.--The
28 provisions of ss. 626.904-626.911 do not apply to any action,
29 suit, or proceeding against any unauthorized foreign insurer,
30 alien insurer, or person representing or aiding such an
31 insurer arising out of any contract of insurance:

1 (1) Covering reinsurance, wet marine and
2 transportation, commercial aircraft, or railway insurance
3 risks;

4 (2) Against legal liability arising out of the
5 ownership, operation, or maintenance of any property having a
6 permanent situs outside this state;

7 (3) Against loss of or damage to any property having a
8 permanent situs outside this state; or

9 (4) Issued under and in accordance with the Surplus
10 Lines Law, when such insurer or person representing or aiding
11 such insurer enters a general appearance or when such contract
12 of insurance contains a provision designating the Chief
13 Financial Officer ~~Insurance Commissioner and Treasurer~~ and his
14 or her successor or successors in office or designating a
15 Florida resident agent to be the true and lawful attorney of
16 such unauthorized insurer or person representing or aiding
17 such insurer upon whom may be served all lawful process in any
18 action, suit, or proceeding instituted by or on behalf of an
19 insured or person representing or aiding such insurer or
20 beneficiary arising out of any such contract of insurance; and
21 service of process effected on such Chief Financial Officer
22 ~~Insurance Commissioner and Treasurer~~, his or her successor or
23 successors in office, or such resident agent shall be deemed
24 to confer complete jurisdiction over such unauthorized insurer
25 or person representing or aiding such insurer in such action.

26 Section 675. Subsections (5) and (6) of section
27 626.918, Florida Statutes, are amended to read:

28 626.918 Eligible surplus lines insurers.--

29 (5) When it appears that any particular insurance risk
30 which is eligible for export, but on which insurance coverage,
31 in whole or in part, is not procurable from the eligible

1 surplus lines insurers, after a search of eligible surplus
2 lines insurers, then the surplus lines agent may file a
3 supplemental signed statement setting forth such facts and
4 advising the department that such part of the risk as shall be
5 unprocurable, as aforesaid, is being placed with named
6 unauthorized insurers, in the amounts and percentages set
7 forth in the statement. Such named unauthorized insurer
8 shall, however, before accepting any risk in this state,
9 deposit with the department cash or securities acceptable to
10 the department of the market value of \$50,000 for each
11 individual risk, contract, or certificate, which deposit shall
12 be held by the department for the benefit of Florida
13 policyholders only; and the surplus lines agent shall procure
14 from such unauthorized insurer and file with the department a
15 certified copy of its statement of condition as of the close
16 of the last calendar year. If such statement reveals,
17 including both capital and surplus, net assets of at least
18 that amount required for licensure of a domestic insurer, then
19 the surplus lines agent may proceed to consummate such
20 contract of insurance. Whenever any insurance risk, or any
21 part thereof, is placed with an unauthorized insurer, as
22 provided herein, the policy, binder, or cover note shall
23 contain a statement signed by the insured and the agent with
24 the following notation: "The insured is aware that certain
25 insurers participating in this risk have not been approved to
26 transact business in Florida nor have they been declared
27 eligible as surplus lines insurers by the Department of
28 Financial Services ~~Insurance of Florida~~. The placing of such
29 insurance by a duly licensed surplus lines agent in Florida
30 shall not be construed as approval of such insurer by the
31 Department of Financial Services ~~Insurance of Florida~~.

1 Consequently, the insured is aware that the insured has
2 severely limited the assistance available under the insurance
3 laws of Florida. The insured is further aware that he or she
4 may be charged a reasonable per policy fee, as provided in s.
5 626.916(4), Florida Statutes, for each policy certified for
6 export." All other provisions of this code shall apply to such
7 placement the same as if such risks were placed with an
8 eligible surplus lines insurer.

9 (6) When any particular insurance risk subject to
10 subsection (5) is eligible for placement with an unauthorized
11 insurer and not more than 12.5 percent of the risk is so
12 subject, the Department of Financial Services ~~Insurance~~ may,
13 at its discretion, permit the agent to obtain from the insured
14 a signed statement as indicated in subsection (5). All other
15 provisions of this code apply to such placement the same as if
16 such risks were placed with an eligible surplus lines insurer.

17 Section 676. Subsection (5) of section 626.931,
18 Florida Statutes, is amended to read:

19 626.931 Agent affidavit and insurer reporting
20 requirements.--

21 (5) The Chief Financial Officer ~~may Insurance~~
22 ~~Commissioner shall have the authority to~~ waive the filing
23 requirements described in subsections (3) and (4).

24 Section 677. Paragraph (a) of subsection (2) and
25 subsection (5) of section 626.932, Florida Statutes, are
26 amended to read:

27 626.932 Surplus lines tax.--

28 (2)

29 (a) The surplus lines agent shall make payable to the
30 Department of Financial Services ~~Insurance~~ the tax related to
31 each calendar quarter's business as reported to the Florida

1 Surplus Lines Service Office, and remit the tax to the Florida
2 Surplus Lines Service Office at the same time as provided for
3 the filing of the quarterly affidavit, under s. 626.931. The
4 Florida Surplus Lines Service Office shall forward to the
5 department the taxes and any interest collected pursuant to
6 paragraph (b), within 10 days of receipt.

7 (5) The department shall deposit 55 percent of all
8 taxes collected under this section to the credit of the
9 Insurance ~~Commissioner's~~ Regulatory Trust Fund. Forty-five
10 percent of all taxes collected under this section shall be
11 deposited into the General Revenue Fund.

12 Section 678. Section 626.936, Florida Statutes, is
13 amended to read:

14 626.936 Failure to file reports or pay tax or service
15 fee; administrative penalty.--

16 (1) Any licensed surplus lines agent who neglects to
17 file a report or an affidavit in the form and within the time
18 required or provided for in the Surplus Lines Law may be fined
19 up to \$50 per day for each day the neglect continues,
20 beginning the day after the report or affidavit was due until
21 the date the report or affidavit is received. All sums
22 collected under this section shall be deposited into the
23 Insurance ~~Commissioner's~~ Regulatory Trust Fund.

24 (2) Any licensed surplus lines agent who neglects to
25 pay the taxes or service fees as required under the Surplus
26 Lines Law and within the time required may be fined up to \$500
27 per day for each day the failure to pay continues, beginning
28 the day after the tax or service fees were due. The agent
29 shall pay interest on the amount of any delinquent tax due, at
30 the rate of 9 percent per year, compounded annually, beginning
31 the day the amount becomes delinquent. The department shall

1 deposit all sums collected under this section into the
2 Insurance ~~Commissioner's~~ Regulatory Trust Fund.

3 Section 679. Section 626.9361, Florida Statutes, is
4 amended to read:

5 626.9361 Failure to file report; administrative
6 penalty.--Any eligible surplus lines insurer who fails to file
7 a report in the form and within the time required or provided
8 for in the Surplus Lines Law may be fined up to \$500 per day
9 for each day such failure continues, beginning the day after
10 the report was due, until the date the report is received.
11 Failure to file a report may also result in withdrawal of
12 eligibility as a surplus lines insurer in this state. All sums
13 collected by the department under this section shall be
14 deposited into the Insurance ~~Commissioner's~~ Regulatory Trust
15 Fund.

16 Section 680. Subsections (2), (3), and (4) of section
17 626.937, Florida Statutes, are amended to read:

18 626.937 Actions against insurer; service of process.--

19 (2) The unauthorized insurer accepting the risk or
20 issuing the policy shall be deemed thereby to have authorized
21 service of process against it in the manner and to the effect
22 as provided in this section, and to have appointed the Chief
23 Financial Officer ~~Insurance Commissioner and Treasurer~~ as its
24 agent for service of process issuing upon any cause of action
25 arising in this state under any such policy, contract, or
26 insurance.

27 (3) Each unauthorized insurer requesting eligibility
28 pursuant to s. 626.918 shall file with the department its
29 appointment of the Chief Financial Officer ~~Insurance~~
30 ~~Commissioner and Treasurer~~ and his or her successors in
31 office, on a form as furnished by the department, as its

1 attorney to receive service of all legal process issued
2 against it in any civil action or proceeding in this state,
3 and agreeing that process so served shall be valid and binding
4 upon the insurer. The appointment shall be irrevocable, shall
5 bind the insurer and any successor in interest as to the
6 assets or liabilities of the insurer, and shall remain in
7 effect as long as there is outstanding in this state any
8 obligation or liability of the insurer resulting from its
9 insurance transactions therein.

10 (4) At the time of such appointment of the Chief
11 Financial Officer ~~Insurance Commissioner and Treasurer~~ as its
12 process agent, the insurer shall file with the department
13 designation of the name and address of the person to whom
14 process against it served upon the Chief Financial Officer
15 ~~Insurance Commissioner and Treasurer~~ is to be forwarded. The
16 insurer may change the designation at any time by a new
17 filing.

18 Section 681. Subsections (3) and (7) of section
19 626.938, Florida Statutes, are amended to read:

20 626.938 Report and tax of independently procured
21 coverages.--

22 (3) For the general support of the government of this
23 state, there is levied upon the obligation, chose in action,
24 or right represented by the premium charged for such insurance
25 a tax at the rate of 5 percent of the gross amount of such
26 premium and a 0.3 percent service fee pursuant to s. 626.9325.
27 The insured shall withhold the amount of the tax and service
28 fee from the amount of premium charged by and otherwise
29 payable to the insurer for such insurance. Within 30 days
30 after the insurance is procured, continued, or renewed, and
31 simultaneously with the filing of the report provided for in

1 subsection (1) with the Florida Surplus Lines Service Office,
2 the insured shall make payable to the Department of Financial
3 Services Insurance the amount of the tax and make payable to
4 the Florida Surplus Lines Service Office the amount of the
5 service fee. The insured shall remit the tax and the service
6 fee to the Florida Surplus Lines Service Office. The Florida
7 Surplus Lines Service Office shall forward to the department
8 the taxes, and any interest collected pursuant to subsection
9 (5), within 10 days after receipt.

10 (7) The department shall deposit 55 percent of all
11 taxes and interest collected under this section to the credit
12 of the Insurance ~~Commissioner's~~ Regulatory Trust Fund.
13 Forty-five percent of all taxes and interest collected under
14 this section shall be deposited into the General Revenue Fund.

15 Section 682. Subsection (2) of section 626.9511,
16 Florida Statutes, is amended to read:

17 626.9511 Definitions.--When used in this part:

18 (2) "Department" means the Department of Financial
19 Services Insurance of this state.

20 Section 683. Paragraph (w) of subsection (1) of
21 section 626.9541, Florida Statutes, is amended to read:

22 626.9541 Unfair methods of competition and unfair or
23 deceptive acts or practices defined.--

24 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR
25 DECEPTIVE ACTS.--The following are defined as unfair methods
26 of competition and unfair or deceptive acts or practices:

27 (w) Soliciting or accepting new or renewal insurance
28 risks by insolvent or impaired insurer prohibited; penalty.--

29 1. Whether or not delinquency proceedings as to the
30 insurer have been or are to be initiated, but while such
31 insolvency or impairment exists, no director or officer of an

1 insurer, except with the written permission of the department
2 ~~of Insurance~~, shall authorize or permit the insurer to solicit
3 or accept new or renewal insurance risks in this state after
4 such director or officer knew, or reasonably should have
5 known, that the insurer was insolvent or impaired. "Impaired"
6 includes impairment for capital or surplus, as defined in s.
7 631.011(9) and (10).

8 2. Any such director or officer, upon conviction of a
9 violation of this paragraph, is guilty of a felony of the
10 third degree, punishable as provided in s. 775.082, s.
11 775.083, or s. 775.084.

12 Section 684. Paragraph (a) of subsection (3) of
13 section 626.9543, Florida Statutes, is amended to read:

14 626.9543 Holocaust victims.--

15 (3) DEFINITIONS.--For the purpose of this section:

16 (a) "Department" means the Department of Financial
17 Services Insurance.

18 Section 685. Paragraph (e) of subsection (4) and
19 subsection (9) of section 626.989, Florida Statutes, are
20 amended to read:

21 626.989 Investigation by department or Division of
22 Insurance Fraud; compliance; immunity; confidential
23 information; reports to division; division investigator's
24 power of arrest.--

25 (4)

26 (e) The Chief Financial Officer ~~Insurance Commissioner~~
27 and any employee or agent of the department or division, when
28 acting without malice and in the absence of fraud or bad
29 faith, is not subject to civil liability for libel, slander,
30 or any other relevant tort, and no civil cause of action of
31 any nature exists against such person by virtue of the

1 execution of official activities or duties of the department
2 under this section or by virtue of the publication of any
3 report or bulletin related to the official activities or
4 duties of the department or division under this section.

5 (9) In recognition of the complementary roles of
6 investigating instances of workers' compensation fraud and
7 enforcing compliance with the workers' compensation coverage
8 requirements under chapter 440, the Division of Insurance
9 Fraud of the Department of Financial Services Insurance and
10 the Division of Workers' Compensation of the Department of
11 Labor and Employment Security are directed to prepare and
12 submit a joint performance report to the President of the
13 Senate and the Speaker of the House of Representatives by
14 November 1 of each year for each of the next 2 years, and then
15 every 3 years thereafter, describing the results obtained in
16 achieving compliance with the workers' compensation coverage
17 requirements and reducing the incidence of workers'
18 compensation fraud.

19 Section 686. Subsection (1) of section 626.9892,
20 Florida Statutes, is amended to read:

21 626.9892 Anti-Fraud Reward Program; reporting of
22 insurance fraud.--

23 (1) The Anti-Fraud Reward Program is ~~hereby~~
24 established within the department, to be funded from the
25 Insurance ~~Commissioner's~~ Regulatory Trust Fund.

26 Section 687. Subsections (1) and (4) of section
27 626.9911, Florida Statutes, are amended to read:

28 626.9911 Definitions.--As used in this act, the term:

29 (1) "Department" means the Department of Financial
30 Services Insurance.

31

1 (4) "Viatical settlement broker" means a person who,
2 on behalf of a viator and for a fee, commission, or other
3 valuable consideration, offers or attempts to negotiate
4 viatical settlement contracts between a viator resident in
5 this state and one or more viatical settlement providers.
6 Notwithstanding the manner in which the viatical settlement
7 broker is compensated, a viatical settlement broker is deemed
8 to represent only the viator and owes a fiduciary duty to the
9 viator to act according to the viator's instructions and in
10 the best interest of the viator. The term does not include an
11 attorney, licensed Certified Public Accountant, or investment
12 adviser lawfully registered with the department of ~~Banking and~~
13 ~~Finance~~ under chapter 517, who is retained to represent the
14 viator and whose compensation is paid directly by or at the
15 direction and on behalf of the viator.

16 Section 688. Paragraph (e) of subsection (5) of
17 section 626.9912, Florida Statutes, is amended to read:

18 626.9912 Viatical settlement provider license
19 required; application for license.--

20 (5) Upon the filing of a sworn application and the
21 payment of the license fee, the department shall investigate
22 each applicant and may issue the applicant a license if the
23 department finds that the applicant:

24 (e) Has designated the Chief Financial Officer
25 ~~Insurance Commissioner and Treasurer~~ as its agent for service
26 of process.

27 Section 689. Paragraph (e) of subsection (7) and
28 subsection (8) of section 626.9916, Florida Statutes, are
29 amended to read:

30 626.9916 Viatical settlement broker license required;
31 application for license.--

1 (7) Upon the filing of a sworn application and the
2 payment of the license fee and all other applicable fees under
3 this act, the department shall investigate each applicant and
4 may issue the applicant a license if the department finds that
5 the applicant:

6 (e) Has designated the Chief Financial Officer
7 ~~Insurance Commissioner and Treasurer~~ as its agent for service
8 of process.

9 (8) An applicant for a nonresident viatical settlement
10 broker license must, in addition to designating the Chief
11 Financial Officer ~~Insurance Commissioner and Treasurer~~ as
12 agent for service of process as required by this section, also
13 furnish the department with the name and address of a resident
14 of this state upon whom notices or orders of the department or
15 process affecting the applicant or licensee may be served.
16 After issuance of the license, the licensee must also notify
17 the department of change of the person to receive such
18 notices, orders, or process; such change is not effective
19 until acknowledged by the department.

20 Section 690. Section 627.0613, Florida Statutes, is
21 amended to read:

22 627.0613 Consumer advocate.--The Chief Financial
23 Officer ~~Insurance Commissioner~~ must appoint a consumer
24 advocate who must represent the general public of the state
25 before the department. The consumer advocate must report
26 directly to the Chief Financial Officer ~~Insurance~~
27 ~~Commissioner~~, but is not otherwise under the authority of the
28 department or of any employee of the department. The consumer
29 advocate has such powers as are necessary to carry out the
30 duties of the office of consumer advocate, including, but not
31 limited to, the powers to:

1 (1) Recommend to the department, by petition, the
2 commencement of any proceeding or action; appear in any
3 proceeding or action before the department; or appear in any
4 proceeding before the Division of Administrative Hearings
5 relating to subject matter under the jurisdiction of the
6 department.

7 (2) Have access to and use of all files, records, and
8 data of the department.

9 (3) Examine rate and form filings submitted to the
10 department, hire consultants as necessary to aid in the review
11 process, and recommend to the department any position deemed
12 by the consumer advocate to be in the public interest.

13 (4) Prepare an annual budget for presentation to the
14 Legislature by the department, which budget must be adequate
15 to carry out the duties of the office of consumer advocate.

16 Section 691. Paragraphs (b) and (c) of subsection (2)
17 of section 627.0628, Florida Statutes, are amended to read:

18 627.0628 Florida Commission on Hurricane Loss
19 Projection Methodology.--

20 (2) COMMISSION CREATED.--

21 (b) The commission shall consist of the following 11
22 members:

23 1. The insurance consumer advocate.

24 2. The Chief Operating Officer of the Florida
25 Hurricane Catastrophe Fund.

26 3. The Executive Director of the Residential Property
27 and Casualty Joint Underwriting Association.

28 4. The Director of the Division of Emergency
29 Management of the Department of Community Affairs.

30 5. The actuary member of the Florida Hurricane
31 Catastrophe Fund Advisory Council.

1 6. Six members appointed by the Chief Financial
2 Officer Insurance Commissioner, as follows:

3 a. An employee of the Department of Financial Services
4 ~~Insurance~~ who is an actuary responsible for property insurance
5 rate filings.

6 b. An actuary who is employed full time by a property
7 and casualty insurer which was responsible for at least 1
8 percent of the aggregate statewide direct written premium for
9 homeowner's insurance in the calendar year preceding the
10 member's appointment to the commission.

11 c. An expert in insurance finance who is a full time
12 member of the faculty of the State University System and who
13 has a background in actuarial science.

14 d. An expert in statistics who is a full time member
15 of the faculty of the State University System and who has a
16 background in insurance.

17 e. An expert in computer system design who is a full
18 time member of the faculty of the State University System.

19 f. An expert in meteorology who is a full time member
20 of the faculty of the State University System and who
21 specializes in hurricanes.

22 (c) Members designated under subparagraphs (b)1.-5.
23 shall serve on the commission as long as they maintain the
24 respective offices designated in subparagraphs (b)1.-5.

25 Members appointed by the Chief Financial Officer Insurance
26 ~~Commissioner~~ under subparagraph (b)6. shall serve on the
27 commission until the end of the term of office of the Chief
28 Financial officer Insurance Commissioner who appointed them,
29 unless earlier removed by the Chief Financial Officer
30 ~~Insurance Commissioner~~ for cause. Vacancies on the commission
31

1 shall be filled in the same manner as the original
2 appointment.

3 Section 692. Paragraph (b) of subsection (5) of
4 section 627.0651, Florida Statutes, is amended to read:

5 627.0651 Making and use of rates for motor vehicle
6 insurance.--

7 (5)

8 (b) The department ~~Insurance Commissioner~~ shall have
9 the responsibility to ensure that rates for private passenger
10 vehicle insurance are adequate. To that end, the department
11 shall adopt ~~promulgate~~ rules ~~and regulations~~ establishing
12 standards defining inadequate rates on private passenger
13 vehicle insurance as defined in s. 627.041(8). In the event
14 that the department finds that a rate or rate change is
15 inadequate, the department shall order that a new rate or rate
16 schedule be thereafter filed by the insurer and shall further
17 provide information as to the manner in which noncompliance of
18 the standards may be corrected. When a violation of this
19 provision occurs, the department shall impose an
20 administrative fine pursuant to s. 624.4211.

21 Section 693. Section 627.06535, Florida Statutes, is
22 amended to read:

23 627.06535 Electric vehicles; restrictions on imposing
24 surcharges.--An insurer may not impose a surcharge on the
25 premium for motor vehicle insurance written on an electric
26 vehicle, as defined in s. 320.01, if the surcharge is based on
27 a factor such as new technology, passenger payload,
28 weight-to-horsepower ratio, or types of materials, including
29 composite materials or aluminum, used to manufacture the
30 vehicle, unless the Department of Financial Services ~~Insurance~~

31

1 determines from actuarial data submitted to it that the
2 surcharge is justified.

3 Section 694. Section 627.0915, Florida Statutes, is
4 amended to read:

5 627.0915 Rate filings; workers' compensation,
6 drug-free workplace, and safe employers.--The Department of
7 Financial Services ~~Insurance~~ shall approve rating plans for
8 workers' compensation insurance that give specific
9 identifiable consideration in the setting of rates to
10 employers that either implement a drug-free workplace program
11 pursuant to rules adopted by the Division of Workers'
12 Compensation of the Department of Labor and Employment
13 Security or implement a safety program pursuant to provisions
14 of the rating plan or implement both a drug-free workplace
15 program and a safety program. The plans must be actuarially
16 sound and must state the savings anticipated to result from
17 such drug-testing and safety programs.

18 Section 695. Section 627.0916, Florida Statutes, is
19 amended to read:

20 627.0916 Agricultural horse farms.--Notwithstanding
21 any other provision of this chapter to the contrary, any
22 rates, rating schedules, or rating manuals for workers'
23 compensation and employer's liability insurance filed with the
24 Department of Financial Services ~~Insurance~~ shall provide for
25 the rates of an agricultural horse farm engaged in breeding or
26 training to be separated into the following three rate
27 classifications and the premium paid shall be applied
28 proportionately according to payroll: breeding activity
29 involving stallions; breeding activity not involving
30 stallions, including but not limited to boarding and foaling;
31 and training.

1 Section 696. Section 627.092, Florida Statutes, is
2 amended to read:

3 627.092 Workers' Compensation Administrator.--There is
4 created within the Division of Insurance ~~Insurer Services~~ of
5 the Department of Financial Services ~~Insurance~~ the position of
6 Workers' Compensation Administrator to monitor carrier
7 practices in the field of workers' compensation.

8 Section 697. Subsection (2) of section 627.096,
9 Florida Statutes, is amended to read:

10 627.096 Workers' Compensation Rating Bureau.--

11 (2) The acquisition by the Department of Management
12 Services of data processing software, hardware, and services
13 necessary to carry out the provisions of this act for the
14 Chief Financial Officer's ~~Treasurer's~~ Management Information
15 Center of the Department of Financial Services ~~Insurance~~ shall
16 be exempt from the provisions of part I of chapter 287.

17 Section 698. Subsection (3) of section 627.221,
18 Florida Statutes, is amended to read:

19 627.221 Rating organizations; licensing; fee.--

20 (3) The fee for the license shall be in the amount
21 specified therefor in s. 624.501. This fee, when collected,
22 shall be deposited to the credit of the Insurance
23 ~~Commissioner's~~ Regulatory Trust Fund.

24 Section 699. Paragraph (e) of subsection (3) and
25 paragraph (b) of subsection (4) of section 627.311, Florida
26 Statutes, are amended to read:

27 627.311 Joint underwriters and joint reinsurers.--

28 (3) The department may, after consultation with
29 insurers licensed to write automobile insurance in this state,
30 approve a joint underwriting plan for purposes of equitable
31 apportionment or sharing among insurers of automobile

1 liability insurance and other motor vehicle insurance, as an
2 alternate to the plan required in s. 627.351(1). All insurers
3 authorized to write automobile insurance in this state shall
4 subscribe to the plan and participate therein. The plan shall
5 be subject to continuous review by the department which may at
6 any time disapprove the entire plan or any part thereof if it
7 determines that conditions have changed since prior approval
8 and that in view of the purposes of the plan changes are
9 warranted. Any disapproval by the department shall be subject
10 to the provisions of chapter 120. If adopted, the plan and
11 the association created under the plan:

12 (e) Must provide that the joint underwriting
13 association will operate subject to the supervision and
14 approval of a board of governors consisting of 11 individuals,
15 including 1 who will be elected as chair. Five members of the
16 board must be appointed by the Chief Financial Officer
17 ~~Insurance Commissioner~~. Two of those ~~the commissioner's~~
18 appointees must be chosen from the insurance industry. Any
19 board member appointed by the Chief Financial Officer
20 ~~Insurance Commissioner~~ may be removed and replaced by her or
21 him at any time without cause. Six members of the board must
22 be appointed by the participating insurers, two of whom must
23 be from the insurance agents' associations. All board
24 members, including the chair, must be appointed to serve for
25 2-year terms beginning annually on a date designated by the
26 plan.

27 (4)

28 (b) The operation of the plan is subject to the
29 supervision of a 13-member board of governors. The board of
30 governors shall be comprised of:

31

1 1. Five of the 20 domestic insurers, as defined in s.
2 624.06(1), having the largest voluntary direct premiums
3 written in this state for workers' compensation and employer's
4 liability insurance, which shall be elected by those 20
5 domestic insurers;

6 2. Five of the 20 foreign insurers as defined in s.
7 624.06(2) having the largest voluntary direct premiums written
8 in this state for workers' compensation and employer's
9 liability insurance, which shall be elected by those 20
10 foreign insurers;

11 3. One person, who shall serve as the chair, appointed
12 by the Chief Financial Officer ~~Insurance Commissioner~~;

13 4. One person appointed by the largest property and
14 casualty insurance agents' association in this state; and

15 5. The consumer advocate appointed under s. 627.0613
16 or the consumer advocate's designee.

17
18 Each board member shall serve a 4-year term and may serve
19 consecutive terms. No board member shall be an insurer which
20 provides service to the plan or which has an affiliate which
21 provides services to the plan or which is serviced by a
22 service company or third-party administrator which provides
23 services to the plan or which has an affiliate which provides
24 services to the plan. The minutes, audits, and procedures of
25 the board of governors are subject to chapter 119.

26 Section 700. Paragraph (b) of subsection (2),
27 paragraph (a) of subsection (3), paragraphs (a) and (e) of
28 subsection (5), and paragraph (c) of subsection (6) of section
29 627.351, Florida Statutes, are amended to read:

30 627.351 Insurance risk apportionment plans.--

31 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--

1 (b) The department shall require all insurers holding
2 a certificate of authority to transact property insurance on a
3 direct basis in this state, other than joint underwriting
4 associations and other entities formed pursuant to this
5 section, to provide windstorm coverage to applicants from
6 areas determined to be eligible pursuant to paragraph (c) who
7 in good faith are entitled to, but are unable to procure, such
8 coverage through ordinary means; or it shall adopt a
9 reasonable plan or plans for the equitable apportionment or
10 sharing among such insurers of windstorm coverage, which may
11 include formation of an association for this purpose. As used
12 in this subsection, the term "property insurance" means
13 insurance on real or personal property, as defined in s.
14 624.604, including insurance for fire, industrial fire, allied
15 lines, farmowners multiperil, homeowners' multiperil,
16 commercial multiperil, and mobile homes, and including
17 liability coverages on all such insurance, but excluding
18 inland marine as defined in s. 624.607(3) and excluding
19 vehicle insurance as defined in s. 624.605(1)(a) other than
20 insurance on mobile homes used as permanent dwellings. The
21 department shall adopt rules that provide a formula for the
22 recovery and repayment of any deferred assessments.

23 1. For the purpose of this section, properties
24 eligible for such windstorm coverage are defined as dwellings,
25 buildings, and other structures, including mobile homes which
26 are used as dwellings and which are tied down in compliance
27 with mobile home tie-down requirements prescribed by the
28 Department of Highway Safety and Motor Vehicles pursuant to s.
29 320.8325, and the contents of all such properties. An
30 applicant or policyholder is eligible for coverage only if an
31

1 offer of coverage cannot be obtained by or for the applicant
2 or policyholder from an admitted insurer at approved rates.
3 2.a.(I) All insurers required to be members of such
4 association shall participate in its writings, expenses, and
5 losses. Surplus of the association shall be retained for the
6 payment of claims and shall not be distributed to the member
7 insurers. Such participation by member insurers shall be in
8 the proportion that the net direct premiums of each member
9 insurer written for property insurance in this state during
10 the preceding calendar year bear to the aggregate net direct
11 premiums for property insurance of all member insurers, as
12 reduced by any credits for voluntary writings, in this state
13 during the preceding calendar year. For the purposes of this
14 subsection, the term "net direct premiums" means direct
15 written premiums for property insurance, reduced by premium
16 for liability coverage and for the following if included in
17 allied lines: rain and hail on growing crops; livestock;
18 association direct premiums booked; National Flood Insurance
19 Program direct premiums; and similar deductions specifically
20 authorized by the plan of operation and approved by the
21 department. A member's participation shall begin on the first
22 day of the calendar year following the year in which it is
23 issued a certificate of authority to transact property
24 insurance in the state and shall terminate 1 year after the
25 end of the calendar year during which it no longer holds a
26 certificate of authority to transact property insurance in the
27 state. The commissioner, after review of annual statements,
28 other reports, and any other statistics that the commissioner
29 deems necessary, shall certify to the association the
30 aggregate direct premiums written for property insurance in
31 this state by all member insurers.

1 (II) The plan of operation shall provide for a board
2 of directors consisting of the Insurance Consumer Advocate
3 appointed under s. 627.0613, 1 consumer representative
4 appointed by the Chief Financial Officer Insurance
5 ~~Commissioner~~, 1 consumer representative appointed by the
6 Governor, and 12 additional members appointed as specified in
7 the plan of operation. One of the 12 additional members shall
8 be elected by the domestic companies of this state on the
9 basis of cumulative weighted voting based on the net direct
10 premiums of domestic companies in this state. Nothing in the
11 1997 amendments to this paragraph terminates the existing
12 board or the terms of any members of the board.

13 (III) The plan of operation shall provide a formula
14 whereby a company voluntarily providing windstorm coverage in
15 affected areas will be relieved wholly or partially from
16 apportionment of a regular assessment pursuant to
17 sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II).

18 (IV) A company which is a member of a group of
19 companies under common management may elect to have its
20 credits applied on a group basis, and any company or group may
21 elect to have its credits applied to any other company or
22 group.

23 (V) There shall be no credits or relief from
24 apportionment to a company for emergency assessments collected
25 from its policyholders under sub-sub-subparagraph d.(III).

26 (VI) The plan of operation may also provide for the
27 award of credits, for a period not to exceed 3 years, from a
28 regular assessment pursuant to sub-sub-subparagraph d.(I) or
29 sub-sub-subparagraph d.(II) as an incentive for taking
30 policies out of the Residential Property and Casualty Joint
31 Underwriting Association. In order to qualify for the

1 exemption under this sub-sub-subparagraph, the take-out plan
2 must provide that at least 40 percent of the policies removed
3 from the Residential Property and Casualty Joint Underwriting
4 Association cover risks located in Dade, Broward, and Palm
5 Beach Counties or at least 30 percent of the policies so
6 removed cover risks located in Dade, Broward, and Palm Beach
7 Counties and an additional 50 percent of the policies so
8 removed cover risks located in other coastal counties, and
9 must also provide that no more than 15 percent of the policies
10 so removed may exclude windstorm coverage. With the approval
11 of the department, the association may waive these geographic
12 criteria for a take-out plan that removes at least the lesser
13 of 100,000 Residential Property and Casualty Joint
14 Underwriting Association policies or 15 percent of the total
15 number of Residential Property and Casualty Joint Underwriting
16 Association policies, provided the governing board of the
17 Residential Property and Casualty Joint Underwriting
18 Association certifies that the take-out plan will materially
19 reduce the Residential Property and Casualty Joint
20 Underwriting Association's 100-year probable maximum loss from
21 hurricanes. With the approval of the department, the board
22 may extend such credits for an additional year if the insurer
23 guarantees an additional year of renewability for all policies
24 removed from the Residential Property and Casualty Joint
25 Underwriting Association, or for 2 additional years if the
26 insurer guarantees 2 additional years of renewability for all
27 policies removed from the Residential Property and Casualty
28 Joint Underwriting Association.

29 b. Assessments to pay deficits in the association
30 under this subparagraph shall be included as an appropriate
31 factor in the making of rates as provided in s. 627.3512.

1 c. The Legislature finds that the potential for
2 unlimited deficit assessments under this subparagraph may
3 induce insurers to attempt to reduce their writings in the
4 voluntary market, and that such actions would worsen the
5 availability problems that the association was created to
6 remedy. It is the intent of the Legislature that insurers
7 remain fully responsible for paying regular assessments and
8 collecting emergency assessments for any deficits of the
9 association; however, it is also the intent of the Legislature
10 to provide a means by which assessment liabilities may be
11 amortized over a period of years.

12 d.(I) When the deficit incurred in a particular
13 calendar year is 10 percent or less of the aggregate statewide
14 direct written premium for property insurance for the prior
15 calendar year for all member insurers, the association shall
16 levy an assessment on member insurers in an amount equal to
17 the deficit.

18 (II) When the deficit incurred in a particular
19 calendar year exceeds 10 percent of the aggregate statewide
20 direct written premium for property insurance for the prior
21 calendar year for all member insurers, the association shall
22 levy an assessment on member insurers in an amount equal to
23 the greater of 10 percent of the deficit or 10 percent of the
24 aggregate statewide direct written premium for property
25 insurance for the prior calendar year for member insurers. Any
26 remaining deficit shall be recovered through emergency
27 assessments under sub-sub-subparagraph (III).

28 (III) Upon a determination by the board of directors
29 that a deficit exceeds the amount that will be recovered
30 through regular assessments on member insurers, pursuant to
31 sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the

1 board shall levy, after verification by the department,
2 emergency assessments to be collected by member insurers and
3 by underwriting associations created pursuant to this section
4 which write property insurance, upon issuance or renewal of
5 property insurance policies other than National Flood
6 Insurance policies in the year or years following levy of the
7 regular assessments. The amount of the emergency assessment
8 collected in a particular year shall be a uniform percentage
9 of that year's direct written premium for property insurance
10 for all member insurers and underwriting associations,
11 excluding National Flood Insurance policy premiums, as
12 annually determined by the board and verified by the
13 department. The department shall verify the arithmetic
14 calculations involved in the board's determination within 30
15 days after receipt of the information on which the
16 determination was based. Notwithstanding any other provision
17 of law, each member insurer and each underwriting association
18 created pursuant to this section shall collect emergency
19 assessments from its policyholders without such obligation
20 being affected by any credit, limitation, exemption, or
21 deferment. The emergency assessments so collected shall be
22 transferred directly to the association on a periodic basis as
23 determined by the association. The aggregate amount of
24 emergency assessments levied under this sub-sub-subparagraph
25 in any calendar year may not exceed the greater of 10 percent
26 of the amount needed to cover the original deficit, plus
27 interest, fees, commissions, required reserves, and other
28 costs associated with financing of the original deficit, or 10
29 percent of the aggregate statewide direct written premium for
30 property insurance written by member insurers and underwriting
31 associations for the prior year, plus interest, fees,

1 commissions, required reserves, and other costs associated
2 with financing the original deficit. The board may pledge the
3 proceeds of the emergency assessments under this
4 sub-sub-subparagraph as the source of revenue for bonds, to
5 retire any other debt incurred as a result of the deficit or
6 events giving rise to the deficit, or in any other way that
7 the board determines will efficiently recover the deficit. The
8 emergency assessments under this sub-sub-subparagraph shall
9 continue as long as any bonds issued or other indebtedness
10 incurred with respect to a deficit for which the assessment
11 was imposed remain outstanding, unless adequate provision has
12 been made for the payment of such bonds or other indebtedness
13 pursuant to the document governing such bonds or other
14 indebtedness. Emergency assessments collected under this
15 sub-sub-subparagraph are not part of an insurer's rates, are
16 not premium, and are not subject to premium tax, fees, or
17 commissions; however, failure to pay the emergency assessment
18 shall be treated as failure to pay premium.

19 (IV) Each member insurer's share of the total regular
20 assessments under sub-sub-subparagraph (I) or
21 sub-sub-subparagraph (II) shall be in the proportion that the
22 insurer's net direct premium for property insurance in this
23 state, for the year preceding the assessment bears to the
24 aggregate statewide net direct premium for property insurance
25 of all member insurers, as reduced by any credits for
26 voluntary writings for that year.

27 (V) If regular deficit assessments are made under
28 sub-sub-subparagraph (I) or sub-sub-subparagraph (II), or by
29 the Residential Property and Casualty Joint Underwriting
30 Association under sub-subparagraph (6)(b)3.a. or
31 sub-subparagraph (6)(b)3.b., the association shall levy upon

1 the association's policyholders, as part of its next rate
2 filing, or by a separate rate filing solely for this purpose,
3 a market equalization surcharge in a percentage equal to the
4 total amount of such regular assessments divided by the
5 aggregate statewide direct written premium for property
6 insurance for member insurers for the prior calendar year.
7 Market equalization surcharges under this sub-sub-subparagraph
8 are not considered premium and are not subject to commissions,
9 fees, or premium taxes; however, failure to pay a market
10 equalization surcharge shall be treated as failure to pay
11 premium.

12 e. The governing body of any unit of local government,
13 any residents of which are insured under the plan, may issue
14 bonds as defined in s. 125.013 or s. 166.101 to fund an
15 assistance program, in conjunction with the association, for
16 the purpose of defraying deficits of the association. In order
17 to avoid needless and indiscriminate proliferation,
18 duplication, and fragmentation of such assistance programs,
19 any unit of local government, any residents of which are
20 insured by the association, may provide for the payment of
21 losses, regardless of whether or not the losses occurred
22 within or outside of the territorial jurisdiction of the local
23 government. Revenue bonds may not be issued until validated
24 pursuant to chapter 75, unless a state of emergency is
25 declared by executive order or proclamation of the Governor
26 pursuant to s. 252.36 making such findings as are necessary to
27 determine that it is in the best interests of, and necessary
28 for, the protection of the public health, safety, and general
29 welfare of residents of this state and the protection and
30 preservation of the economic stability of insurers operating
31 in this state, and declaring it an essential public purpose to

1 permit certain municipalities or counties to issue bonds as
2 will provide relief to claimants and policyholders of the
3 association and insurers responsible for apportionment of plan
4 losses. Any such unit of local government may enter into such
5 contracts with the association and with any other entity
6 created pursuant to this subsection as are necessary to carry
7 out this paragraph. Any bonds issued under this
8 sub-subparagraph shall be payable from and secured by moneys
9 received by the association from assessments under this
10 subparagraph, and assigned and pledged to or on behalf of the
11 unit of local government for the benefit of the holders of
12 such bonds. The funds, credit, property, and taxing power of
13 the state or of the unit of local government shall not be
14 pledged for the payment of such bonds. If any of the bonds
15 remain unsold 60 days after issuance, the department shall
16 require all insurers subject to assessment to purchase the
17 bonds, which shall be treated as admitted assets; each insurer
18 shall be required to purchase that percentage of the unsold
19 portion of the bond issue that equals the insurer's relative
20 share of assessment liability under this subsection. An
21 insurer shall not be required to purchase the bonds to the
22 extent that the department determines that the purchase would
23 endanger or impair the solvency of the insurer. The authority
24 granted by this sub-subparagraph is additional to any bonding
25 authority granted by subparagraph 6.

26 3. The plan shall also provide that any member with a
27 surplus as to policyholders of \$20 million or less writing 25
28 percent or more of its total countrywide property insurance
29 premiums in this state may petition the department, within the
30 first 90 days of each calendar year, to qualify as a limited
31 apportionment company. The apportionment of such a member

1 company in any calendar year for which it is qualified shall
2 not exceed its gross participation, which shall not be
3 affected by the formula for voluntary writings. In no event
4 shall a limited apportionment company be required to
5 participate in any apportionment of losses pursuant to
6 sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II)
7 in the aggregate which exceeds \$50 million after payment of
8 available plan funds in any calendar year. However, a limited
9 apportionment company shall collect from its policyholders any
10 emergency assessment imposed under sub-sub-subparagraph
11 2.d.(III). The plan shall provide that, if the department
12 determines that any regular assessment will result in an
13 impairment of the surplus of a limited apportionment company,
14 the department may direct that all or part of such assessment
15 be deferred. However, there shall be no limitation or
16 deferment of an emergency assessment to be collected from
17 policyholders under sub-sub-subparagraph 2.d.(III).

18 4. The plan shall provide for the deferment, in whole
19 or in part, of a regular assessment of a member insurer under
20 sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II),
21 but not for an emergency assessment collected from
22 policyholders under sub-sub-subparagraph 2.d.(III), if, in the
23 opinion of the commissioner, payment of such regular
24 assessment would endanger or impair the solvency of the member
25 insurer. In the event a regular assessment against a member
26 insurer is deferred in whole or in part, the amount by which
27 such assessment is deferred may be assessed against the other
28 member insurers in a manner consistent with the basis for
29 assessments set forth in sub-sub-subparagraph 2.d.(I) or
30 sub-sub-subparagraph 2.d.(II).

31

1 5.a. The plan of operation may include deductibles and
2 rules for classification of risks and rate modifications
3 consistent with the objective of providing and maintaining
4 funds sufficient to pay catastrophe losses.

5 b. The association may require arbitration of a rate
6 filing under s. 627.062(6). It is the intent of the
7 Legislature that the rates for coverage provided by the
8 association be actuarially sound and not competitive with
9 approved rates charged in the admitted voluntary market such
10 that the association functions as a residual market mechanism
11 to provide insurance only when the insurance cannot be
12 procured in the voluntary market. The plan of operation shall
13 provide a mechanism to assure that, beginning no later than
14 January 1, 1999, the rates charged by the association for each
15 line of business are reflective of approved rates in the
16 voluntary market for hurricane coverage for each line of
17 business in the various areas eligible for association
18 coverage.

19 c. The association shall provide for windstorm
20 coverage on residential properties in limits up to \$10 million
21 for commercial lines residential risks and up to \$1 million
22 for personal lines residential risks. If coverage with the
23 association is sought for a residential risk valued in excess
24 of these limits, coverage shall be available to the risk up to
25 the replacement cost or actual cash value of the property, at
26 the option of the insured, if coverage for the risk cannot be
27 located in the authorized market. The association must accept
28 a commercial lines residential risk with limits above \$10
29 million or a personal lines residential risk with limits above
30 \$1 million if coverage is not available in the authorized
31 market. The association may write coverage above the limits

1 specified in this subparagraph with or without facultative or
2 other reinsurance coverage, as the association determines
3 appropriate.

4 d. The plan of operation must provide objective
5 criteria and procedures, approved by the department, to be
6 uniformly applied for all applicants in determining whether an
7 individual risk is so hazardous as to be uninsurable. In
8 making this determination and in establishing the criteria and
9 procedures, the following shall be considered:

10 (I) Whether the likelihood of a loss for the
11 individual risk is substantially higher than for other risks
12 of the same class; and

13 (II) Whether the uncertainty associated with the
14 individual risk is such that an appropriate premium cannot be
15 determined.

16

17 The acceptance or rejection of a risk by the association
18 pursuant to such criteria and procedures must be construed as
19 the private placement of insurance, and the provisions of
20 chapter 120 do not apply.

21 e. The policies issued by the association must provide
22 that if the association obtains an offer from an authorized
23 insurer to cover the risk at its approved rates under either a
24 standard policy including wind coverage or, if consistent with
25 the insurer's underwriting rules as filed with the department,
26 a basic policy including wind coverage, the risk is no longer
27 eligible for coverage through the association. Upon
28 termination of eligibility, the association shall provide
29 written notice to the policyholder and agent of record stating
30 that the association policy must be canceled as of 60 days
31 after the date of the notice because of the offer of coverage

1 from an authorized insurer. Other provisions of the insurance
2 code relating to cancellation and notice of cancellation do
3 not apply to actions under this sub-subparagraph.

4 f. Association policies and applications must include
5 a notice that the association policy could, under this
6 section, be replaced with a policy issued by an authorized
7 insurer that does not provide coverage identical to the
8 coverage provided by the association. The notice shall also
9 specify that acceptance of association coverage creates a
10 conclusive presumption that the applicant or policyholder is
11 aware of this potential.

12 6.a. The plan of operation may authorize the formation
13 of a private nonprofit corporation, a private nonprofit
14 unincorporated association, a partnership, a trust, a limited
15 liability company, or a nonprofit mutual company which may be
16 empowered, among other things, to borrow money by issuing
17 bonds or by incurring other indebtedness and to accumulate
18 reserves or funds to be used for the payment of insured
19 catastrophe losses. The plan may authorize all actions
20 necessary to facilitate the issuance of bonds, including the
21 pledging of assessments or other revenues.

22 b. Any entity created under this subsection, or any
23 entity formed for the purposes of this subsection, may sue and
24 be sued, may borrow money; issue bonds, notes, or debt
25 instruments; pledge or sell assessments, market equalization
26 surcharges and other surcharges, rights, premiums, contractual
27 rights, projected recoveries from the Florida Hurricane
28 Catastrophe Fund, other reinsurance recoverables, and other
29 assets as security for such bonds, notes, or debt instruments;
30 enter into any contracts or agreements necessary or proper to
31 accomplish such borrowings; and take other actions necessary

1 to carry out the purposes of this subsection. The association
2 may issue bonds or incur other indebtedness, or have bonds
3 issued on its behalf by a unit of local government pursuant to
4 subparagraph (g)2., in the absence of a hurricane or other
5 weather-related event, upon a determination by the association
6 subject to approval by the department that such action would
7 enable it to efficiently meet the financial obligations of the
8 association and that such financings are reasonably necessary
9 to effectuate the requirements of this subsection. Any such
10 entity may accumulate reserves and retain surpluses as of the
11 end of any association year to provide for the payment of
12 losses incurred by the association during that year or any
13 future year. The association shall incorporate and continue
14 the plan of operation and articles of agreement in effect on
15 the effective date of chapter 76-96, Laws of Florida, to the
16 extent that it is not inconsistent with chapter 76-96, and as
17 subsequently modified consistent with chapter 76-96. The board
18 of directors and officers currently serving shall continue to
19 serve until their successors are duly qualified as provided
20 under the plan. The assets and obligations of the plan in
21 effect immediately prior to the effective date of chapter
22 76-96 shall be construed to be the assets and obligations of
23 the successor plan created herein.

24 c. In recognition of s. 10, Art. I of the State
25 Constitution, prohibiting the impairment of obligations of
26 contracts, it is the intent of the Legislature that no action
27 be taken whose purpose is to impair any bond indenture or
28 financing agreement or any revenue source committed by
29 contract to such bond or other indebtedness issued or incurred
30 by the association or any other entity created under this
31 subsection.

1 7. On such coverage, an agent's remuneration shall be
2 that amount of money payable to the agent by the terms of his
3 or her contract with the company with which the business is
4 placed. However, no commission will be paid on that portion of
5 the premium which is in excess of the standard premium of that
6 company.

7 8. Subject to approval by the department, the
8 association may establish different eligibility requirements
9 and operational procedures for any line or type of coverage
10 for any specified eligible area or portion of an eligible area
11 if the board determines that such changes to the eligibility
12 requirements and operational procedures are justified due to
13 the voluntary market being sufficiently stable and competitive
14 in such area or for such line or type of coverage and that
15 consumers who, in good faith, are unable to obtain insurance
16 through the voluntary market through ordinary methods would
17 continue to have access to coverage from the association. When
18 coverage is sought in connection with a real property
19 transfer, such requirements and procedures shall not provide
20 for an effective date of coverage later than the date of the
21 closing of the transfer as established by the transferor, the
22 transferee, and, if applicable, the lender.

23 9. Notwithstanding any other provision of law:

24 a. The pledge or sale of, the lien upon, and the
25 security interest in any rights, revenues, or other assets of
26 the association created or purported to be created pursuant to
27 any financing documents to secure any bonds or other
28 indebtedness of the association shall be and remain valid and
29 enforceable, notwithstanding the commencement of and during
30 the continuation of, and after, any rehabilitation,
31 insolvency, liquidation, bankruptcy, receivership,

1 conservatorship, reorganization, or similar proceeding against
2 the association under the laws of this state or any other
3 applicable laws.

4 b. No such proceeding shall relieve the association of
5 its obligation, or otherwise affect its ability to perform its
6 obligation, to continue to collect, or levy and collect,
7 assessments, market equalization or other surcharges,
8 projected recoveries from the Florida Hurricane Catastrophe
9 Fund, reinsurance recoverables, or any other rights, revenues,
10 or other assets of the association pledged.

11 c. Each such pledge or sale of, lien upon, and
12 security interest in, including the priority of such pledge,
13 lien, or security interest, any such assessments, emergency
14 assessments, market equalization or renewal surcharges,
15 projected recoveries from the Florida Hurricane Catastrophe
16 Fund, reinsurance recoverables, or other rights, revenues, or
17 other assets which are collected, or levied and collected,
18 after the commencement of and during the pendency of or after
19 any such proceeding shall continue unaffected by such
20 proceeding.

21 d. As used in this subsection, the term "financing
22 documents" means any agreement, instrument, or other document
23 now existing or hereafter created evidencing any bonds or
24 other indebtedness of the association or pursuant to which any
25 such bonds or other indebtedness has been or may be issued and
26 pursuant to which any rights, revenues, or other assets of the
27 association are pledged or sold to secure the repayment of
28 such bonds or indebtedness, together with the payment of
29 interest on such bonds or such indebtedness, or the payment of
30 any other obligation of the association related to such bonds
31 or indebtedness.

1 e. Any such pledge or sale of assessments, revenues,
2 contract rights or other rights or assets of the association
3 shall constitute a lien and security interest, or sale, as the
4 case may be, that is immediately effective and attaches to
5 such assessments, revenues, contract, or other rights or
6 assets, whether or not imposed or collected at the time the
7 pledge or sale is made. Any such pledge or sale is effective,
8 valid, binding, and enforceable against the association or
9 other entity making such pledge or sale, and valid and binding
10 against and superior to any competing claims or obligations
11 owed to any other person or entity, including policyholders in
12 this state, asserting rights in any such assessments,
13 revenues, contract, or other rights or assets to the extent
14 set forth in and in accordance with the terms of the pledge or
15 sale contained in the applicable financing documents, whether
16 or not any such person or entity has notice of such pledge or
17 sale and without the need for any physical delivery,
18 recordation, filing, or other action.

19 f. There shall be no liability on the part of, and no
20 cause of action of any nature shall arise against, any member
21 insurer or its agents or employees, agents or employees of the
22 association, members of the board of directors of the
23 association, or the department or its representatives, for any
24 action taken by them in the performance of their duties or
25 responsibilities under this subsection. Such immunity does not
26 apply to actions for breach of any contract or agreement
27 pertaining to insurance, or any willful tort.

28 (3) POLITICAL SUBDIVISION; CASUALTY INSURANCE RISK
29 APPORTIONMENT.--

30 (a) The department shall, after consultation with the
31 casualty insurers licensed in this state, adopt a plan or

1 plans for the equitable apportionment among them of casualty
2 insurance coverage which may be afforded political
3 subdivisions which are in good faith entitled to, but are
4 unable to, procure such coverage through the voluntary market
5 at standard rates or through a statutorily approved plan
6 authorized by the department. The department may adopt a
7 joint underwriting plan which shall provide for one or more
8 designated insurers able and willing to provide policyholder
9 and claims service, including the issuance of insurance
10 policies, to act on behalf of all other insurers required to
11 participate in the joint underwriting plan. Any joint
12 underwriting plan adopted shall provide for the equitable
13 apportionment of any profits realized, or of losses and
14 expenses incurred, among participating insurers. The plan
15 shall include, but shall not be limited to:

16 1. Rules for the classification of risks and rates
17 which reflect the past loss experience and prospective loss
18 experience in different geographic areas.

19 2. A rating plan which reasonably reflects the prior
20 claims experience of the insureds.

21 3. Excess coverage by insurers if the department
22 ~~Insurance Commissioner~~, in its ~~his or her~~ discretion, requires
23 such coverage by insurers participating in the joint
24 underwriting plan.

25 (5) PROPERTY AND CASUALTY INSURANCE RISK
26 APPORTIONMENT.--The department shall adopt by rule a joint
27 underwriting plan to equitably apportion among insurers
28 authorized in this state to write property insurance as
29 defined in s. 624.604 or casualty insurance as defined in s.
30 624.605, the underwriting of one or more classes of property
31 insurance or casualty insurance, except for the types of

1 insurance that are included within property insurance or
2 casualty insurance for which an equitable apportionment plan,
3 assigned risk plan, or joint underwriting plan is authorized
4 under s. 627.311 or subsection (1), subsection (2), subsection
5 (3), subsection (4), or subsection (6) and except for risks
6 eligible for flood insurance written through the federal flood
7 insurance program to persons with risks eligible under
8 subparagraph (a)1. and who are in good faith entitled to, but
9 are unable to, obtain such property or casualty insurance
10 coverage, including excess coverage, through the voluntary
11 market. For purposes of this subsection, an adequate level of
12 coverage means that coverage which is required by state law or
13 by responsible or prudent business practices. The Joint
14 Underwriting Association shall not be required to provide
15 coverage for any type of risk for which there are no insurers
16 providing similar coverage in this state. The department may
17 designate one or more participating insurers who agree to
18 provide policyholder and claims service, including the
19 issuance of policies, on behalf of the participating insurers.

20 (a) The plan shall provide:

21 1. A means of establishing eligibility of a risk for
22 obtaining insurance through the plan, which provides that:

23 a. A risk shall be eligible for such property
24 insurance or casualty insurance as is required by Florida law
25 if the insurance is unavailable in the voluntary market,
26 including the market assistance program and the surplus lines
27 market.

28 b. A commercial risk not eligible under
29 sub-subparagraph a. shall be eligible for property or casualty
30 insurance if:

31

1 (I) The insurance is unavailable in the voluntary
2 market, including the market assistance plan and the surplus
3 lines market;

4 (II) Failure to secure the insurance would
5 substantially impair the ability of the entity to conduct its
6 affairs; and

7 (III) The risk is not determined by the Risk
8 Underwriting Committee to be uninsurable.

9 c. In the event the Federal Government terminates the
10 Federal Crime Insurance Program established under 44 C.F.R.
11 ss. 80-83, Florida commercial and residential risks previously
12 insured under the federal program shall be eligible under the
13 plan.

14 d.(I) In the event a risk is eligible under this
15 paragraph and in the event the market assistance plan receives
16 a minimum of 100 applications for coverage within a 3-month
17 period, or 200 applications for coverage within a 1-year
18 period or less, for a given class of risk contained in the
19 classification system defined in the plan of operation of the
20 Joint Underwriting Association, and unless the market
21 assistance plan provides a quotation for at least 80 percent
22 of such applicants, such classification shall immediately be
23 eligible for coverage in the Joint Underwriting Association.

24 (II) Any market assistance plan application which is
25 rejected because an individual risk is so hazardous as to be
26 practically uninsurable, considering whether the likelihood of
27 a loss for such a risk is substantially higher than for other
28 risks of the same class due to individual risk
29 characteristics, prior loss experience, unwillingness to
30 cooperate with a prior insurer, physical characteristics and
31 physical location shall not be included in the minimum

1 percentage calculation provided above. In the event that there
2 is any legal or administrative challenge to a determination by
3 the department that the conditions of this subparagraph have
4 been met for eligibility for coverage in the Joint
5 Underwriting Association for a given classification, any
6 eligible risk may obtain coverage during the pendency of any
7 such challenge.

8 e. In order to qualify as a quotation for the purpose
9 of meeting the minimum percentage calculation in this
10 subparagraph, the quoted premium must meet the following
11 criteria:

12 (I) In the case of an admitted carrier, the quoted
13 premium must not exceed the premium available for a given
14 classification currently in use by the Joint Underwriting
15 Association or the premium developed by using the rates and
16 rating plans on file with the department by the quoting
17 insurer, whichever is greater.

18 (II) In the case of an authorized surplus lines
19 insurer, the quoted premium must not exceed the premium
20 available for a given classification currently in use by the
21 Joint Underwriting Association by more than 25 percent, after
22 consideration of any individual risk surcharge or credit.

23 f. Any agent who falsely certifies the unavailability
24 of coverage as provided by sub-subparagraphs a. and b., is
25 subject to the penalties provided in s. 626.611.

26 2. A means for the equitable apportionment of profits
27 or losses and expenses among participating insurers.

28 3. Rules for the classification of risks and rates
29 which reflect the past and prospective loss experience.

30 4. A rating plan which reasonably reflects the prior
31 claims experience of the insureds. Such rating plan shall

1 include at least two levels of rates for risks that have
2 favorable loss experience and risks that have unfavorable loss
3 experience, as established by the plan.

4 5. Reasonable limits to available amounts of
5 insurance. Such limits may not be less than the amounts of
6 insurance required of eligible risks by Florida law.

7 6. Risk management requirements for insurance where
8 such requirements are reasonable and are expected to reduce
9 losses.

10 7. Deductibles as may be necessary to meet the needs
11 of insureds.

12 8. Policy forms which are consistent with the forms in
13 use by the majority of the insurers providing coverage in the
14 voluntary market for the coverage requested by the applicant.

15 9. A means to remove risks from the plan once such
16 risks no longer meet the eligibility requirements of this
17 paragraph. For this purpose, the plan shall include the
18 following requirements: At each 6-month interval after the
19 activation of any class of insureds, the board of governors or
20 its designated committee shall review the number of
21 applications to the market assistance plan for that class. If,
22 based on these latest numbers, at least 90 percent of such
23 applications have been provided a quotation, the Joint
24 Underwriting Association shall cease underwriting new
25 applications for such class within 30 days, and notification
26 of this decision shall be sent to the Chief Financial Officer
27 ~~Insurance Commissioner~~, the major agents' associations, and
28 the board of directors of the market assistance plan. A
29 quotation for the purpose of this subparagraph shall meet the
30 same criteria for a quotation as provided in sub-subparagraph
31 d. All policies which were previously written for that class

1 shall continue in force until their normal expiration date, at
2 which time, subject to the required timely notification of
3 nonrenewal by the Joint Underwriting Association, the insured
4 may then elect to reapply to the Joint Underwriting
5 Association according to the requirements of eligibility. If,
6 upon reapplication, those previously insured Joint
7 Underwriting Association risks meet the eligibility
8 requirements, the Joint Underwriting Association shall provide
9 the coverage requested.

10 10. A means for providing credits to insurers against
11 any deficit assessment levied pursuant to paragraph (c), for
12 risks voluntarily written through the market assistance plan
13 by such insurers.

14 11. That the Joint Underwriting Association shall
15 operate subject to the supervision and approval of a board of
16 governors consisting of 13 individuals appointed by the Chief
17 Financial Officer ~~Insurance Commissioner~~, and shall have an
18 executive or underwriting committee. At least four of the
19 members shall be representatives of insurance trade
20 associations as follows: one member from the American
21 Insurance Association, one member from the Alliance of
22 American Insurers, one member from the National Association of
23 Independent Insurers, and one member from an unaffiliated
24 insurer writing coverage on a national basis. Two
25 representatives shall be from two of the statewide agents'
26 associations. Each board member shall be appointed to serve
27 for 2-year terms beginning on a date designated by the plan
28 and shall serve at the pleasure of the commissioner. Members
29 may be reappointed for subsequent terms.

30 (e) A Risk Underwriting Committee of the Joint
31 Underwriting Association composed of three members experienced

1 in evaluating insurance risks is created to review risks
2 rejected by the voluntary market for which application is made
3 for insurance through the joint underwriting plan. The
4 committee shall consist of a representative of the market
5 assistance plan created under s. 627.3515, a member selected
6 by the insurers participating in the Joint Underwriting
7 Association, and a member named by the Chief Financial Officer
8 ~~Insurance Commissioner~~. The Risk Underwriting Committee shall
9 appoint such advisory committees as are provided for in the
10 plan and are necessary to conduct its functions. The salaries
11 and expenses of the members of the Risk Underwriting Committee
12 and its advisory committees shall be paid by the joint
13 underwriting plan. The plan approved by the department shall
14 establish criteria and procedures for use by the Risk
15 Underwriting Committee for determining whether an individual
16 risk is so hazardous as to be uninsurable. In making this
17 determination and in establishing the criteria and procedures,
18 the following shall be considered:

19 1. Whether the likelihood of a loss for the individual
20 risk is substantially higher than for other risks of the same
21 class; and

22 2. Whether the uncertainty associated with the
23 individual risk is such that an appropriate premium cannot be
24 determined.

25
26 The acceptance or rejection of a risk by the underwriting
27 committee shall be construed as the private placement of
28 insurance, and the provisions of chapter 120 shall not apply.

29 (6) RESIDENTIAL PROPERTY AND CASUALTY JOINT
30 UNDERWRITING ASSOCIATION.--

31 (c) The plan of operation of the association:

1 1. May provide for one or more designated insurers,
2 able and willing to provide policy and claims service, to act
3 on behalf of the association to provide such service. Each
4 licensed agent shall be entitled to indicate the order of
5 preference regarding who will service the business placed by
6 the agent. The association shall adhere to each agent's
7 preferences unless after consideration of other factors in
8 assigning agents, including, but not limited to, servicing
9 capacity and fee arrangements, the association has reason to
10 believe it is in the best interest of the association to make
11 a different assignment.

12 2. Must provide for adoption of residential property
13 and casualty insurance policy forms, which forms must be
14 approved by the department prior to use. The association
15 shall adopt the following policy forms:

16 a. Standard personal lines policy forms including wind
17 coverage, which are multiperil policies providing what is
18 generally considered to be full coverage of a residential
19 property similar to the coverage provided under an HO-2, HO-3,
20 HO-4, or HO-6 policy.

21 b. Standard personal lines policy forms without wind
22 coverage, which are the same as the policies described in
23 sub-subparagraph a. except that they do not include wind
24 coverage.

25 c. Basic personal lines policy forms including wind
26 coverage, which are policies similar to an HO-8 policy or a
27 dwelling fire policy that provide coverage meeting the
28 requirements of the secondary mortgage market, but which
29 coverage is more limited than the coverage under a standard
30 policy.

31

1 d. Basic personal lines policy forms without wind
2 coverage, which are the same as the policies described in
3 sub-subparagraph c. except that they do not include wind
4 coverage.

5 e. Commercial lines residential policy forms including
6 wind coverage that are generally similar to the basic perils
7 of full coverage obtainable for commercial residential
8 structures in the admitted voluntary market.

9 f. Commercial lines residential policy forms without
10 wind coverage, which are the same as the policies described in
11 sub-subparagraph e. except that they do not include wind
12 coverage.

13 3. May provide that the association may employ or
14 otherwise contract with individuals or other entities to
15 provide administrative or professional services that may be
16 appropriate to effectuate the plan. The association shall
17 have the power to borrow funds, by issuing bonds or by
18 incurring other indebtedness, and shall have other powers
19 reasonably necessary to effectuate the requirements of this
20 subsection. The association may issue bonds or incur other
21 indebtedness, or have bonds issued on its behalf by a unit of
22 local government pursuant to subparagraph (g)2., in the
23 absence of a hurricane or other weather-related event, upon a
24 determination by the association, subject to approval by the
25 department, that such action would enable it to efficiently
26 meet the financial obligations of the association and that
27 such financings are reasonably necessary to effectuate the
28 requirements of this subsection. The association is
29 authorized to take all actions needed to facilitate tax-free
30 status for any such bonds or indebtedness, including formation
31 of trusts or other affiliated entities. The association shall

1 have the authority to pledge assessments, projected recoveries
2 from the Florida Hurricane Catastrophe Fund, other reinsurance
3 recoverables, market equalization and other surcharges, and
4 other funds available to the association as security for bonds
5 or other indebtedness. In recognition of s. 10, Art. I of the
6 State Constitution, prohibiting the impairment of obligations
7 of contracts, it is the intent of the Legislature that no
8 action be taken whose purpose is to impair any bond indenture
9 or financing agreement or any revenue source committed by
10 contract to such bond or other indebtedness.

11 4. Must require that the association operate subject
12 to the supervision and approval of a board of governors
13 consisting of 13 individuals, including 1 who is elected as
14 chair. The board shall consist of:

15 a. The insurance consumer advocate appointed under s.
16 627.0613.

17 b. Five members designated by the insurance industry.

18 c. Five consumer representatives appointed by the
19 Chief Financial Officer ~~Insurance Commissioner~~. Two of the
20 consumer representatives must, at the time of appointment, be
21 holders of policies issued by the association, who are
22 selected with consideration given to reflecting the geographic
23 balance of association policyholders. Two of the consumer
24 members must be individuals who are minority persons as
25 defined in s. 288.703(3). One of the consumer members shall
26 have expertise in the field of mortgage lending.

27 d. Two representatives of the insurance industry
28 appointed by the Chief Financial Officer ~~Insurance~~
29 ~~Commissioner~~. Of the two insurance industry representatives
30 appointed by the Chief Financial Officer ~~Insurance~~

31

1 ~~Commissioner~~, at least one must be an individual who is a
2 minority person as defined in s. 288.703(3).

3
4 Any board member may be disapproved or removed and replaced by
5 the commissioner at any time for cause. All board members,
6 including the chair, must be appointed to serve for 3-year
7 terms beginning annually on a date designated by the plan.

8 5. Must provide a procedure for determining the
9 eligibility of a risk for coverage, as follows:

10 a. With respect to personal lines residential risks,
11 if the risk is offered coverage from an authorized insurer at
12 the insurer's approved rate under either a standard policy
13 including wind coverage or, if consistent with the insurer's
14 underwriting rules as filed with the department, a basic
15 policy including wind coverage, the risk is not eligible for
16 any policy issued by the association. If the risk accepts an
17 offer of coverage through the market assistance plan or an
18 offer of coverage through a mechanism established by the
19 association before a policy is issued to the risk by the
20 association or during the first 30 days of coverage by the
21 association, and the producing agent who submitted the
22 application to the plan or to the association is not currently
23 appointed by the insurer, the insurer shall either appoint the
24 agent to service the risk or, if the insurer places the
25 coverage through a new agent, require the new agent who then
26 writes the policy to pay not less than 50 percent of the first
27 year's commission to the producing agent who submitted the
28 application to the plan or the association, except that if the
29 new agent is an employee or exclusive agent of the insurer,
30 the new agent shall pay a policy fee of \$50 to the producing
31 agent in lieu of splitting the commission. If the risk is not

1 able to obtain any such offer, the risk is eligible for either
2 a standard policy including wind coverage or a basic policy
3 including wind coverage issued by the association; however, if
4 the risk could not be insured under a standard policy
5 including wind coverage regardless of market conditions, the
6 risk shall be eligible for a basic policy including wind
7 coverage unless rejected under subparagraph 8. The association
8 shall determine the type of policy to be provided on the basis
9 of objective standards specified in the underwriting manual
10 and based on generally accepted underwriting practices.

11 b. With respect to commercial lines residential risks,
12 if the risk is offered coverage under a policy including wind
13 coverage from an authorized insurer at its approved rate, the
14 risk is not eligible for any policy issued by the association.
15 If the risk accepts an offer of coverage through the market
16 assistance plan or an offer of coverage through a mechanism
17 established by the association before a policy is issued to
18 the risk by the association, and the producing agent who
19 submitted the application to the plan or the association is
20 not currently appointed by the insurer, the insurer shall
21 either appoint the agent to service the risk or, if the
22 insurer places the coverage through a new agent, require the
23 new agent who then writes the policy to pay not less than 50
24 percent of the first year's commission to the producing agent
25 who submitted the application to the plan, except that if the
26 new agent is an employee or exclusive agent of the insurer,
27 the new agent shall pay a policy fee of \$50 to the producing
28 agent in lieu of splitting the commission. If the risk is not
29 able to obtain any such offer, the risk is eligible for a
30 policy including wind coverage issued by the association.

31

1 c. This subparagraph does not require the association
2 to provide wind coverage or hurricane coverage in any area in
3 which such coverage is available through the Florida Windstorm
4 Underwriting Association.

5 6. Must include rules for classifications of risks and
6 rates therefor.

7 7. Must provide that if premium and investment income
8 attributable to a particular plan year are in excess of
9 projected losses and expenses of the plan attributable to that
10 year, such excess shall be held in surplus. Such surplus shall
11 be available to defray deficits as to future years and shall
12 be used for that purpose prior to assessing member insurers as
13 to any plan year.

14 8. Must provide objective criteria and procedures to
15 be uniformly applied for all applicants in determining whether
16 an individual risk is so hazardous as to be uninsurable. In
17 making this determination and in establishing the criteria and
18 procedures, the following shall be considered:

19 a. Whether the likelihood of a loss for the individual
20 risk is substantially higher than for other risks of the same
21 class; and

22 b. Whether the uncertainty associated with the
23 individual risk is such that an appropriate premium cannot be
24 determined.

25
26 The acceptance or rejection of a risk by the association shall
27 be construed as the private placement of insurance, and the
28 provisions of chapter 120 shall not apply.

29 9. Must provide that the association shall make its
30 best efforts to procure catastrophe reinsurance at reasonable
31 rates, as determined by the board of governors.

1 10. Must provide that in the event of regular deficit
2 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
3 (b)3.b., or by the Florida Windstorm Underwriting Association
4 under sub-sub-subparagraph (2)(b)2.d.(I) or
5 sub-sub-subparagraph (2)(b)2.d.(II), the association shall
6 levy upon association policyholders in its next rate filing,
7 or by a separate rate filing solely for this purpose, a market
8 equalization surcharge in a percentage equal to the total
9 amount of such regular assessments divided by the aggregate
10 statewide direct written premium for subject lines of business
11 for member insurers for the prior calendar year. Market
12 equalization surcharges under this subparagraph are not
13 considered premium and are not subject to commissions, fees,
14 or premium taxes; however, failure to pay a market
15 equalization surcharge shall be treated as failure to pay
16 premium.

17 11. The policies issued by the association must
18 provide that, if the association or the market assistance plan
19 obtains an offer from an authorized insurer to cover the risk
20 at its approved rates under either a standard policy including
21 wind coverage or a basic policy including wind coverage, the
22 risk is no longer eligible for coverage through the
23 association. However, if the risk is located in an area in
24 which Florida Windstorm Underwriting Association coverage is
25 available, such an offer of a standard or basic policy
26 terminates eligibility regardless of whether or not the offer
27 includes wind coverage. Upon termination of eligibility, the
28 association shall provide written notice to the policyholder
29 and agent of record stating that the association policy shall
30 be canceled as of 60 days after the date of the notice because
31 of the offer of coverage from an authorized insurer. Other

1 provisions of the insurance code relating to cancellation and
2 notice of cancellation do not apply to actions under this
3 subparagraph.

4 12. Association policies and applications must include
5 a notice that the association policy could, under this section
6 or s. 627.3511, be replaced with a policy issued by an
7 admitted insurer that does not provide coverage identical to
8 the coverage provided by the association. The notice shall
9 also specify that acceptance of association coverage creates a
10 conclusive presumption that the applicant or policyholder is
11 aware of this potential.

12 13. May establish, subject to approval by the
13 department, different eligibility requirements and operational
14 procedures for any line or type of coverage for any specified
15 county or area if the board determines that such changes to
16 the eligibility requirements and operational procedures are
17 justified due to the voluntary market being sufficiently
18 stable and competitive in such area or for such line or type
19 of coverage and that consumers who, in good faith, are unable
20 to obtain insurance through the voluntary market through
21 ordinary methods would continue to have access to coverage
22 from the association. When coverage is sought in connection
23 with a real property transfer, such requirements and
24 procedures shall not provide for an effective date of coverage
25 later than the date of the closing of the transfer as
26 established by the transferor, the transferee, and, if
27 applicable, the lender.

28 Section 701. Subsection (5) of section 627.413,
29 Florida Statutes, is amended to read:

30 627.413 Contents of policies, in general;
31 identification.--

1 (5) Any policy that is a minimum premium policy issued
2 by an insurer pursuant to the minimum premium provisions of
3 rules adopted by rating organizations licensed by the
4 Department of Financial Services Insurance, shall have typed,
5 printed, stamped, or legibly handwritten on the certificate
6 the words "minimum premium policy" or equivalent language.
7 The department may impose an administrative fine pursuant to
8 s. 624.4211 if the department finds any violation of this
9 subsection.

10 Section 702. Paragraph (a) of subsection (3) of
11 section 627.4236, Florida Statutes, is amended to read:

12 627.4236 Coverage for bone marrow transplant
13 procedures.--

14 (3)(a) The Agency for Health Care Administration shall
15 adopt rules specifying the bone marrow transplant procedures
16 that are accepted within the appropriate oncological specialty
17 and are not experimental for purposes of this section. The
18 rules must be based upon recommendations of an advisory panel
19 appointed by the secretary of the agency, composed of:

20 1. One adult oncologist, selected from a list of three
21 names recommended by the Florida Medical Association;

22 2. One pediatric oncologist, selected from a list of
23 three names recommended by the Florida Pediatric Society;

24 3. One representative of the J. Hillis Miller Health
25 Center at the University of Florida;

26 4. One representative of the H. Lee Moffitt Cancer
27 Center and Research Institute, Inc.;

28 5. One consumer representative, selected from a list
29 of three names recommended by the Chief Financial Officer
30 ~~Insurance Commissioner~~;

31

1 6. One representative of the Health Insurance
2 Association of America;

3 7. Two representatives of health insurers, one of whom
4 represents the insurer with the largest Florida health
5 insurance premium volume and one of whom represents the
6 insurer with the second largest Florida health insurance
7 premium volume; and

8 8. One representative of the insurer with the largest
9 Florida small group health insurance premium volume.

10 Section 703. Paragraph (c) of subsection (14) of
11 section 627.6472, Florida Statutes, is amended to read:

12 627.6472 Exclusive provider organizations.--
13 (14)

14 (c) The failure of the insurer to pay the assessment
15 within the time specified in s. 641.58 constitutes grounds for
16 suspension or revocation of the insurer's certificate of
17 authority by the Department of Financial Services Insurance.

18 Section 704. Subsection (11) of section 627.6482,
19 Florida Statutes, is amended to read:

20 627.6482 Definitions.--As used in ss.
21 627.648-627.6498, the term:

22 (11) "Plan" means the comprehensive health insurance
23 plan adopted by the association or by rule of the Department
24 of Financial Services Insurance.

25 Section 705. Paragraph (a) of subsection (2) and
26 paragraph (j) of subsection (4) of section 627.6488, Florida
27 Statutes, are amended to read:

28 627.6488 Florida Comprehensive Health Association.--

29 (2)(a) The association shall operate subject to the
30 supervision and approval of a three-member board of directors.

31

1 The board of directors shall be appointed by the Chief
2 Financial Officer ~~Insurance Commissioner~~ as follows:

3 1. The chair of the board shall be the Chief Financial
4 Officer ~~Insurance Commissioner~~ or his or her designee.

5 2. One representative of policyholders who is not
6 associated with the medical profession, a hospital, or an
7 insurer.

8 3. One representative of insurers.

9
10 The administrator or his or her affiliate shall not be a
11 member of the board. Any board member appointed by the
12 commissioner may be removed and replaced by him or her at any
13 time without cause.

14 (4) The association shall:

15 (j) Make a report to the Governor, the Chief Financial
16 Officer ~~Insurance Commissioner~~, the President of the Senate,
17 the Speaker of the House of Representatives, and the Minority
18 Leaders of the Senate and House of Representatives, not later
19 than 45 days after the close of each calendar quarter, which
20 includes, for the prior quarter, current data and estimates of
21 net written and earned premiums, the expenses of
22 administration, and the paid and incurred losses. The report
23 shall identify any statutorily mandated program that has not
24 been fully implemented by the board.

25 Section 706. Subsection (20) of section 627.6675,
26 Florida Statutes, is amended to read:

27 627.6675 Conversion on termination of
28 eligibility.--Subject to all of the provisions of this
29 section, a group policy delivered or issued for delivery in
30 this state by an insurer or nonprofit health care services
31 plan that provides, on an expense-incurred basis, hospital,

1 surgical, or major medical expense insurance, or any
2 combination of these coverages, shall provide that an employee
3 or member whose insurance under the group policy has been
4 terminated for any reason, including discontinuance of the
5 group policy in its entirety or with respect to an insured
6 class, and who has been continuously insured under the group
7 policy, and under any group policy providing similar benefits
8 that the terminated group policy replaced, for at least 3
9 months immediately prior to termination, shall be entitled to
10 have issued to him or her by the insurer a policy or
11 certificate of health insurance, referred to in this section
12 as a "converted policy." A group insurer may meet the
13 requirements of this section by contracting with another
14 insurer, authorized in this state, to issue an individual
15 converted policy, which policy has been approved by the
16 department under s. 627.410. An employee or member shall not
17 be entitled to a converted policy if termination of his or her
18 insurance under the group policy occurred because he or she
19 failed to pay any required contribution, or because any
20 discontinued group coverage was replaced by similar group
21 coverage within 31 days after discontinuance.

22 (20) Nothing in this section or in the incorporation
23 of it into insurance policies shall be construed to require
24 insurers to provide benefits equal to those provided in the
25 group policy from which the individual converted; provided,
26 however, that comprehensive benefits are offered which shall
27 be subject to approval by the department ~~insurance~~
28 ~~Commissioner~~.

29 Section 707. Section 627.7012, Florida Statutes, is
30 amended to read:

31

1 627.7012 Pools of insurance adjusters.--The Department
2 of Financial Services ~~Insurance~~ may, by rule, establish a pool
3 of qualified insurance adjusters. The rules must provide that,
4 if a hurricane occurs or an emergency is declared, the
5 department may assign members of the pool to the affected area
6 and that an insurer may request that a member of the pool
7 adjust claims in the assigned area. The rules may not require
8 that an insurer use those adjusters assigned by the
9 department.

10 Section 708. Subsection (3) of section 627.7015,
11 Florida Statutes, is amended to read:

12 627.7015 Alternative procedure for resolution of
13 disputed property insurance claims.--

14 (3) The costs of mediation shall be reasonable, and
15 the insurer shall bear all of the cost of conducting mediation
16 conferences, except as otherwise provided in this section. If
17 an insured fails to appear at the conference, the conference
18 shall be rescheduled upon the insured's payment of the costs
19 of a rescheduled conference. If the insurer fails to appear at
20 the conference, the insurer shall pay the insured's actual
21 cash expenses incurred in attending the conference if the
22 insurer's failure to attend was not due to a good cause
23 acceptable to the department. An insurer will be deemed to
24 have failed to appear if the insurer's representative lacks
25 authority to settle the full value of the claim. The insurer
26 shall incur an additional fee for a rescheduled conference
27 necessitated by the insurer's failure to appear at a scheduled
28 conference. The fees assessed by the administrator shall
29 include a charge necessary to defray the expenses of the
30 department related to its duties under this section and shall
31

1 be deposited in the Insurance ~~Commissioner's~~ Regulatory Trust
2 Fund.

3 Section 709. Subsection (1) of section 627.727,
4 Florida Statutes, is amended to read:

5 627.727 Motor vehicle insurance; uninsured and
6 underinsured vehicle coverage; insolvent insurer protection.--

7 (1) No motor vehicle liability insurance policy which
8 provides bodily injury liability coverage shall be delivered
9 or issued for delivery in this state with respect to any
10 specifically insured or identified motor vehicle registered or
11 principally garaged in this state unless uninsured motor
12 vehicle coverage is provided therein or supplemental thereto
13 for the protection of persons insured thereunder who are
14 legally entitled to recover damages from owners or operators
15 of uninsured motor vehicles because of bodily injury,
16 sickness, or disease, including death, resulting therefrom.
17 However, the coverage required under this section is not
18 applicable when, or to the extent that, an insured named in
19 the policy makes a written rejection of the coverage on behalf
20 of all insureds under the policy. When a motor vehicle is
21 leased for a period of 1 year or longer and the lessor of such
22 vehicle, by the terms of the lease contract, provides
23 liability coverage on the leased vehicle, the lessee of such
24 vehicle shall have the sole privilege to reject uninsured
25 motorist coverage or to select lower limits than the bodily
26 injury liability limits, regardless of whether the lessor is
27 qualified as a self-insurer pursuant to s. 324.171. Unless an
28 insured, or lessee having the privilege of rejecting uninsured
29 motorist coverage, requests such coverage or requests higher
30 uninsured motorist limits in writing, the coverage or such
31 higher uninsured motorist limits need not be provided in or

1 supplemental to any other policy which renews, extends,
2 changes, supersedes, or replaces an existing policy with the
3 same bodily injury liability limits when an insured or lessee
4 had rejected the coverage. When an insured or lessee has
5 initially selected limits of uninsured motorist coverage lower
6 than her or his bodily injury liability limits, higher limits
7 of uninsured motorist coverage need not be provided in or
8 supplemental to any other policy which renews, extends,
9 changes, supersedes, or replaces an existing policy with the
10 same bodily injury liability limits unless an insured requests
11 higher uninsured motorist coverage in writing. The rejection
12 or selection of lower limits shall be made on a form approved
13 by the department ~~Insurance Commissioner~~. The form shall fully
14 advise the applicant of the nature of the coverage and shall
15 state that the coverage is equal to bodily injury liability
16 limits unless lower limits are requested or the coverage is
17 rejected. The heading of the form shall be in 12-point bold
18 type and shall state: "You are electing not to purchase
19 certain valuable coverage which protects you and your family
20 or you are purchasing uninsured motorist limits less than your
21 bodily injury liability limits when you sign this form. Please
22 read carefully." If this form is signed by a named insured, it
23 will be conclusively presumed that there was an informed,
24 knowing rejection of coverage or election of lower limits on
25 behalf of all insureds. The insurer shall notify the named
26 insured at least annually of her or his options as to the
27 coverage required by this section. Such notice shall be part
28 of, and attached to, the notice of premium, shall provide for
29 a means to allow the insured to request such coverage, and
30 shall be given in a manner approved by the department. Receipt
31 of this notice does not constitute an affirmative waiver of

1 the insured's right to uninsured motorist coverage where the
2 insured has not signed a selection or rejection form. The
3 coverage described under this section shall be over and above,
4 but shall not duplicate, the benefits available to an insured
5 under any workers' compensation law, personal injury
6 protection benefits, disability benefits law, or similar law;
7 under any automobile medical expense coverage; under any motor
8 vehicle liability insurance coverage; or from the owner or
9 operator of the uninsured motor vehicle or any other person or
10 organization jointly or severally liable together with such
11 owner or operator for the accident; and such coverage shall
12 cover the difference, if any, between the sum of such benefits
13 and the damages sustained, up to the maximum amount of such
14 coverage provided under this section. The amount of coverage
15 available under this section shall not be reduced by a setoff
16 against any coverage, including liability insurance. Such
17 coverage shall not inure directly or indirectly to the benefit
18 of any workers' compensation or disability benefits carrier or
19 any person or organization qualifying as a self-insurer under
20 any workers' compensation or disability benefits law or
21 similar law.

22 Section 710. Subsections (7) and (9) of section
23 627.728, Florida Statutes, are amended to read:

24 627.728 Cancellations; nonrenewals.--

25 (7) Except in the case of cancellation for nonpayment
26 of premium or nonrenewal of the policy, the notice of
27 cancellation as provided by this section must contain the
28 following words which are to be prominently displayed: "You
29 are permitted by law to appeal this cancellation. An appeal
30 must be filed no later than 20 days before the effective date
31 of cancellation set forth in this notice. Forms for such

1 appeal and the regulations pertaining thereto may be obtained
2 from the offices of the Department of Financial Services
3 ~~Insurance~~. The Department of Financial Services ~~Insurance~~ does
4 not have the authority to extend the effective date of
5 cancellation; therefore you should obtain replacement coverage
6 prior to the effective date of cancellation."

7 (9) The department shall deposit all fees provided for
8 in this section into the Insurance ~~Commissioner's~~ Regulatory
9 Trust Fund.

10 Section 711. Paragraph (c) of subsection (4) and
11 paragraph (a) of subsection (5) of section 627.736, Florida
12 Statutes, are amended to read:

13 627.736 Required personal injury protection benefits;
14 exclusions; priority; claims.--

15 (4) BENEFITS; WHEN DUE.--Benefits due from an insurer
16 under ss. 627.730-627.7405 shall be primary, except that
17 benefits received under any workers' compensation law shall be
18 credited against the benefits provided by subsection (1) and
19 shall be due and payable as loss accrues, upon receipt of
20 reasonable proof of such loss and the amount of expenses and
21 loss incurred which are covered by the policy issued under ss.
22 627.730-627.7405. When the Agency for Health Care
23 Administration provides, pays, or becomes liable for medical
24 assistance under the Medicaid program related to injury,
25 sickness, disease, or death arising out of the ownership,
26 maintenance, or use of a motor vehicle, benefits under ss.
27 627.730-627.7405 shall be subject to the provisions of the
28 Medicaid program.

29 (c) All overdue payments shall bear simple interest at
30 the rate established by the Chief Financial Officer
31 ~~Comptroller~~ under s. 55.03 or the rate established in the

1 insurance contract, whichever is greater, for the year in
2 which the payment became overdue, calculated from the date the
3 insurer was furnished with written notice of the amount of
4 covered loss. Interest shall be due at the time payment of the
5 overdue claim is made.

6 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

7 (a) Any physician, hospital, clinic, or other person
8 or institution lawfully rendering treatment to an injured
9 person for a bodily injury covered by personal injury
10 protection insurance may charge only a reasonable amount for
11 the services and supplies rendered, and the insurer providing
12 such coverage may pay for such charges directly to such person
13 or institution lawfully rendering such treatment, if the
14 insured receiving such treatment or his or her guardian has
15 countersigned the invoice, bill, or claim form approved by the
16 Department of Financial Services ~~Insurance~~ upon which such
17 charges are to be paid for as having actually been rendered,
18 to the best knowledge of the insured or his or her guardian.
19 In no event, however, may such a charge be in excess of the
20 amount the person or institution customarily charges for like
21 services or supplies in cases involving no insurance.

22 Section 712. Section 627.849, Florida Statutes, is
23 amended to read:

24 627.849 Fees.--

25 (1) The department shall collect in advance, and the
26 persons so served shall pay to it in advance, the following
27 fees:

- 28 (a) Annual license fee.....\$250.
29 (b) Investigation fee.....100.
30 (c) Annual report filing fee.....25.
31 (d) Form filing fee.....10.

1 (2) The fees received under this section shall be
2 credited to the Insurance ~~Commissioner's~~ Regulatory Trust
3 Fund.

4 Section 713. Subsections (1) and (5) of section
5 627.912, Florida Statutes, are amended to read:

6 627.912 Professional liability claims and actions;
7 reports by insurers.--

8 (1) Each self-insurer authorized under s. 627.357 and
9 each insurer or joint underwriting association providing
10 professional liability insurance to a practitioner of medicine
11 licensed under chapter 458, to a practitioner of osteopathic
12 medicine licensed under chapter 459, to a podiatric physician
13 licensed under chapter 461, to a dentist licensed under
14 chapter 466, to a hospital licensed under chapter 395, to a
15 crisis stabilization unit licensed under part IV of chapter
16 394, to a health maintenance organization certificated under
17 part I of chapter 641, to clinics included in chapter 390, to
18 an ambulatory surgical center as defined in s. 395.002, or to
19 a member of The Florida Bar shall report in duplicate to the
20 Department of Financial Services Insurance ~~Insurance~~ any claim or action
21 for damages for personal injuries claimed to have been caused
22 by error, omission, or negligence in the performance of such
23 insured's professional services or based on a claimed
24 performance of professional services without consent, if the
25 claim resulted in:

26 (a) A final judgment in any amount.

27 (b) A settlement in any amount.

28
29 Reports shall be filed with the department and, if the insured
30 party is licensed under chapter 458, chapter 459, chapter 461,
31 or chapter 466, with the Department of Health, no later than

1 30 days following the occurrence of any event listed in
2 paragraph (a) or paragraph (b). The Department of Health shall
3 review each report and determine whether any of the incidents
4 that resulted in the claim potentially involved conduct by the
5 licensee that is subject to disciplinary action, in which case
6 the provisions of s. 456.073 shall apply. The Department of
7 Health, as part of the annual report required by s. 456.026,
8 shall publish annual statistics, without identifying
9 licensees, on the reports it receives, including final action
10 taken on such reports by the Department of Health or the
11 appropriate regulatory board.

12 (5) Any self-insurance program established under s.
13 240.213 shall report in duplicate to the Department of
14 Financial Services ~~Insurance~~ any claim or action for damages
15 for personal injuries claimed to have been caused by error,
16 omission, or negligence in the performance of professional
17 services provided by the Board of Regents through an employee
18 or agent of the Board of Regents, including practitioners of
19 medicine licensed under chapter 458, practitioners of
20 osteopathic medicine licensed under chapter 459, podiatric
21 physicians licensed under chapter 461, and dentists licensed
22 under chapter 466, or based on a claimed performance of
23 professional services without consent if the claim resulted in
24 a final judgment in any amount, or a settlement in any amount.
25 The reports required by this subsection shall contain the
26 information required by subsection (3) and the name, address,
27 and specialty of the employee or agent of the Board of Regents
28 whose performance or professional services is alleged in the
29 claim or action to have caused personal injury.

30 Section 714. Subsection (1) of section 627.9122,
31 Florida Statutes, is amended to read:

1 627.9122 Officers' and directors' liability claims;
2 reports by insurers.--

3 (1) Each insurer providing coverage for officers' and
4 directors' liability coverage shall report to the Department
5 of Financial Services Insurance any claim or action for
6 damages claimed to have been caused by error, omission, or
7 negligence in the performance of the officer's or director's
8 services, if the claim resulted in:

- 9 (a) A final judgment in any amount.
10 (b) A settlement in any amount.
11 (c) A final disposition not resulting in payment on
12 behalf of the insured.

13

14 Reports shall be filed with the department no later than 60
15 days following the occurrence of any event listed in paragraph
16 (a), paragraph (b), or paragraph (c).

17 Section 715. Section 627.919, Florida Statutes, is
18 amended to read:

19 627.919 Maintenance of insurance data.--The department
20 shall maintain data elements required in insurers' annual
21 statements and information reported by insurers pursuant to
22 this part in a computer file which will be available for the
23 generation of reports and calculations on a scheduled or
24 demand basis by the department and Legislature. The
25 acquisition by the department of data processing software,
26 hardware, and services necessary to carry out the provisions
27 of this section by the Chief Financial Officer's ~~Treasurer's~~
28 Management Information Center shall be exempt from the
29 provisions of part I of chapter 287.

30 Section 716. Subsection (1) of section 627.94074,
31 Florida Statutes, is amended to read:

1 627.94074 Standards for benefit triggers.--

2 (1)(a) A long-term care insurance policy shall
3 condition the payment of benefits on a determination of the
4 insured's ability to perform activities of daily living and on
5 cognitive impairment. Eligibility for the payment of benefits
6 shall not be more restrictive than requiring either a
7 deficiency in the ability to perform not more than three of
8 the activities of daily living or the presence of cognitive
9 impairment; or

10 (b) If a policy is a qualified long-term care
11 insurance policy, the policy shall condition the payment of
12 benefits on a determination of the insured's being chronically
13 ill; having a level of disability similar, as provided by rule
14 of the department ~~Insurance Commissioner~~, to the insured's
15 ability to perform activities of daily living; or being
16 cognitively impaired as described in paragraph (6)(b).
17 Eligibility for the payment of benefits shall not be more
18 restrictive than requiring a deficiency in the ability to
19 perform not more than three of the activities of daily living.

20 Section 717. Paragraph (c) of subsection (1) of
21 section 627.944, Florida Statutes, is amended to read:

22 627.944 Risk retention groups not certificated in this
23 state.--Risk retention groups certificated or licensed in
24 states other than this state and seeking to do business as a
25 risk retention group in this state must observe and abide by
26 the laws of this state as follows:

27 (1) NOTICE OF OPERATIONS AND DESIGNATION OF
28 COMMISSIONER AS AGENT.--Before offering insurance in this
29 state, a risk retention group shall submit to the department:

30 (c) A statement of registration which designates the
31 Chief Financial Officer ~~Insurance Commissioner and Treasurer~~

1 or her or his designee as its agent for the purpose of
2 receiving service of legal documents of process.

3 Section 718. Subsection (2) of section 627.948,
4 Florida Statutes, is amended to read:

5 627.948 Notice and registration requirements of
6 purchasing groups.--

7 (2) The purchasing group shall register with and
8 designate the Chief Financial Officer ~~Insurance Commissioner~~
9 ~~and Treasurer~~ or her or his designee as its agent solely for
10 the purpose of receiving service of legal documents or
11 process. This requirement shall not apply in the case of a
12 purchasing group:

13 (a) Which:

14 1. Was domiciled before April 1, 1986.

15 2. Is domiciled on and after October 27, 1986, in any
16 state of the United States.

17 (b) Which:

18 1. Before October 27, 1986, purchased insurance from
19 an insurance carrier licensed in any state; and

20 2. Since October 27, 1986, purchased its insurance
21 from an insurance carrier licensed in any state.

22 (c) Which was a purchasing group under the
23 requirements of the Product Liability Risk Retention Act of
24 1981 before October 27, 1986.

25 (d) Which does not purchase insurance that was not
26 authorized for purposes of an exemption under that act, as in
27 effect before October 27, 1986.

28 Section 719. Subsection (8) of section 628.461,
29 Florida Statutes, is amended to read:

30 628.461 Acquisition of controlling stock.--

31

1 (8) No vote by the stockholder of record, or by any
2 other person, of any security acquired in contravention of the
3 provisions of this section is valid. Any acquisition of any
4 security contrary to the provisions of this section is void.
5 Upon the petition of the domestic stock insurer or controlling
6 company, the circuit court for the county in which the
7 principal office of such domestic stock insurer is located
8 may, without limiting the generality of its authority, order
9 the issuance or entry of an injunction or other order to
10 enforce the provisions of this section. There shall be a
11 private right of action in favor of the domestic stock insurer
12 or controlling company to enforce the provisions of this
13 section. No demand upon the department that it perform its
14 functions shall be required as a prerequisite to any suit by
15 the domestic stock insurer or controlling company against any
16 other person, and in no case shall the department be deemed a
17 necessary party to any action by such domestic stock insurer
18 or controlling company to enforce the provisions of this
19 section. Any person who makes or proposes an acquisition
20 requiring the filing of a statement pursuant to this section,
21 or who files such a statement, shall be deemed to have thereby
22 designated the Chief Financial Officer ~~Insurance Commissioner~~
23 ~~and Treasurer~~, or his or her assistant or deputy or another
24 person in charge of his or her office, as such person's agent
25 for service of process under this section, and shall thereby
26 be deemed to have submitted himself or herself to the
27 administrative jurisdiction of the department and to the
28 jurisdiction of the circuit court.

29 Section 720. Subsection (9) of section 628.4615,
30 Florida Statutes, is amended to read:

31

1 628.4615 Specialty insurers; acquisition of
2 controlling stock, ownership interest, assets, or control;
3 merger or consolidation.--

4 (9) No vote by the stockholder of record, or by any
5 other person, of any security acquired in contravention of the
6 provisions of this section is valid. Any acquisition contrary
7 to the provisions of this section is void. Upon the petition
8 of the specialty insurer or the controlling company, the
9 circuit court for the county in which the principal office of
10 the specialty insurer is located may, without limiting the
11 generality of its authority, order the issuance or entry of an
12 injunction or other order to enforce the provisions of this
13 section. There shall be a private right of action in favor of
14 the specialty insurer or controlling company to enforce the
15 provisions of this section. No demand upon the department that
16 it perform its functions shall be required as a prerequisite
17 to any suit by the specialty insurer or controlling company
18 against any other person, and in no case shall the department
19 be deemed a necessary party to any action by the specialty
20 insurer or controlling company to enforce the provisions of
21 this section. Any person who makes or proposes an acquisition
22 requiring the filing of an application pursuant to this
23 section, or who files such an application, shall be deemed to
24 have thereby designated the Chief Financial Officer ~~Insurance~~
25 ~~Commissioner and Treasurer~~, or his or her assistant or deputy
26 or another person in charge of his or her office, as such
27 person's agent for service of process under this section and
28 shall thereby be deemed to have submitted himself or herself
29 to the administrative jurisdiction of the department and to
30 the jurisdiction of the circuit court.

31

1 Section 721. Subsection (2), paragraph (a) of
2 subsection (3), and paragraph (b) of subsection (6) of section
3 629.401, Florida Statutes, are amended to read:

4 629.401 Insurance exchange.--

5 (2) The operation of this subsection shall become
6 effective with respect to any exchange only after a
7 determination by the Chief Financial Officer Insurance
8 ~~Commissioner and Treasurer~~ that the exchange may operate in an
9 economic and beneficial manner. A committee shall be appointed
10 to write the constitution and bylaws of the proposed exchange,
11 to make such other recommendations as may be necessary to
12 assure maximum coordination of the operations of the exchange
13 with existing insurance industry operations, and to assure
14 maximum economic benefits to the state from the operations of
15 the exchange. The committee shall consist of 13 members, 6 to
16 be appointed by the Chief Financial Officer Insurance
17 ~~Commissioner and Treasurer~~, 2 each to be appointed by the
18 Speaker of the House of Representatives and the President of
19 the Senate, 1 each to be appointed by the minority leader of
20 the House of Representatives and the minority leader of the
21 Senate, and 1 to be the Insurance Commissioner and Treasurer
22 or his or her designated representative. The chair shall be
23 elected by a majority of the committee. The committee shall
24 transmit such proposed constitution and bylaws and such other
25 recommendations to the Chief Financial Officer Insurance
26 ~~Commissioner and Treasurer~~ and to the Legislature no later
27 than 5 days prior to the adjournment of a regular annual
28 legislative session or no later than 5 days prior to the
29 commencement of any special or organizational legislative
30 session. Subject to the disapproval of the constitution and
31 bylaws by either house of the Legislature by resolution before

1 the end of such legislative session, the exchange shall have
2 full authority to function pursuant to its constitution and
3 bylaws 60 days after the end of the session. The initial board
4 of governors of the exchange shall consist of 14 members, 3
5 appointed by the Chief Financial Officer ~~Insurance~~
6 ~~Commissioner and Treasurer~~, 3 by the Speaker of the House of
7 Representatives, 3 by the President of the Senate, 1 by the
8 minority leader of the House of Representatives, 1 by the
9 minority leader of the Senate, and 3 by the Governor, to serve
10 until the first election pursuant to the constitution or
11 bylaws.

12 (3) The constitution and bylaws of the exchange shall
13 provide for, but shall not be limited to:

14 (a) The selection of 13 governors, at least 7 of whom
15 shall be appointed by and serve at the pleasure of the Chief
16 Financial Officer ~~Insurance Commissioner~~. Five of the
17 governors appointed by the Chief Financial Officer ~~Insurance~~
18 ~~Commissioner~~ shall not be members of the exchange. One of the
19 remaining two governors appointed by the Chief Financial
20 Officer ~~Insurance Commissioner~~ shall be a broker member, and
21 one shall be a representative of an underwriting member. The
22 remainder of the governors shall be elected by the membership
23 of the exchange in accordance with the constitution and
24 bylaws, except that at least five governors shall be elected
25 by the underwriting members of the exchange.

26 (6)

27 (b) In addition to the insurance laws specified in
28 paragraph (a), the department shall regulate the exchange
29 pursuant to the following powers, rights, and duties:

30 1. General examination powers.--The department shall
31 examine the affairs, transactions, accounts, records, and

1 assets of any security fund, exchange, members, and associate
2 brokers as often as it deems advisable. The examination may
3 be conducted by the accredited examiners of the department at
4 the offices of the entity or person being examined. The
5 department shall examine in like manner each prospective
6 member or associate broker applying for membership in an
7 exchange.

8 2. Departmental approval and applications of
9 underwriting members.--No underwriting member shall commence
10 operation without the approval of the department. Before
11 commencing operation, an underwriting member shall provide a
12 written application containing:

13 a. Name, type, and purpose of the underwriting member.

14 b. Name, residence address, business background, and
15 qualifications of each person associated or to be associated
16 in the formation or financing of the underwriting member.

17 c. Full disclosure of the terms of all understandings
18 and agreements existing or proposed among persons so
19 associated relative to the underwriting member, or the
20 formation or financing thereof, accompanied by a copy of each
21 such agreement or understanding.

22 d. Full disclosure of the terms of all understandings
23 and agreements existing or proposed for management or
24 exclusive agency contracts.

25 3. Investigation of underwriting member
26 applications.--In connection with any proposal to establish an
27 underwriting member, the department shall make an
28 investigation of:

29 a. The character, reputation, financial standing, and
30 motives of the organizers, incorporators, or subscribers
31 organizing the proposed underwriting member.

1 b. The character, financial responsibility, insurance
2 experience, and business qualifications of its proposed
3 officers.

4 c. The character, financial responsibility, business
5 experience, and standing of the proposed stockholders and
6 directors, or owners.

7 4. Notice of management changes.--An underwriting
8 member shall promptly give the department written notice of
9 any change among the directors or principal officers of the
10 underwriting member within 30 days after such change. The
11 department shall investigate the new directors or principal
12 officers of the underwriting member. The department's
13 investigation shall include an investigation of the character,
14 financial responsibility, insurance experience, and business
15 qualifications of any new directors or principal officers. As
16 a result of the investigation, the department may require the
17 underwriting member to replace any new directors or principal
18 officers.

19 5. Alternate financial statement.--In lieu of any
20 financial examination, the department may accept an audited
21 financial statement.

22 6. Correction and reconstruction of records.--If the
23 department finds any accounts or records to be inadequate, or
24 inadequately kept or posted, it may employ experts to
25 reconstruct, rewrite, post, or balance them at the expense of
26 the person or entity being examined if such person or entity
27 has failed to maintain, complete, or correct such records or
28 accounts after the department has given him or her or it
29 notice and reasonable opportunity to do so.

30 7. Obstruction of examinations.--Any person or entity
31 who or which willfully obstructs the department or its

1 | examiner in an examination is guilty of a misdemeanor of the
2 | second degree, punishable as provided in s. 775.082 or s.
3 | 775.083.

4 | 8. Filing of annual statement.--Each underwriting
5 | member shall file with the department a full and true
6 | statement of its financial condition, transactions, and
7 | affairs. The statement shall be filed on or before March 1 of
8 | each year, or within such extension of time as the department
9 | for good cause grants, and shall be for the preceding calendar
10 | year. The statement shall contain information generally
11 | included in insurer financial statements prepared in
12 | accordance with generally accepted insurance accounting
13 | principles and practices and in a form generally utilized by
14 | insurers for financial statements, sworn to by at least two
15 | executive officers of the underwriting member. The form of the
16 | financial statements shall be the approved form of the
17 | National Association of Insurance Commissioners or its
18 | successor organization. The department may by rule require
19 | each insurer to submit any part of the information contained
20 | in the financial statement in a computer-readable form
21 | compatible with the department's electronic data processing
22 | system. In addition to information furnished in connection
23 | with its annual statement, an underwriting member must furnish
24 | to the department as soon as reasonably possible such
25 | information about its transactions or affairs as the
26 | department requests in writing. All information furnished
27 | pursuant to the department's request must be verified by the
28 | oath of two executive officers of the underwriting member.

29 | 9. Record maintenance.--Each underwriting member shall
30 | have and maintain its principal place of business in this
31 | state and shall keep therein complete records of its assets,

1 transactions, and affairs in accordance with such methods and
2 systems as are customary for or suitable to the kind or kinds
3 of insurance transacted.

4 10. Examination of agents.--If the department has
5 reason to believe that any agent, as defined in s. 626.041, s.
6 626.051, s. 626.062, or s. 626.914, has violated or is
7 violating any provision of the insurance law, or upon receipt
8 of a written complaint signed by any interested person
9 indicating that any such violation may exist, the department
10 shall conduct such examination as it deems necessary of the
11 accounts, records, documents, and transactions pertaining to
12 or affecting the insurance affairs of such agent.

13 11. Written reports of department.--The department or
14 its examiner shall make a full and true written report of any
15 examination. The report shall contain only information
16 obtained from examination of the records, accounts, files, and
17 documents of or relative to the person or entity examined or
18 from testimony of individuals under oath, together with
19 relevant conclusions and recommendations of the examiner based
20 thereon. The department shall furnish a copy of the report to
21 the person or entity examined not less than 30 days prior to
22 filing the report in its office. If such person or entity so
23 requests in writing within such 30-day period, the department
24 shall grant a hearing with respect to the report and shall not
25 file the report until after the hearing and after such
26 modifications have been made therein as the department deems
27 proper.

28 12. Admissibility of reports.--The report of an
29 examination when filed shall be admissible in evidence in any
30 action or proceeding brought by the department against the
31 person or entity examined, or against his or her or its

1 officers, employees, or agents. The department or its
2 examiners may at any time testify and offer other proper
3 evidence as to information secured or matters discovered
4 during the course of an examination, whether or not a written
5 report of the examination has been either made, furnished, or
6 filed in the department.

7 13. Publication of reports.--After an examination
8 report has been filed, the department may publish the results
9 of any such examination in one or more newspapers published in
10 this state whenever it deems it to be in the public interest.

11 14. Consideration of examination reports by entity
12 examined.--After the examination report of an underwriting
13 member has been filed, an affidavit shall be filed with the
14 department, not more than 30 days after the report has been
15 filed, on a form furnished by the department and signed by the
16 person or a representative of any entity examined, stating
17 that the report has been read and that the recommendations
18 made in the report will be considered within a reasonable
19 time.

20 15. Examination costs.--Each person or entity examined
21 by the department shall pay to the department the expenses
22 incurred in such examination.

23 16. Exchange costs.--An exchange shall reimburse the
24 department for any expenses incurred by it relating to the
25 regulation of the exchange and its members, except as
26 specified in subparagraph 15.

27 17. Powers of examiners.--Any examiner appointed by
28 the department, as to the subject of any examination,
29 investigation, or hearing being conducted by him or her, may
30 administer oaths, examine and cross-examine witnesses, and
31 receive oral and documentary evidence, and shall have the

1 power to subpoena witnesses, compel their attendance and
2 testimony, and require by subpoena the production of books,
3 papers, records, files, correspondence, documents, or other
4 evidence which the examiner deems relevant to the inquiry. If
5 any person refuses to comply with any such subpoena or to
6 testify as to any matter concerning which he or she may be
7 lawfully interrogated, the Circuit Court of Leon County or the
8 circuit court of the county wherein such examination,
9 investigation, or hearing is being conducted, or of the county
10 wherein such person resides, on the department's application
11 may issue an order requiring such person to comply with the
12 subpoena and to testify; and any failure to obey such an order
13 of the court may be punished by the court as a contempt
14 thereof. Subpoenas shall be served, and proof of such service
15 made, in the same manner as if issued by a circuit court.
16 Witness fees and mileage, if claimed, shall be allowed the
17 same as for testimony in a circuit court.

18 18. False testimony.--Any person willfully testifying
19 falsely under oath as to any matter material to any
20 examination, investigation, or hearing shall upon conviction
21 thereof be guilty of perjury and shall be punished
22 accordingly.

23 19. Self-incrimination.--

24 a. If any person asks to be excused from attending or
25 testifying or from producing any books, papers, records,
26 contracts, documents, or other evidence in connection with any
27 examination, hearing, or investigation being conducted by the
28 department or its examiner, on the ground that the testimony
29 or evidence required of the person may tend to incriminate him
30 or her or subject him or her to a penalty or forfeiture, and
31 the person notwithstanding is directed to give such testimony

1 or produce such evidence, he or she shall, if so directed by
2 the department and the Department of Legal Affairs,
3 nonetheless comply with such direction; but the person shall
4 not thereafter be prosecuted or subjected to any penalty or
5 forfeiture for or on account of any transaction, matter, or
6 thing concerning which he or she may have so testified or
7 produced evidence, and no testimony so given or evidence so
8 produced shall be received against him or her upon any
9 criminal action, investigation, or proceeding; except that no
10 such person so testifying shall be exempt from prosecution or
11 punishment for any perjury committed by him or her in such
12 testimony, and the testimony or evidence so given or produced
13 shall be admissible against him or her upon any criminal
14 action, investigation, or proceeding concerning such perjury,
15 nor shall he or she be exempt from the refusal, suspension, or
16 revocation of any license, permission, or authority conferred,
17 or to be conferred, pursuant to the insurance law.

18 b. Any such individual may execute, acknowledge, and
19 file in the office of the department a statement expressly
20 waiving such immunity or privilege in respect to any
21 transaction, matter, or thing specified in such statement, and
22 thereupon the testimony of such individual or such evidence in
23 relation to such transaction, matter, or thing may be received
24 or produced before any judge or justice, court, tribunal,
25 grand jury, or otherwise; and if such testimony or evidence is
26 so received or produced, such individual shall not be entitled
27 to any immunity or privileges on account of any testimony so
28 given or evidence so produced.

29 20. Penalty for failure to testify.--Any person who
30 refuses or fails, without lawful cause, to testify relative to
31 the affairs of any member, associate broker, or other person

1 when subpoenaed and requested by the department to so testify,
2 as provided in subparagraph 17., shall, in addition to the
3 penalty provided in subparagraph 17., be guilty of a
4 misdemeanor of the second degree, punishable as provided in s.
5 775.082 or s. 775.083.

6 21. Name selection.--No underwriting member shall be
7 formed or authorized to transact insurance in this state under
8 a name which is the same as that of any authorized insurer or
9 is so nearly similar thereto as to cause or tend to cause
10 confusion or under a name which would tend to mislead as to
11 the type of organization of the insurer. Before incorporating
12 under or using any name, the underwriting syndicate or
13 proposed underwriting syndicate shall submit its name or
14 proposed name to the department for the approval of the
15 department.

16 22. Capitalization.--An underwriting member approved
17 on or after July 2, 1987, shall provide an initial paid-in
18 capital and surplus of \$3 million and thereafter shall
19 maintain a minimum policyholder surplus of \$2 million in order
20 to be permitted to write insurance. Underwriting members
21 approved prior to July 2, 1987, shall maintain a minimum
22 policyholder surplus of \$1 million. After June 29, 1988,
23 underwriting members approved prior to July 2, 1987, must
24 maintain a minimum policyholder surplus of \$1.5 million to
25 write insurance. After June 29, 1989, underwriting members
26 approved prior to July 2, 1987, must maintain a minimum
27 policyholder surplus of \$1.75 million to write insurance.
28 After December 30, 1989, all underwriting members, regardless
29 of the date they were approved, must maintain a minimum
30 policyholder surplus of \$2 million to write insurance. Except
31 for that portion of the paid-in capital and surplus which

1 shall be maintained in a security fund of an exchange, the
2 paid-in capital and surplus shall be invested by an
3 underwriting member in a manner consistent with ss.
4 625.301-625.340. The portion of the paid-in capital and
5 surplus in any security fund of an exchange shall be invested
6 in a manner limited to investments for life insurance
7 companies under the Florida insurance laws.

8 23. Limitations on coverage written.--

9 a. Limit of risk.--No underwriting member shall expose
10 itself to any loss on any one risk in an amount exceeding 10
11 percent of its surplus to policyholders. Any risk or portion
12 of any risk which shall have been reinsured in an assuming
13 reinsurer authorized or approved to do such business in this
14 state shall be deducted in determining the limitation of risk
15 prescribed in this section.

16 b. Restrictions on premiums written.--If the
17 department has reason to believe that the underwriting
18 member's ratio of actual or projected annual gross written
19 premiums to policyholder surplus exceeds 8 to 1 or the
20 underwriting member's ratio of actual or projected annual net
21 premiums to policyholder surplus exceeds 4 to 1, the
22 department may establish maximum gross or net annual premiums
23 to be written by the underwriting member consistent with
24 maintaining the ratios specified in this sub-subparagraph.

25 (I) Projected annual net or gross premiums shall be
26 based on the actual writings to date for the underwriting
27 member's current calendar year, its writings for the previous
28 calendar year, or both. Ratios shall be computed on an
29 annualized basis.

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1 (II) For purposes of this sub-subparagraph, the term
2 "gross written premiums" means direct premiums written and
3 reinsurance assumed.

4 c. Surplus as to policyholders.--For the purpose of
5 determining the limitation on coverage written, surplus as to
6 policyholders shall be deemed to include any voluntary
7 reserves, or any part thereof, which are not required by or
8 pursuant to law and shall be determined from the last sworn
9 statement of such underwriting member with the department, or
10 by the last report or examination filed by the department,
11 whichever is more recent at the time of assumption of such
12 risk.

13 24. Unearned premium reserves.--All unearned premium
14 reserves for business written on the exchange shall be
15 calculated on a monthly or more frequent basis or on such
16 other basis as determined by the department; except that all
17 premiums on any marine or transportation insurance trip risk
18 shall be deemed unearned until the trip is terminated.

19 25. Loss reserves.--All underwriting members of an
20 exchange shall maintain loss reserves, including a reserve for
21 incurred but not reported claims. The reserves shall be
22 subject to review by the department, and, if loss experience
23 shows that an underwriting member's loss reserves are
24 inadequate, the department shall require the underwriting
25 member to maintain loss reserves in such additional amount as
26 is needed to make them adequate.

27 26. Distribution of profits.--An underwriting member
28 shall not distribute any profits in the form of cash or other
29 assets to owners except out of that part of its available and
30 accumulated surplus funds which is derived from realized net
31 operating profits on its business and realized capital gains.

1 In any one year such payments to owners shall not exceed 30
2 percent of such surplus as of December 31 of the immediately
3 preceding year, unless otherwise approved by the department.
4 No distribution of profits shall be made that would render an
5 underwriting member either impaired or insolvent.

6 27. Stock dividends.--A stock dividend may be paid by
7 an underwriting member out of any available surplus funds in
8 excess of the aggregate amount of surplus advanced to the
9 underwriting member under subparagraph 29.

10 28. Dividends from earned surplus.--A dividend
11 otherwise lawful may be payable out of an underwriting
12 member's earned surplus even though the total surplus of the
13 underwriting member is then less than the aggregate of its
14 past contributed surplus resulting from issuance of its
15 capital stock at a price in excess of the par value thereof.

16 29. Borrowing of money by underwriting members.--
17 a. An underwriting member may borrow money to defray
18 the expenses of its organization, provide it with surplus
19 funds, or for any purpose of its business, upon a written
20 agreement that such money is required to be repaid only out of
21 the underwriting member's surplus in excess of that stipulated
22 in such agreement. The agreement may provide for interest not
23 exceeding 15 percent simple interest per annum. The interest
24 shall or shall not constitute a liability of the underwriting
25 member as to its funds other than such excess of surplus, as
26 stipulated in the agreement. No commission or promotion
27 expense shall be paid in connection with any such loan. The
28 use of any surplus note and any repayments thereof shall be
29 subject to the approval of the department.

30 b. Money so borrowed, together with any interest
31 thereon if so stipulated in the agreement, shall not form a

1 part of the underwriting member's legal liabilities except as
2 to its surplus in excess of the amount thereof stipulated in
3 the agreement, nor be the basis of any setoff; but until
4 repayment, financial statements filed or published by an
5 underwriting member shall show as a footnote thereto the
6 amount thereof then unpaid, together with any interest thereon
7 accrued but unpaid.

8 30. Liquidation, rehabilitation, and
9 restrictions.--The department, upon a showing that a member or
10 associate broker of an exchange has met one or more of the
11 grounds contained in part I of chapter 631, may restrict sales
12 by type of risk, policy or contract limits, premium levels, or
13 policy or contract provisions; increase surplus or capital
14 requirements of underwriting members; issue cease and desist
15 orders; suspend or restrict a member's or associate broker's
16 right to transact business; place an underwriting member under
17 conservatorship or rehabilitation; or seek an order of
18 liquidation as authorized by part I of chapter 631.

19 31. Prohibited conduct.--The following acts by a
20 member, associate broker, or affiliated person shall
21 constitute prohibited conduct:

22 a. Fraud.

23 b. Fraudulent or dishonest acts committed by a member
24 or associate broker prior to admission to an exchange, if the
25 facts and circumstances were not disclosed to the department
26 upon application to become a member or associate broker.

27 c. Conduct detrimental to the welfare of an exchange.

28 d. Unethical or improper practices or conduct,
29 inconsistent with just and equitable principles of trade as
30 set forth in, but not limited to, ss. 626.951-626.9641 and
31 626.973.

1 e. Failure to use due diligence to ascertain the
2 insurance needs of a client or a principal.

3 f. Misstatements made under oath or upon an
4 application for membership on an exchange.

5 g. Failure to testify or produce documents when
6 requested by the department.

7 h. Willful violation of any law of this state.

8 i. Failure of an officer or principal to testify under
9 oath concerning a member, associate broker, or other person's
10 affairs as they relate to the operation of an exchange.

11 j. Violation of the constitution and bylaws of the
12 exchange.

13 32. Penalties for participating in prohibited
14 conduct.--

15 a. The department may order the suspension of further
16 transaction of business on the exchange of any member or
17 associate broker found to have engaged in prohibited conduct.
18 In addition, any member or associate broker found to have
19 engaged in prohibited conduct may be subject to reprimand,
20 censure, and/or a fine not exceeding \$25,000 imposed by the
21 department.

22 b. Any member which has an affiliated person who is
23 found to have engaged in prohibited conduct shall be subject
24 to involuntary withdrawal or in addition thereto may be
25 subject to suspension, reprimand, censure, and/or a fine not
26 exceeding \$25,000.

27 33. Reduction of penalties.--Any suspension,
28 reprimand, censure, or fine may be remitted or reduced by the
29 department on such terms and conditions as are deemed fair and
30 equitable.

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1 34. Other offenses.--Any member or associate broker
2 that is suspended shall be deprived, during the period of
3 suspension, of all rights and privileges of a member or of an
4 associate broker and may be proceeded against by the
5 department for any offense committed either before or after
6 the date of suspension.

7 35. Reinstatement.--Any member or associate broker
8 that is suspended may be reinstated at any time on such terms
9 and conditions as the department may specify.

10 36. Remittance of fines.--Fines imposed under this
11 section shall be remitted to the department and shall be paid
12 into the Insurance ~~Commissioner's~~ Regulatory Trust Fund.

13 37. Failure to pay fines.--When a member or associate
14 broker has failed to pay a fine for 15 days after it becomes
15 payable, such member or associate broker shall be suspended,
16 unless the department has granted an extension of time to pay
17 such fine.

18 38. Changes in ownership or assets.--In the event of a
19 major change in the ownership or a major change in the assets
20 of an underwriting member, the underwriting member shall
21 report such change in writing to the department within 30 days
22 of the effective date thereof. The report shall set forth the
23 details of the change. Any change in ownership or assets of
24 more than 5 percent shall be considered a major change.

25 39. Retaliation.--

26 a. When by or pursuant to the laws of any other state
27 or foreign country any taxes, licenses, or other fees, in the
28 aggregate, and any fines, penalties, deposit requirements, or
29 other material obligations, prohibitions, or restrictions are
30 or would be imposed upon an exchange or upon the agents or
31 representatives of such exchange which are in excess of such

1 taxes, licenses, and other fees, in the aggregate, or which
2 are in excess of such fines, penalties, deposit requirements,
3 or other obligations, prohibitions, or restrictions directly
4 imposed upon similar exchanges or upon the agents or
5 representatives of such exchanges of such other state or
6 country under the statutes of this state, so long as such laws
7 of such other state or country continue in force or are so
8 applied, the same taxes, licenses, and other fees, in the
9 aggregate, or fines, penalties, deposit requirements, or other
10 material obligations, prohibitions, or restrictions of
11 whatever kind shall be imposed by the department upon the
12 exchanges, or upon the agents or representatives of such
13 exchanges, of such other state or country doing business or
14 seeking to do business in this state.

15 b. Any tax, license, or other obligation imposed by
16 any city, county, or other political subdivision or agency of
17 a state, jurisdiction, or foreign country on an exchange, or
18 on the agents or representatives on an exchange, shall be
19 deemed to be imposed by such state, jurisdiction, or foreign
20 country within the meaning of sub-subparagraph a.

21 40. Agents.--

22 a. Agents as defined in ss. 626.041, 626.051, 626.062,
23 and 626.914 who are broker members or associate broker members
24 of an exchange shall be allowed only to place on an exchange
25 the same kind or kinds of business that the agent is licensed
26 to place pursuant to Florida law. Direct Florida business as
27 defined in s. 626.916 or s. 626.917 shall be written through a
28 broker member who is a surplus lines agent as defined in s.
29 626.914. The activities of each broker member or associate
30 broker with regard to an exchange shall be subject to all
31 applicable provisions of the insurance laws of this state, and

1 all such activities shall constitute transactions under his or
2 her license as an insurance agent for purposes of the Florida
3 insurance law.

4 b. Premium payments and other requirements.--If an
5 underwriting member has assumed the risk as to a surplus lines
6 coverage and if the premium therefor has been received by the
7 surplus lines agent who placed such insurance, then in all
8 questions thereafter arising under the coverage as between the
9 underwriting member and the insured, the underwriting member
10 shall be deemed to have received the premium due to it for
11 such coverage; and the underwriting member shall be liable to
12 the insured as to losses covered by such insurance, and for
13 unearned premiums which may become payable to the insured upon
14 cancellation of such insurance, whether or not in fact the
15 surplus lines agent is indebted to the underwriting member
16 with respect to such insurance or for any other cause.

17 41. Improperly issued contracts, riders, and
18 endorsements.--

19 a. Any insurance policy, rider, or endorsement issued
20 by an underwriting member and otherwise valid which contains
21 any condition or provision not in compliance with the
22 requirements of this section shall not be thereby rendered
23 invalid, except as provided in s. 627.415, but shall be
24 construed and applied in accordance with such conditions and
25 provisions as would have applied had such policy, rider, or
26 endorsement been in full compliance with this section. In the
27 event an underwriting member issues or delivers any policy for
28 an amount which exceeds any limitations otherwise provided in
29 this section, the underwriting member shall be liable to the
30 insured or his or her beneficiary for the full amount stated

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1 in the policy in addition to any other penalties that may be
2 imposed.

3 b. Any insurance contract delivered or issued for
4 delivery in this state governing a subject or subjects of
5 insurance resident, located, or to be performed in this state
6 which, pursuant to the provisions of this section, the
7 underwriting member may not lawfully insure under such a
8 contract shall be cancelable at any time by the underwriting
9 member, any provision of the contract to the contrary
10 notwithstanding; and the underwriting member shall promptly
11 cancel the contract in accordance with the request of the
12 department therefor. No such illegality or cancellation shall
13 be deemed to relieve the underwriting syndicate of any
14 liability incurred by it under the contract while in force or
15 to prohibit the underwriting syndicate from retaining the pro
16 rata earned premium thereon. This provision does not relieve
17 the underwriting syndicate from any penalty otherwise incurred
18 by the underwriting syndicate.

19 42. Satisfaction of judgments.--

20 a. Every judgment or decree for the recovery of money
21 heretofore or hereafter entered in any court of competent
22 jurisdiction against any underwriting member shall be fully
23 satisfied within 60 days from and after the entry thereof or,
24 in the case of an appeal from such judgment or decree, within
25 60 days from and after the affirmance of the judgment or
26 decree by the appellate court.

27 b. If the judgment or decree is not satisfied as
28 required under sub-subparagraph a., and proof of such failure
29 to satisfy is made by filing with the department a certified
30 transcript of the docket of the judgment or the decree
31 together with a certificate by the clerk of the court wherein

1 the judgment or decree remains unsatisfied, in whole or in
2 part, after the time provided in sub-subparagraph a., the
3 department shall forthwith prohibit the underwriting member
4 from transacting business. The department shall not permit
5 such underwriting member to write any new business until the
6 judgment or decree is wholly paid and satisfied and proof
7 thereof is filed with the department under the official
8 certificate of the clerk of the court wherein the judgment was
9 recovered, showing that the judgment or decree is satisfied of
10 record, and until the expenses and fees incurred in the case
11 are also paid by the underwriting syndicate.

12 43. Tender and exchange offers.--No person shall
13 conclude a tender offer or an exchange offer or otherwise
14 acquire 5 percent or more of the outstanding voting securities
15 of an underwriting member or controlling company or purchase 5
16 percent or more of the ownership of an underwriting member or
17 controlling company unless such person has filed with, and
18 obtained the approval of, the department and sent to such
19 underwriting member a statement setting forth:

20 a. The identity of, and background information on,
21 each person by whom, or on whose behalf, the acquisition is to
22 be made; and, if the acquisition is to be made by or on behalf
23 of a corporation, association, or trust, the identity of and
24 background information on each director, officer, trustee, or
25 other natural person performing duties similar to those of a
26 director, officer, or trustee for the corporation,
27 association, or trust.

28 b. The source and amount of the funds or other
29 consideration used, or to be used, in making the acquisition.
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1 c. Any plans or proposals which such person may have
2 to liquidate such member, to sell its assets, or to merge or
3 consolidate it.

4 d. The percentage of ownership which such person
5 proposes to acquire and the terms of the offer or exchange, as
6 the case may be.

7 e. Information as to any contracts, arrangements, or
8 understandings with any party with respect to any securities
9 of such member or controlling company, including, but not
10 limited to, information relating to the transfer of any
11 securities, option arrangements, or puts or calls or the
12 giving or withholding of proxies, naming the party with whom
13 such contract, arrangements, or understandings have been
14 entered and giving the details thereof.

15 f. The department may disapprove any acquisition
16 subject to the provisions of this subparagraph by any person
17 or any affiliated person of such person who:

18 (I) Willfully violates this subparagraph;

19 (II) In violation of an order of the department issued
20 pursuant to sub-subparagraph j., fails to divest himself or
21 herself of any stock obtained in violation of this
22 subparagraph, or fails to divest himself or herself of any
23 direct or indirect control of such stock, within 25 days after
24 such order; or

25 (III) In violation of an order issued by the
26 department pursuant to sub-subparagraph j., acquires
27 additional stock of the underwriting member or controlling
28 company, or direct or indirect control of such stock, without
29 complying with this subparagraph.

30 g. The person or persons filing the statement required
31 by this subparagraph have the burden of proof. The department

1 shall approve any such acquisition if it finds, on the basis
2 of the record made during any proceeding or on the basis of
3 the filed statement if no proceeding is conducted, that:

4 (I) Upon completion of the acquisition, the
5 underwriting member will be able to satisfy the requirements
6 for the approval to write the line or lines of insurance for
7 which it is presently approved;

8 (II) The financial condition of the acquiring person
9 or persons will not jeopardize the financial stability of the
10 underwriting member or prejudice the interests of its
11 policyholders or the public;

12 (III) Any plan or proposal which the acquiring person
13 has, or acquiring persons have, made:

14 (A) To liquidate the insurer, sell its assets, or
15 merge or consolidate it with any person, or to make any other
16 major change in its business or corporate structure or
17 management; or

18 (B) To liquidate any controlling company, sell its
19 assets, or merge or consolidate it with any person, or to make
20 any major change in its business or corporate structure or
21 management which would have an effect upon the underwriting
22 member

23
24 is fair and free of prejudice to the policyholders of the
25 underwriting member or to the public;

26 (IV) The competence, experience, and integrity of
27 those persons who will control directly or indirectly the
28 operation of the underwriting member indicate that the
29 acquisition is in the best interest of the policyholders of
30 the underwriting member and in the public interest;

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1 (V) The natural persons for whom background
2 information is required to be furnished pursuant to this
3 subparagraph have such backgrounds as to indicate that it is
4 in the best interests of the policyholders of the underwriting
5 member, and in the public interest, to permit such persons to
6 exercise control over such underwriting member;

7 (VI) The officers and directors to be employed after
8 the acquisition have sufficient insurance experience and
9 ability to assure reasonable promise of successful operation;

10 (VII) The management of the underwriting member after
11 the acquisition will be competent and trustworthy and will
12 possess sufficient managerial experience so as to make the
13 proposed operation of the underwriting member not hazardous to
14 the insurance-buying public;

15 (VIII) The management of the underwriting member after
16 the acquisition will not include any person who has directly
17 or indirectly through ownership, control, reinsurance
18 transactions, or other insurance or business relations
19 unlawfully manipulated the assets, accounts, finances, or
20 books of any insurer or underwriting member or otherwise acted
21 in bad faith with respect thereto;

22 (IX) The acquisition is not likely to be hazardous or
23 prejudicial to the underwriting member's policyholders or the
24 public; and

25 (X) The effect of the acquisition of control would not
26 substantially lessen competition in insurance in this state or
27 would not tend to create a monopoly therein.

28 h. No vote by the stockholder of record, or by any
29 other person, of any security acquired in contravention of the
30 provisions of this subparagraph is valid. Any acquisition of
31 any security contrary to the provisions of this subparagraph

1 is void. Upon the petition of the underwriting member or
2 controlling company, the circuit court for the county in which
3 the principal office of such underwriting member is located
4 may, without limiting the generality of its authority, order
5 the issuance or entry of an injunction or other order to
6 enforce the provisions of this subparagraph. There shall be a
7 private right of action in favor of the underwriting member or
8 controlling company to enforce the provisions of this
9 subparagraph. No demand upon the department that it perform
10 its functions shall be required as a prerequisite to any suit
11 by the underwriting member or controlling company against any
12 other person, and in no case shall the department be deemed a
13 necessary party to any action by such underwriting member or
14 controlling company to enforce the provisions of this
15 subparagraph. Any person who makes or proposes an acquisition
16 requiring the filing of a statement pursuant to this
17 subparagraph, or who files such a statement, shall be deemed
18 to have thereby designated the Chief Financial Officer
19 ~~Insurance Commissioner~~ or his or her assistant or deputy or
20 another person in charge of his or her office, as such
21 person's agent for service of process under this subparagraph
22 and shall thereby be deemed to have submitted himself or
23 herself to the administrative jurisdiction of the department
24 and to the jurisdiction of the circuit court.

25 i. Any approval by the department under this
26 subparagraph does not constitute a recommendation by the
27 department for an acquisition, tender offer, or exchange
28 offer. It is unlawful for a person to represent that the
29 department's approval constitutes a recommendation. A person
30 who violates the provisions of this sub-subparagraph is guilty
31 of a felony of the third degree, punishable as provided in s.

1 775.082, s. 775.083, or s. 775.084. The
2 statute-of-limitations period for the prosecution of an
3 offense committed under this sub-subparagraph is 5 years.

4 j. Upon notification to the department by the
5 underwriting member or a controlling company that any person
6 or any affiliated person of such person has acquired 5 percent
7 or more of the outstanding voting securities of the
8 underwriting member or controlling company without complying
9 with the provisions of this subparagraph, the department shall
10 order that the person and any affiliated person of such person
11 cease acquisition of any further securities of the
12 underwriting member or controlling company; however, the
13 person or any affiliated person of such person may request a
14 proceeding, which proceeding shall be convened within 7 days
15 after the rendering of the order for the sole purpose of
16 determining whether the person, individually or in connection
17 with any affiliated person of such person, has acquired 5
18 percent or more of the outstanding voting securities of an
19 underwriting member or controlling company. Upon the failure
20 of the person or affiliated person to request a hearing within
21 7 days, or upon a determination at a hearing convened pursuant
22 to this sub-subparagraph that the person or affiliated person
23 has acquired voting securities of an underwriting member or
24 controlling company in violation of this subparagraph, the
25 department may order the person and affiliated person to
26 divest themselves of any voting securities so acquired.

27 k.(I) The department shall, if necessary to protect
28 the public interest, suspend or revoke the certificate of
29 authority of any underwriting member or controlling company:

30 (A) The control of which is acquired in violation of
31 this subparagraph;

1 (B) That is controlled, directly or indirectly, by any
2 person or any affiliated person of such person who, in
3 violation of this subparagraph, has obtained control of an
4 underwriting member or controlling company; or

5 (C) That is controlled, directly or indirectly, by any
6 person who, directly or indirectly, controls any other person
7 who, in violation of this subparagraph, acquires control of an
8 underwriting member or controlling company.

9 (II) If any underwriting member is subject to
10 suspension or revocation pursuant to sub-sub-subparagraph (I),
11 the underwriting member shall be deemed to be in such
12 condition, or to be using or to have been subject to such
13 methods or practices in the conduct of its business, as to
14 render its further transaction of insurance presently or
15 prospectively hazardous to its policyholders, creditors, or
16 stockholders or to the public.

17 1.(I) For the purpose of this sub-sub-subparagraph,
18 the term "affiliated person" of another person means:

19 (A) The spouse of such other person;

20 (B) The parents of such other person and their lineal
21 descendants and the parents of such other person's spouse and
22 their lineal descendants;

23 (C) Any person who directly or indirectly owns or
24 controls, or holds with power to vote, 5 percent or more of
25 the outstanding voting securities of such other person;

26 (D) Any person 5 percent or more of the outstanding
27 voting securities of which are directly or indirectly owned or
28 controlled, or held with power to vote, by such other person;

29 (E) Any person or group of persons who directly or
30 indirectly control, are controlled by, or are under common
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1 control with such other person; or any officer, director,
2 partner, copartner, or employee of such other person;

3 (F) If such other person is an investment company, any
4 investment adviser of such company or any member of an
5 advisory board of such company;

6 (G) If such other person is an unincorporated
7 investment company not having a board of directors, the
8 depositor of such company; or

9 (H) Any person who has entered into an agreement,
10 written or unwritten, to act in concert with such other person
11 in acquiring or limiting the disposition of securities of an
12 underwriting member or controlling company.

13 (II) For the purposes of this section, the term
14 "controlling company" means any corporation, trust, or
15 association owning, directly or indirectly, 25 percent or more
16 of the voting securities of one or more underwriting members.

17 m. The department is authorized to adopt, amend, or
18 repeal rules that are necessary to implement the provisions of
19 this subparagraph, pursuant to chapter 120.

20 44. Background information.--The information as to the
21 background and identity of each person about whom information
22 is required to be furnished pursuant to sub-subparagraph 43.a.
23 shall include, but shall not be limited to:

24 a. Such person's occupations, positions of employment,
25 and offices held during the past 10 years.

26 b. The principal business and address of any business,
27 corporation, or other organization in which each such office
28 was held or in which such occupation or position of employment
29 was carried on.

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1 c. Whether, at any time during such 10-year period,
2 such person was convicted of any crime other than a traffic
3 violation.

4 d. Whether, during such 10-year period, such person
5 has been the subject of any proceeding for the revocation of
6 any license and, if so, the nature of such proceeding and the
7 disposition thereof.

8 e. Whether, during such 10-year period, such person
9 has been the subject of any proceeding under the federal
10 Bankruptcy Act or whether, during such 10-year period, any
11 corporation, partnership, firm, trust, or association in which
12 such person was a director, officer, trustee, partner, or
13 other official has been subject to any such proceeding, either
14 during the time in which such person was a director, officer,
15 trustee, partner, or other official, or within 12 months
16 thereafter.

17 f. Whether, during such 10-year period, such person
18 has been enjoined, either temporarily or permanently, by a
19 court of competent jurisdiction from violating any federal or
20 state law regulating the business of insurance, securities, or
21 banking, or from carrying out any particular practice or
22 practices in the course of the business of insurance,
23 securities, or banking, together with details of any such
24 event.

25 45. Security fund.--All underwriting members shall be
26 members of the security fund of any exchange.

27 46. Underwriting member defined.--Whenever the term
28 "underwriting member" is used in this subsection, it shall be
29 construed to mean "underwriting syndicate."
30

31

1 47. Offsets.--Any action, requirement, or constraint
2 imposed by the department shall reduce or offset similar
3 actions, requirements, or constraints of any exchange.

4 48. Restriction on member ownership.--

5 a. Investments existing prior to July 2, 1987.--The
6 investment in any member by brokers, agents, and
7 intermediaries transacting business on the exchange, and the
8 investment in any such broker, agent, or intermediary by any
9 member, directly or indirectly, shall in each case be limited
10 in the aggregate to less than 20 percent of the total
11 investment in such member, broker, agent, or intermediary, as
12 the case may be. After December 31, 1987, the aggregate
13 percent of the total investment in such member by any broker,
14 agent, or intermediary and the aggregate percent of the total
15 investment in any such broker, agent, or intermediary by any
16 member, directly or indirectly, shall not exceed 15 percent.
17 After June 30, 1988, such aggregate percent shall not exceed
18 10 percent and after December 31, 1988, such aggregate percent
19 shall not exceed 5 percent.

20 b. Investments arising on or after July 2, 1987.--The
21 investment in any underwriting member by brokers, agents, or
22 intermediaries transacting business on the exchange, and the
23 investment in any such broker, agent, or intermediary by any
24 underwriting member, directly or indirectly, shall in each
25 case be limited in the aggregate to less than 5 percent of the
26 total investment in such underwriting member, broker, agent,
27 or intermediary.

28 49. "Underwriting manager" defined.--"Underwriting
29 manager" as used in this subparagraph includes any person,
30 partnership, corporation, or organization providing any of the
31 following services to underwriting members of the exchange:

1 a. Office management and allied services, including
2 correspondence and secretarial services.

3 b. Accounting services, including bookkeeping and
4 financial report preparation.

5 c. Investment and banking consultations and services.

6 d. Underwriting functions and services including the
7 acceptance, rejection, placement, and marketing of risk.

8 50. Prohibition of underwriting manager
9 investment.--Any direct or indirect investment in any
10 underwriting manager by a broker member or any affiliated
11 person of a broker member or any direct or indirect investment
12 in a broker member by an underwriting manager or any
13 affiliated person of an underwriting manager is prohibited.
14 "Affiliated person" for purposes of this subparagraph is
15 defined in subparagraph 43.

16 51. An underwriting member may not accept reinsurance
17 on an assumed basis from an affiliate or a controlling
18 company, nor may a broker member or management company place
19 reinsurance from an affiliate or controlling company of theirs
20 with an underwriting member. "Affiliate and controlling
21 company" for purposes of this subparagraph is defined in
22 subparagraph 43.

23 52. Premium defined.--"Premium" is the consideration
24 for insurance, by whatever name called. Any "assessment" or
25 any "membership," "policy," "survey," "inspection," "service"
26 fee or charge or similar fee or charge in consideration for an
27 insurance contract is deemed part of the premium.

28 53. Rules.--The department shall promulgate rules
29 necessary for or as an aid to the effectuation of any
30 provision of this section.

31

1 Section 722. Subsection (2) of section 631.001,
2 Florida Statutes, is amended to read:

3 631.001 Title, construction, and purpose.--

4 (2) This part may not be interpreted to limit the
5 powers granted the Department of Financial Services ~~Insurance~~
6 by other provisions of law.

7 Section 723. Section 631.221, Florida Statutes, is
8 amended to read:

9 631.221 Deposit of moneys collected.--The moneys
10 collected by the department in a proceeding under this chapter
11 shall be deposited in a qualified public depository as defined
12 in s. 280.02, which depository with regards to such funds
13 shall conform to and be bound by all the provisions of chapter
14 280, or invested with the Chief Financial Officer ~~State~~
15 ~~Treasurer~~ pursuant to chapter 17 ~~18~~. For the purpose of
16 accounting for the assets and transactions of the estate, the
17 receiver shall use such accounting books, records, and systems
18 as the court directs after it hears and considers the
19 recommendations of the receiver.

20 Section 724. Section 631.392, Florida Statutes, is
21 amended to read:

22 631.392 Immunity.--There shall be no liability on the
23 part of, and no cause of action of any nature shall arise
24 against, the Chief Financial Officer ~~Insurance Commissioner~~ or
25 the department or its employees or agents for any action taken
26 by them in the performance of their powers and duties under
27 this chapter.

28 Section 725. Subsection (4) of section 631.54, Florida
29 Statutes, is amended to read:

30 631.54 Definitions.--As used in this part:

31

1 (4) "Department" means the Department of Financial
2 Services Insurance.

3 Section 726. Paragraph (e) of subsection (3) of
4 section 631.57, Florida Statutes, is amended to read:

5 631.57 Powers and duties of the association.--

6 (3)

7 (e)1.

8 a. In addition to assessments otherwise authorized in
9 paragraph (a), as a temporary measure related to insolvencies
10 caused by Hurricane Andrew, and to the extent necessary to
11 secure the funds for the account specified in s. 631.55(2)(c),
12 or to retire indebtedness, including, without limitation, the
13 principal, redemption premium, if any, and interest on, and
14 related costs of issuance of, bonds issued under s.
15 166.111(2), and the funding of any reserves and other payments
16 required under the bond resolution or trust indenture pursuant
17 to which such bonds have been issued, the department, upon
18 certification of the board of directors, shall levy
19 assessments upon insurers holding a certificate of authority
20 as follows:

21 (I) Except as provided in sub-sub-subparagraph (II),
22 the assessments payable under this paragraph by any insurer
23 shall not exceed in any 1 year more than 2 percent of that
24 insurer's direct written premiums, net of refunds, in this
25 state during the preceding calendar year for the kinds of
26 insurance within the account specified in s. 631.55(2)(c).

27 (II) If the amount levied under sub-sub-subparagraph
28 (I) is less than 2 percent of the insurer's direct written
29 premiums, net of refunds, in this state during calendar year
30 1991 for the kinds of insurance within the account specified
31 in s. 631.55(2)(c), in addition to and separate from such

1 assessment, the assessment shall also include the difference
2 between the amount calculated based on calendar year 1991 and
3 the amount determined under sub-sub-subparagraph (I). If this
4 sub-sub-subparagraph is held invalid, the invalidity shall not
5 affect other provisions of this section, and to this end the
6 provisions of this section are declared severable.

7 (III) In addition to any other insurers subject to
8 this subparagraph, this subparagraph also applies to any
9 insurer that held a certificate of authority on August 24,
10 1992. If this sub-sub-subparagraph is held invalid, the
11 invalidity shall not affect other provisions of this section,
12 and to this end the provisions of this section are declared
13 severable.

14 b. Any assessments authorized under this paragraph
15 shall be levied by the department upon insurers referred to in
16 sub-subparagraph a., upon certification as to the need
17 therefor by the board of directors, in 1992 and in each year
18 that bonds issued under s. 166.111(2) are outstanding, in such
19 amounts up to such 2 percent limit as required in order to
20 provide for the full and timely payment of the principal of,
21 redemption premium, if any, and interest on, and related costs
22 of, issuance of bonds issued under s. 166.111(2). The
23 assessments provided for in this paragraph are hereby assigned
24 and pledged to a municipality issuing bonds under s.
25 166.111(2)(b), for the benefit of the holders of such bonds,
26 in order to enable such municipality to provide for the
27 payment of the principal of, redemption premium, if any, and
28 interest on such bonds, the cost of issuance of such bonds,
29 and the funding of any reserves and other payments required
30 under the bond resolution or trust indenture pursuant to which
31 such bonds have been issued, without the necessity of any

1 further action by the association, the department, or any
2 other party. To the extent that bonds are issued under s.
3 166.111(2), the proceeds of assessments levied under this
4 paragraph shall be remitted directly to and administered by
5 the trustee appointed for such bonds.

6 c. Assessments under this paragraph shall be payable
7 in 12 monthly installments with the first installment being
8 due and payable at the end of the month after an assessment is
9 levied, and subsequent installments being due not later than
10 the end of each succeeding month.

11 d. The association shall issue a monthly report on the
12 status of the use of the bond proceeds as related to
13 insolvencies caused by Hurricane Andrew. The report must
14 contain the number of claims paid and the amount of claims
15 paid. The association shall also include an analysis of the
16 revenue generated from the additional assessment levied under
17 this subsection. The report must be sent to the Legislature
18 and the Chief Financial Officer ~~Insurance Commissioner~~
19 monthly.

20 2. In order to assure that insurers paying assessments
21 levied under this paragraph continue to charge rates that are
22 neither inadequate nor excessive, within 90 days after being
23 notified of such assessments, each insurer that is to be
24 assessed pursuant to this paragraph shall make a rate filing
25 for coverage included within the account specified in s.
26 631.55(2)(c) and for which rates are required to be filed
27 under s. 627.062. If the filing reflects a rate change that,
28 as a percentage, is equal to the difference between the rate
29 of such assessment and the rate of the previous year's
30 assessment under this paragraph, the filing shall consist of a
31 certification so stating and shall be deemed approved when

1 made, subject to the department's continuing authority to
2 require actuarial justification as to the adequacy of any rate
3 at any time. Any rate change of a different percentage shall
4 be subject to the standards and procedures of s. 627.062.

5 Section 727. Section 631.59, Florida Statutes, is
6 amended to read:

7 631.59 Duties and powers of Department of Financial
8 Services Insurance.--

9 (1) The department shall:

10 (a) Notify the association of the existence of an
11 insolvent insurer not later than 3 days after it receives
12 notice of the determination of the insolvency; and

13 (b) Upon request of the board of directors, provide
14 the association with a statement of the net direct written
15 premiums of each member insurer.

16 (2) The department may:

17 (a) Require that the association notify the insureds
18 of the insolvent insurer and any other interested parties of
19 the determination of insolvency and of their rights under this
20 part. Such notification shall be by mail at their last known
21 addresses, when available, but if sufficient information for
22 notification by mail is not available, notice by publication
23 in a newspaper of general circulation shall be sufficient.

24 (b) Suspend or revoke the certificate of authority to
25 transact insurance in this state of any member insurer which
26 fails to pay an assessment when due or fails to comply with
27 the plan of operation. As an alternative, the department may
28 levy a fine on any member insurer which fails to pay an
29 assessment when due. Such fine may not exceed 5 percent of
30 the unpaid assessment per month, except that no fine shall be
31 less than \$100 per month.

1 (c) Revoke the designation of any servicing facility
2 if it finds claims are being handled unsatisfactorily.

3 Section 728. Subsection (5) of section 631.714,
4 Florida Statutes, is amended to read:

5 631.714 Definitions.--As used in this part:

6 (5) "Department" means the Department of Financial
7 Services Insurance.

8 Section 729. Subsection (3) of section 631.72, Florida
9 Statutes, is amended to read:

10 631.72 Premium or income tax credits for assessments
11 paid.--

12 (3) Any sums acquired by refund pursuant to s.
13 631.718(6) from the association which have theretofore been
14 written off by contributing insurers and offset against
15 premium or corporate income taxes as provided in subsection
16 (1) and which are not needed for purposes of this part shall
17 be paid by the insurer to the Department of Revenue for
18 deposit with the Chief Financial Officer ~~Treasurer~~ to the
19 credit of the General Revenue Fund.

20 Section 730. Subsection (3) of section 631.723,
21 Florida Statutes, is amended to read:

22 631.723 Prevention of insolvencies.--To aid in the
23 detection and prevention of insurer insolvencies or
24 impairments:

25 (3) The board of directors may, upon majority vote,
26 request that the department order an examination of any member
27 insurer which the board in good faith believes may be an
28 impaired or insolvent insurer. Within 30 days of the receipt
29 of such a request, the department shall begin such an
30 examination. The examination may be conducted as a National
31 Association of Insurance Commissioners examination or may be

1 conducted by such persons as the Chief Financial Officer
2 ~~Insurance Commissioner~~ designates. The cost of such
3 examination shall be paid by the association, and the
4 examination report shall be treated in a manner similar to
5 other examination reports pursuant to s. 624.319. In no event
6 may such examination report be released to the board of
7 directors before its release to the public, but this does not
8 preclude the department from complying with s. 631.398(2). The
9 department shall notify the board of directors when the
10 examination is completed. The request for an examination shall
11 be kept on file by the department; such request is
12 confidential and exempt from the provisions of s. 119.07(1)
13 until the examination report is released to the public.

14 Section 731. Section 631.813, Florida Statutes, is
15 amended to read:

16 631.813 Application of part.--This part shall apply to
17 HMO contractual obligations to residents of Florida by HMOs
18 possessing a valid certificate of authority issued by the
19 ~~Florida~~ Department of Financial Services Insurance as provided
20 by part I of chapter 641. The provisions of this part shall
21 not apply to persons participating in medical assistance
22 programs under the Medicaid program.

23 Section 732. Subsection (6) of section 631.814,
24 Florida Statutes, is amended to read:

25 631.814 Definitions.--As used in this part:

26 (6) "Department" means the ~~Florida~~ Department of
27 Financial Services Insurance.

28 Section 733. Subsections (2) and (3) of section
29 631.904, Florida Statutes, are amended to read:

30 631.904 Definitions.--As used in this part, the term:

31

1 (2) "Covered claim" means an unpaid claim, including a
2 claim for return of unearned premiums, which arises out of, is
3 within the coverage of, and is not in excess of the applicable
4 limits of, an insurance policy to which this part applies,
5 which policy was issued by an insurer and which claim is made
6 on behalf of a claimant or insured who was a resident of this
7 state at the time of the injury. The term does not include any
8 amount due any reinsurer, insurer, insurance pool, or
9 underwriting association, as subrogation recoveries or
10 otherwise. Member insurers have no right of subrogation
11 against the insured of any insolvent insurer. This provision
12 shall be applied retroactively to cover claims of an insolvent
13 self-insurance fund resulting from accidents or losses
14 incurred prior to January 1, 1994, regardless of the date the
15 Department of Insurance or the Department of Financial
16 Services filed a petition in circuit court alleging insolvency
17 and the date the court entered an order appointing a receiver.

18 (3) "Department" means the Department of Financial
19 Services Insurance.

20 Section 734. Paragraph (c) of subsection (1) of
21 section 631.911, Florida Statutes, is amended to read:

22 631.911 Creation of the Florida Workers' Compensation
23 Insurance Guaranty Association, Incorporated; merger; effect
24 of merger.--

25 (1)

26 (c) Prior to the effective date of the merger, the
27 Florida Self-Insurance Fund Guaranty Association shall be the
28 entity responsible for the claims of insolvent self-insurance
29 funds resulting from accidents or losses incurred prior to
30 January 1, 1994, regardless of the date the Department of
31 Insurance or the Department of Financial Services filed a

1 petition in circuit court alleging insolvency and the date the
2 court entered an order appointing a receiver.

3 Section 735. Subsection (1) of section 631.912,
4 Florida Statutes, is amended to read:

5 631.912 Board of directors.--

6 (1) The board of directors of the corporation shall
7 consist of 11 persons, 1 of whom is the insurance consumer
8 advocate appointed under s. 627.0613 or designee and 1 of whom
9 is designated by the Chief Financial Officer ~~insurance~~
10 ~~Commissioner~~. The department shall appoint to the board 6
11 persons selected by private carriers from among the 20
12 workers' compensation insurers with the largest amount of net
13 direct written premium as determined by the department, and 3
14 persons selected by the self-insurance funds. At least two of
15 the private carriers shall be foreign carriers authorized to
16 do business in this state. The board shall elect a chairperson
17 from among its members. The commissioner may remove any board
18 member for cause. Each board member shall serve for a 4-year
19 term and may be reappointed, except that four members of the
20 initial board shall have 2-year terms so as to stagger the
21 periods of service. A vacancy on the board shall be filled for
22 the remaining period of the term in the same manner by which
23 the original appointment was made.

24 Section 736. Subsection (4) of section 631.917,
25 Florida Statutes, is amended to read:

26 631.917 Prevention of insolvencies.--To aid in the
27 detection and prevention of insolvencies or impairments:

28 (4) The board of directors, in its discretion, may
29 request that the department order an examination of any member
30 insurer which the board in good faith believes may be an
31 impaired or insolvent insurer. Within 30 days after receipt of

1 such a request, the department shall begin such an
2 examination. The examination may be conducted as a National
3 Association of Insurance Commissioners examination or may be
4 conducted by such persons as the Chief Financial Officer
5 ~~Insurance Commissioner~~ designates. The cost of such
6 examination shall be paid by the corporation, and the
7 examination report shall be treated in a manner similar to
8 other examination reports pursuant to s. 624.319. In no event
9 may such examination report be released to the board of
10 directors before its release to the public, but this
11 requirement does not preclude the department from complying
12 with s. 631.398(2). The department shall notify the board of
13 directors when the examination is completed. The request for
14 an examination shall be kept on file by the department.

15 Section 737. Section 631.931, Florida Statutes, is
16 amended to read:

17 631.931 Reports and recommendations by board; public
18 records exemption.--Reports and recommendations made by the
19 Board of Directors of the Florida Workers' Compensation
20 Insurance Guaranty Association to the Department of Insurance
21 or the Department of Financial Services under s. 631.917 upon
22 any matter germane to the solvency, liquidation,
23 rehabilitation, or conservation of any member insurer are
24 confidential and exempt from the provisions of s. 119.07(1)
25 and s. 24(a), Art. I of the State Constitution until the
26 termination of a delinquency proceeding.

27 Section 738. Subsection (4) of section 632.628,
28 Florida Statutes, is amended to read:

29 632.628 Reports.--
30
31

1 (4) The department shall deposit all fees received
2 under this section to the credit of the Insurance
3 ~~Commissioner's~~ Regulatory Trust Fund.

4 Section 739. Subsection (1) of section 633.01, Florida
5 Statutes, is amended to read:

6 633.01 State Fire Marshal; powers and duties; rules.--

7 (1) The head of the Department of Financial Services
8 ~~is Insurance shall be~~ designated as "State Fire Marshal." The
9 State Fire Marshal has authority to adopt rules pursuant to
10 ss. 120.536(1) and 120.54 to implement the provisions of this
11 chapter conferring powers or duties upon the department. Rules
12 shall be in substantial conformity with generally accepted
13 standards of firesafety; shall take into consideration the
14 direct supervision of children in nonresidential child care
15 facilities; and shall balance and temper the need of the State
16 Fire Marshal to protect all Floridians from fire hazards with
17 the social and economic inconveniences that may be caused or
18 created by the rules. The department shall adopt the Florida
19 Fire Prevention Code and the Life Safety Code.

20 Section 740. Subsection (1) of section 633.022,
21 Florida Statutes, is amended to read:

22 633.022 Uniform firesafety standards.--The Legislature
23 hereby determines that to protect the public health, safety,
24 and welfare it is necessary to provide for firesafety
25 standards governing the construction and utilization of
26 certain buildings and structures. The Legislature further
27 determines that certain buildings or structures, due to their
28 specialized use or to the special characteristics of the
29 person utilizing or occupying these buildings or structures,
30 should be subject to firesafety standards reflecting these
31 special needs as may be appropriate.

1 (1) The Department of Financial Services ~~Insurance~~
2 shall establish uniform firesafety standards that apply to:

3 (a) All new, existing, and proposed state-owned and
4 state-leased buildings.

5 (b) All new, existing, and proposed hospitals, nursing
6 homes, assisted living facilities, adult family-care homes,
7 correctional facilities, public schools, transient public
8 lodging establishments, public food service establishments,
9 elevators, migrant labor camps, mobile home parks, lodging
10 parks, recreational vehicle parks, recreational camps,
11 residential and nonresidential child care facilities,
12 facilities for the developmentally disabled, motion picture
13 and television special effects productions, and self-service
14 gasoline stations, of which standards the State Fire Marshal
15 is the final administrative interpreting authority. With
16 respect to public schools, the department shall utilize
17 firesafety standards that have been adopted by the State Board
18 of Education.

19
20 In the event there is a dispute between the owners of the
21 buildings specified in paragraph (b) and a local authority
22 requiring a more stringent uniform firesafety standard for
23 sprinkler systems, the State Fire Marshal shall be the final
24 administrative interpreting authority and the State Fire
25 Marshal's interpretation regarding the uniform firesafety
26 standards shall be considered final agency action.

27 Section 741. Subsection (4) of section 633.025,
28 Florida Statutes, is amended to read:

29 633.025 Minimum firesafety standards.--

30 (4) Such codes shall be minimum codes and a
31 municipality, county, or special district with firesafety

1 responsibilities may adopt more stringent firesafety
2 standards, subject to the requirements of this subsection.
3 Such county, municipality, or special district may establish
4 alternative requirements to those requirements which are
5 required under the minimum firesafety standards on a
6 case-by-case basis, in order to meet special situations
7 arising from historic, geographic, or unusual conditions, if
8 the alternative requirements result in a level of protection
9 to life, safety, or property equal to or greater than the
10 applicable minimum firesafety standards. For the purpose of
11 this subsection, the term "historic" means that the building
12 or structure is listed on the National Register of Historic
13 Places of the United States Department of the Interior.

14 (a) The local governing body shall determine,
15 following a public hearing which has been advertised in a
16 newspaper of general circulation at least 10 days before the
17 hearing, if there is a need to strengthen the requirements of
18 the minimum firesafety code adopted by such governing body.
19 The determination must be based upon a review of local
20 conditions by the local governing body, which review
21 demonstrates that local conditions justify more stringent
22 requirements than those specified in the minimum firesafety
23 code for the protection of life and property or justify
24 requirements that meet special situations arising from
25 historic, geographic, or unusual conditions.

26 (b) Such additional requirements shall not be
27 discriminatory as to materials, products, or construction
28 techniques of demonstrated capabilities.

29 (c) Paragraphs (a) and (b) apply solely to the local
30 enforcing agency's adoption of requirements more stringent
31 than those specified in the Florida Fire Prevention Code and

1 the Life Safety Code that have the effect of amending building
2 construction standards. Upon request, the enforcing agency
3 shall provide a person making application for a building
4 permit, or any state agency or board with construction-related
5 regulation responsibilities, a listing of all such
6 requirements and codes.

7 (d) A local government which adopts amendments to the
8 minimum firesafety code must provide a procedure by which the
9 validity of such amendments may be challenged by any
10 substantially affected party to test the amendment's
11 compliance with the provisions of this section.

12 1. Unless the local government agrees to stay
13 enforcement of the amendment, or other good cause is shown,
14 the challenging party shall be entitled to a hearing on the
15 challenge within 45 days.

16 2. For purposes of such challenge, the burden of proof
17 shall be on the challenging party, but the amendment shall not
18 be presumed to be valid or invalid.

19
20 This subsection gives local government the authority to
21 establish firesafety codes that exceed the minimum firesafety
22 codes and standards adopted by the State Fire Marshal. The
23 Legislature intends that local government give proper public
24 notice and hold public hearings before adopting more stringent
25 firesafety codes and standards. A substantially affected
26 person may appeal, to the Department of Financial Services
27 ~~Insurance~~, the local government's resolution of the challenge,
28 and the department shall determine if the amendment complies
29 with this section. Actions of the department are subject to
30 judicial review pursuant to s. 120.68. The department shall
31 consider reports of the Florida Building Commission, pursuant

1 to part VII of chapter 553, when evaluating building code
2 enforcement.

3 Section 742. Paragraph (a) of subsection (1) of
4 section 633.052, Florida Statutes, is amended to read:

5 633.052 Ordinances relating to firesafety;
6 definitions; penalties.--

7 (1) As used in this section:

8 (a) A "firesafety inspector" is an individual
9 certified by the Division of State Fire Marshal of the
10 Department of Financial Services Insurance, officially
11 assigned the duties of conducting firesafety inspections of
12 buildings and facilities on a recurring or regular basis,
13 investigating civil infractions relating to firesafety, and
14 issuing citations pursuant to this section on behalf of the
15 state or any county, municipality, or special district with
16 firesafety responsibilities.

17 Section 743. Subsection (7) of section 633.061,
18 Florida Statutes, is amended to read:

19 633.061 License or permit required of organizations
20 and individuals servicing, recharging, repairing, testing,
21 marking, inspecting, installing, or hydrotesting fire
22 extinguishers and preengineered systems.--

23 (7) The fees collected for any such licenses and
24 permits and the filing fees for license and permit examination
25 are hereby appropriated for the use of the State Fire Marshal
26 in the administration of this chapter and shall be deposited
27 in the Insurance ~~Commissioner's~~ Regulatory Trust Fund.

28 Section 744. Paragraphs (4) and (7) of section
29 633.081, Florida Statutes, are amended to read:

30 633.081 Inspection of buildings and equipment; orders;
31 firesafety inspection training requirements; certification;

1 disciplinary action.--The State Fire Marshal and her or his
2 agents shall, at any reasonable hour, when the department has
3 reasonable cause to believe that a violation of this chapter
4 or s. 509.215, or a rule promulgated thereunder, or a minimum
5 firesafety code adopted by a local authority, may exist,
6 inspect any and all buildings and structures which are subject
7 to the requirements of this chapter or s. 509.215 and rules
8 promulgated thereunder. The authority to inspect shall extend
9 to all equipment, vehicles, and chemicals which are located
10 within the premises of any such building or structure.

11 (4) A firefighter certified pursuant to s. 633.35 may
12 conduct firesafety inspections, under the supervision of a
13 certified firesafety inspector, while on duty as a member of a
14 fire department company conducting inservice firesafety
15 inspections without being certified as a firesafety inspector,
16 if such firefighter has satisfactorily completed an inservice
17 fire department company inspector training program of at least
18 24 hours' duration as provided by rule of the Department of
19 Financial Services Insurance.

20 (7) The Department of Financial Services Insurance
21 shall provide by rule for the certification of firesafety
22 inspectors.

23 Section 745. Section 633.111, Florida Statutes, is
24 amended to read:

25 633.111 State Fire Marshal to keep records of fires;
26 reports of agents.--The State Fire Marshal shall keep in her
27 or his office a record of all fires occurring in this state
28 upon which she or he had caused an investigation to be made
29 and all facts concerning the same. These records, obtained or
30 prepared by the State Fire Marshal pursuant to her or his
31 investigation, include documents, papers, letters, maps,

1 diagrams, tapes, photographs, films, sound recordings, and
2 evidence. These records are confidential and exempt from the
3 provisions of s. 119.07(1) until the investigation is
4 completed or ceases to be active. For purposes of this
5 section, an investigation is considered "active" while such
6 investigation is being conducted by the department with a
7 reasonable, good faith belief that it may lead to the filing
8 of administrative, civil, or criminal proceedings. An
9 investigation does not cease to be active if the department is
10 proceeding with reasonable dispatch, and there is a good faith
11 belief that action may be initiated by the department or other
12 administrative or law enforcement agency. Further, these
13 documents, papers, letters, maps, diagrams, tapes,
14 photographs, films, sound recordings, and evidence relative to
15 the subject of an investigation shall not be subject to
16 subpoena until the investigation is completed or ceases to be
17 active, unless the State Fire Marshal consents. These records
18 shall be made daily from the reports furnished the State Fire
19 Marshal by her or his agents or others. Whenever the State
20 Fire Marshal releases an investigative report, any person
21 requesting a copy of the report shall pay in advance, and the
22 State Fire Marshal shall collect in advance, notwithstanding
23 the provisions of s. 624.501(20)(a) and (b), a fee of \$10 for
24 the copy of the report, which fee shall be deposited into the
25 Insurance ~~Commissioner's~~ Regulatory Trust Fund. The State Fire
26 Marshal may release the report without charge to any state
27 attorney or to any law enforcement agency or fire department
28 assisting in the investigation.

29 Section 746. Subsection (1) of section 633.161,
30 Florida Statutes, is amended to read:

31

1 633.161 Cease and desist orders; orders to correct
2 hazardous conditions; orders to vacate; violation;
3 penalties.--

4 (1) If it is determined by the Department of Financial
5 Services Insurance that a violation specified in this
6 subsection exists, the State Fire Marshal or her or his deputy
7 may issue and deliver to the person committing the violation
8 an order to cease and desist from such violation, to correct
9 any hazardous condition, to preclude occupancy of the affected
10 building or structure, or to vacate the premises of the
11 affected building or structure. Such violations are:

12 (a) Except as set forth in paragraph (b), a violation
13 of any provision of this chapter, of any rule adopted pursuant
14 thereto, of any applicable uniform firesafety standard adopted
15 pursuant to s. 633.022 which is not adequately addressed by
16 any alternative requirements adopted on a local level, or of
17 any minimum firesafety standard adopted pursuant to s.
18 394.879.

19 (b) A substantial violation of an applicable minimum
20 firesafety standard adopted pursuant to s. 633.025 which is
21 not reasonably addressed by any alternative requirement
22 imposed at the local level, or an unreasonable interpretation
23 of an applicable minimum firesafety standard, and which
24 violation or interpretation clearly constitutes a danger to
25 lifesafety.

26 (c) A building or structure which is in a dilapidated
27 condition and as a result thereof creates a danger to life,
28 safety, or property.

29 (d) A building or structure which contains explosive
30 matter or flammable liquids or gases constituting a danger to
31 life, safety, or property.

1 Section 747. Subsection (5) of section 633.162,
2 Florida Statutes, is amended to read:

3 633.162 Disciplinary action; fire extinguisher or
4 preengineered systems; grounds for denial, nonrenewal,
5 suspension, or revocation of license or permit.--

6 (5) In addition, the Department of Financial Services
7 ~~Insurance~~ shall not issue a new license or permit if it finds
8 that the circumstance or circumstances for which the license
9 or permit was previously revoked or suspended still exist or
10 are likely to recur.

11 Section 748. Subsections (3) and (5) of section
12 633.30, are amended to read:

13 633.30 Standards for firefighting; definitions.--As
14 used in this chapter:

15 (3) "Department" means the Department of Financial
16 Services Insurance.

17 (5) "Division" means the Division of State Fire
18 Marshal of the department ~~of Insurance~~.

19 Section 749. Section 633.353, Florida Statutes, is
20 amended to read:

21 633.353 Falsification of qualifications.--Any person
22 who willfully and knowingly falsifies the qualifications of a
23 new employee to the Bureau of Fire Standards and Training of
24 the division ~~of State Fire Marshal of the Department of~~
25 ~~Insurance~~ is guilty of a misdemeanor of the second degree,
26 punishable as provided in s. 775.082 or s. 775.083.

27 Section 750. Paragraph (a) of subsection (1) of
28 section 633.382, Florida Statutes, is amended to read:

29 633.382 Firefighters; supplemental compensation.--

30 (1) DEFINITIONS.--As used in this section, the term:

31

1 (a) "Division" means the Division of State Fire
2 Marshal of the Department of Financial Services Insurance
3 created and existing under the provisions of this chapter.

4 Section 751. Section 633.43, Florida Statutes, is
5 amended to read:

6 633.43 Florida State Fire College established.--There
7 is hereby established a state institution to be known as the
8 Florida State Fire College, to be located at or near Ocala,
9 Marion County. The institution shall be operated by the
10 ~~division of State Fire Marshal of the Department of Insurance.~~

11 Section 752. Subsections (1), (2), (3), (7), (8), (9),
12 and (10) of section 633.445, Florida Statutes, are amended to
13 read:

14 633.445 State Fire Marshal Scholarship Grant
15 Program.--

16 (1) All payments, gifts, or grants received pursuant
17 to this section shall be deposited in the State Treasury to
18 the credit of the Insurance ~~Commissioner's~~ Regulatory Trust
19 Fund for the State Fire Marshal Scholarship Grant Program.
20 Such funds shall provide, from grants to the state from moneys
21 raised from public and private sources, scholarships for
22 qualified applicants to the Florida State Fire College as
23 created by s. 633.43.

24 (2) The Chief Financial Officer ~~Comptroller~~ shall
25 authorize expenditures from the Insurance ~~Commissioner's~~
26 Regulatory Trust Fund upon receipt of vouchers approved by the
27 State Fire Marshal. All moneys collected from public and
28 private sources pursuant to this section shall be deposited
29 into the trust fund. Any balance in the trust fund at the end
30 of any fiscal year shall remain therein and shall be available
31 for carrying out the purposes of the fund in the ensuing year.

1 (3) All funds deposited into the Insurance
2 ~~Commissioner's~~ Regulatory Trust Fund shall be invested
3 pursuant to s. 18.125. Interest income accruing to moneys so
4 invested shall increase the total funds available for the
5 purposes for which the trust fund is created.

6 (7) The criteria and procedures for establishing
7 standards of eligibility shall be recommended by the council
8 to the department ~~of Insurance~~. The council shall recommend
9 to the department ~~of Insurance~~ a rating system upon which to
10 base the approval of scholarship grants. However, to be
11 eligible to receive a scholarship pursuant to this section, an
12 applicant must:

13 (a) Be a full-time employee or volunteer of a local
14 municipal, county, regional or district firefighter unit;

15 (b) Have graduated from high school, have earned an
16 equivalency diploma issued by the Department of Education
17 pursuant to s. 229.814, or have earned an equivalency diploma
18 issued by the United States Armed Forces Institute;

19 (c) Be accepted for full-time enrollment, with the
20 intent to maintain such enrollment at the Florida State Fire
21 College;

22 (d) Have the firefighter unit by whom the applicant is
23 employed or for which the applicant is a volunteer, recommend
24 her or him and certify that, because of financial need, the
25 scholarship is necessary for her or him to attend the State
26 Fire College; and

27 (e) Agree that she or he intends to return to duty
28 with the firefighter unit by whom she or he was recommended,
29 or, by agreement with such unit, that she or he will remain in
30 some capacity relating to the firefighting profession for a
31 period of at least 1 year.

1 (8) The department ~~of Insurance~~ may adopt rules to
2 implement this section, including rules detailing the
3 eligibility standards and an approval rating system which are
4 based on financial need, need for additional certified
5 firefighters from the applicant's community, and the
6 applicant's employment record.

7 (9) After selection and approval of an applicant for a
8 grant by the council, payment in the applicant's name for
9 scholarship funds shall be transmitted from the Insurance
10 ~~Commissioner's~~ Regulatory Trust Fund by the Chief Financial
11 Officer Comptroller upon receipt of vouchers authorized by the
12 State Fire Marshal. If a recipient terminates her or his
13 enrollment during the course of her or his curriculum at the
14 State Fire College, unless excused by the council and allowed
15 to resume training at a later time, any unused portion of the
16 scholarship funds shall be refunded to the trust fund. A
17 recipient who terminates her or his enrollment is not liable
18 for any portion of a scholarship.

19 (10) The council may accept payments, gifts, and
20 grants of money from any federal agency, private agency,
21 county, city, town, corporation, partnership, or individual
22 for deposit in the Insurance ~~Commissioner's~~ Regulatory Trust
23 Fund to implement this section and for authorized expenses
24 incurred by the council in performing its duties.

25 Section 753. Subsection (1) of section 633.45, Florida
26 Statutes, is amended to read:

27 633.45 Division of State Fire Marshal; powers,
28 duties.--

29 (1) The division ~~of State Fire Marshal of the~~
30 ~~Department of Insurance~~ shall:

31

1 (a) Establish uniform minimum standards for the
2 employment and training of firefighters.

3 (b) Establish minimum curriculum requirements for
4 schools operated by or for any employing agency for the
5 specific purpose of training firefighter recruits or
6 firefighters.

7 (c) Approve institutions, instructors, and facilities
8 for school operation by or for any employing agency for the
9 specific purpose of training firefighters and firefighter
10 recruits.

11 (d) Specify, by rule, standards for the approval,
12 denial of approval, probation, and revocation of approval of
13 institutions, instructors, and facilities for training
14 firefighters and firefighter recruits; including a rule that
15 an instructor must complete 40 hours of continuing education
16 every 3 years in order to maintain the approval of the
17 department.

18 (e) Issue certificates of competency to persons who,
19 by reason of experience and completion of basic inservice
20 training, advanced education, or specialized training, are
21 especially qualified for particular aspects or classes of
22 firefighter duties.

23 (f) Establish minimum training qualifications for
24 persons serving as firesafety coordinators for their
25 respective departments of state government and certify all
26 persons who satisfy such qualifications.

27 (g) Establish a uniform lesson plan to be followed by
28 firesafety instructors in the training of state employees in
29 firesafety and emergency evacuation procedures.

30 (h) Have complete jurisdiction over, and complete
31 management and control of, the Florida State Fire College and

1 be invested with full power and authority to make all rules
2 and regulations necessary for the governance of said
3 institution.

4 (i) Appoint a superintendent of the Florida State Fire
5 College and such other instructors, experimental helpers, and
6 laborers as may be necessary and remove the same as in its
7 judgment and discretion may be best, fix their compensation,
8 and provide for their payment.

9 (j) Have full management, possession, and control of
10 the lands, buildings, structures, and property belonging to
11 the Florida State Fire College.

12 (k) Provide for the courses of study and curriculum of
13 the Florida State Fire College.

14 (l) Make rules and regulations for the admission of
15 trainees to the Florida State Fire College.

16 (m) Visit and inspect the Florida State Fire College
17 and every department thereof and provide for the proper
18 keeping of accounts and records thereof.

19 (n) Make and prepare all necessary budgets of
20 expenditures for the enlargement, proper furnishing,
21 maintenance, support, and conduct of the Florida State Fire
22 College.

23 (o) Select and purchase all property, furniture,
24 fixtures, and paraphernalia necessary for the Florida State
25 Fire College.

26 (p) Build, construct, change, enlarge, repair, and
27 maintain any and all buildings or structures of the Florida
28 State Fire College that may at any time be necessary for said
29 institution and purchase and acquire all lands and property
30 necessary for same, of every nature and description
31 whatsoever.

1 (q) Care for and maintain the Florida State Fire
2 College and do and perform every other matter or thing
3 requisite to the proper management, maintenance, support, and
4 control of said institution, necessary or requisite to carry
5 out fully the purpose of this act and for raising it to, and
6 maintaining it at, the proper efficiency and standard as
7 required in and by the provisions of ss. 633.43-633.49.

8 Section 754. Section 633.46, Florida Statutes, is
9 amended to read:

10 633.46 Fees.--The division may fix and collect
11 admission fees and other fees which it deems necessary to be
12 charged for training given. All fees so collected shall be
13 deposited in the Insurance ~~Commissioner's~~ Regulatory Trust
14 Fund.

15 Section 755. Section 633.461, Florida Statutes, is
16 amended to read:

17 633.461 Insurance ~~Commissioner's~~ Regulatory Trust
18 Fund.--The funds received from the Insurance ~~Commissioner's~~
19 Regulatory Trust Fund shall be used by the staff of the
20 Florida State Fire College to provide all necessary services,
21 training, equipment, and supplies to carry out the college's
22 responsibilities, including, but not limited to, the State
23 Fire Marshal Scholarship Grant Program and the procurement of
24 training films, videotapes, audiovisual equipment, and other
25 useful information on fire, firefighting, and fire prevention,
26 including public fire service information packages.

27 Section 756. Section 633.47, Florida Statutes, is
28 amended to read:

29 633.47 Procedure for making expenditures.--No moneys
30 shall be spent for and on behalf of the Florida State Fire
31 College except upon a written voucher drawn by the division,

1 stating the nature of the expenditures and the person to whom
2 the same shall be made payable, which voucher shall be
3 submitted to the Chief Financial Officer ~~Comptroller~~ and
4 audited for approval by her or him; upon such approval, the
5 Chief Financial Officer ~~Comptroller~~ shall draw a warrant ~~upon~~
6 ~~the Treasurer~~ for the payment thereof, filing the original
7 voucher in her or his office.

8 Section 757. Section 633.50, Florida Statutes, is
9 amended to read:

10 633.50 Division powers and duties; Florida State Fire
11 College.--

12 (1) The division ~~of State Fire Marshal of the~~
13 ~~Department of Insurance~~, in performing its duties related to
14 the Florida State Fire College, specified in ss.

15 633.43-633.49, shall:

16 (a) Enter into agreements with public or private
17 school districts, community colleges, junior colleges, or
18 universities to carry out its duties and responsibilities.

19 (b) Review and approve budget requests for the fire
20 college educational program.

21 (c) Prepare the legislative budget request for the
22 Florida State Fire College education program. The
23 superintendent is responsible for all expenditures pursuant to
24 appropriations.

25 (d) Implement procedures to obtain appropriate
26 entitlement funds from federal and state grants to supplement
27 the annual legislative appropriation. Such funds must be used
28 expressly for the fire college educational programs.

29 (e) Develop a staffing and funding formula for the
30 Florida State Fire College. The formula shall include
31 differential funding levels for various types of programs,

1 shall be based on the number of full-time equivalent students
2 and information obtained from scheduled attendance counts
3 taken the first day of each program, and shall provide the
4 basis for the legislative budget request. As used in this
5 section, a full-time equivalent student is equal to a minimum
6 of 900 hours in a vocational program and 400 hours in a
7 degree-seeking program. The funding formula shall be as
8 prescribed pursuant to s. 236.081, shall include procedures to
9 document daily attendance, and shall require that attendance
10 records be retained for audit purposes.

11 (2) Funds generated by the formula per full-time
12 equivalent student may not exceed the level of state funding
13 per full-time equivalent student generated through the Florida
14 Education Finance Program or the State Community College
15 Program Fund for students enrolled in comparable education
16 programs provided by public school districts and community
17 colleges. Funds appropriated for education and operational
18 costs shall be deposited in the Insurance ~~Commissioner's~~
19 Regulatory Trust Fund to be used solely for purposes specified
20 in s. 633.461 and may not be transferred to any other budget
21 entity for purposes other than education.

22 Section 758. Subsection (2) of section 633.524,
23 Florida Statutes, is amended to read:

24 633.524 Certificate fees; use and deposit of collected
25 funds.--

26 (2) All moneys collected by the State Fire Marshal
27 pursuant to this chapter are ~~hereby~~ appropriated for the use
28 of the State Fire Marshal in the administration of this
29 chapter and shall be deposited in the Insurance ~~Commissioner's~~
30 Regulatory Trust Fund.

31

1 Section 759. Sections 633.801, 633.802, 633.803,
2 633.804, 633.805, 633.806, 633.807, 633.808, 633.809, 633.810,
3 633.811, 633.812, 633.813, 633.814, 633.815, 633.816, 633.817,
4 633.818, 633.819, 633.820, and 633.821, Florida Statutes, are
5 created to read:

6 633.801 Short title.--Sections 633.801-633.821 may be
7 cited as the "Florida Firefighters Occupational Safety and
8 Health Act."

9 633.802 Definitions.--Unless the context clearly
10 requires otherwise, the following definitions shall apply to
11 ss. 633.801-633.821:

12 (1) "Department" means the Department of Financial
13 Services.

14 (2) "Division" means the Division of State Fire
15 Marshal of the department.

16 (3) "Firefighter employee" means any person engaged in
17 any employment, public or private, as a firefighter under any
18 appointment or contract of hire or apprenticeship, express or
19 implied, oral or written, whether lawfully or unlawfully
20 employed, responding to or assisting with fire or medical
21 emergencies, whether or not the firefighter is on duty, except
22 those appointed under s. 590.02(1)(d).

23 (4) "Firefighter employer" means the state and all
24 political subdivisions of this state, all public and
25 quasi-public corporations in this state, and every person
26 carrying on any employment for this state, political
27 subdivisions of this state, and public and quasi-public
28 corporations in this state, which employs firefighters, except
29 those appointed under s. 590.02(1)(d).

30
31

1 (5) "Firefighter employment" or "employment" means any
2 service performed by a firefighter employee for the
3 firefighter employer.

4 (6) "Firefighter place of employment" or "place of
5 employment" means the physical location at which the
6 firefighter is employed.

7 633.803 Legislative intent.--It is the intent of the
8 Legislature to enhance firefighter occupational safety and
9 health in the state through the implementation and maintenance
10 of policies, procedures, practices, rules, and standards that
11 reduce the incidence of firefighter employee accidents,
12 firefighter occupational diseases, and firefighter fatalities
13 compensable under chapter 440 or otherwise. The Legislature
14 further intends that the division develop a means by which the
15 division can identify individual firefighter employers with a
16 high frequency or severity of work-related injuries, conduct
17 safety inspections of those firefighter employers, and assist
18 those firefighter employers in the development and
19 implementation of firefighter employee safety and health
20 programs. In addition, it is the intent of the Legislature
21 that the division administer the provisions of ss.

22 633.801-633.821; provide assistance to firefighter employers,
23 firefighter employees, and insurers; and enforce the policies,
24 rules, and standards set forth in ss. 633.801-633.821.

25 633.804 Safety inspections and consultations;
26 rules.--The division shall adopt rules governing the manner,
27 means, and frequency of firefighter employer and firefighter
28 employee safety inspections and consultations by all insurers
29 and self-insurers.

30 633.805 Division to make study of firefighter
31 occupational diseases.--The division shall make a continuous

1 study of firefighter occupational diseases and the ways and
2 means for their control and prevention and shall adopt rules
3 necessary for such control and prevention. For this purpose,
4 the division is authorized to cooperate with firefighter
5 employers, firefighter employees, and insurers and with the
6 Department of Health.

7 633.806 Investigations by the division; refusal to
8 admit; penalty.--

9 (1) The division shall make studies and investigations
10 with respect to safety provisions and the causes of
11 firefighter injuries in firefighter places of employment and
12 shall make such recommendations to the Legislature and
13 firefighter employers and insurers as the division considers
14 proper as to the best means of preventing firefighter
15 injuries. In making such studies and investigations, the
16 division may cooperate with any agency of the United States
17 charged with the duty of enforcing any law securing safety
18 against injury in any place of firefighter employment covered
19 by ss. 633.801-633.821 or any agency or department of the
20 state engaged in enforcing any law to ensure safety for
21 firefighter employees.

22 (2) The division by rule may adopt procedures for
23 conducting investigations of firefighter employers under ss.
24 633.801-633.821.

25 633.807 Safety; firefighter employer
26 responsibilities.--Every firefighter employer shall furnish
27 and use safety devices and safeguards, adopt and use methods
28 and processes reasonably adequate to render such an employment
29 and place of employment safe, and do every other thing
30 reasonably necessary to protect the lives, health, and safety
31 of such firefighter employees. As used in this section, the

1 terms "safe" and "safety" as applied to any employment or
2 place of firefighter employment mean such freedom from danger
3 as is reasonably necessary for the protection of the lives,
4 health, and safety of firefighter employees, including
5 conditions and methods of sanitation and hygiene. Safety
6 devices and safeguards required to be furnished by the
7 firefighter employer by this section or by the division under
8 authority of this section shall not include personal apparel
9 and protective devices that replace personal apparel normally
10 worn by firefighter employees during regular working hours.

11 633.808 Division authority.--The division shall:
12 (1) Investigate and prescribe by rule what safety
13 devices, safeguards, or other means of protection must be
14 adopted for the prevention of accidents in every firefighter
15 place of employment or at any fire scene; determine what
16 suitable devices, safeguards, or other means of protection for
17 the prevention of occupational diseases must be adopted or
18 followed in any or all such firefighter places of employment
19 or at any fire scene; and adopt reasonable rules for the
20 prevention of accidents, the safety, protection, and security
21 of firefighters engaged in interior firefighting, and the
22 prevention of occupational diseases.

23 (2) Ascertain, fix, and order such reasonable
24 standards and rules for the construction, repair, and
25 maintenance of firefighter places of employment as shall
26 render them safe. Such rules and standards shall be adopted
27 in accordance with chapter 120.

28 (3) Assist firefighter employers in the development
29 and implementation of firefighter employee safety training
30 programs by contracting with professional safety
31 organizations.

1 (4) Adopt rules prescribing recordkeeping
2 responsibilities for firefighter employers, which may include
3 maintaining a log and summary of occupational injuries,
4 diseases, and illnesses, rules for producing on request a
5 notice of injury and firefighter employee accident
6 investigation records, and rules prescribing a retention
7 schedule for such records.

8 633.809 Firefighter employers whose firefighter
9 employees have a high frequency of work-related injuries.--The
10 division shall develop a means by which the division may
11 identify individual firefighter employers whose firefighter
12 employees have a high frequency or severity of work-related
13 injuries. The division shall carry out safety inspections of
14 the facilities and operations of those firefighter employers
15 in order to assist them in reducing the frequency and severity
16 of work-related injuries. The division shall develop safety
17 and health programs for those firefighter employers. Insurers
18 shall distribute such safety and health programs to the
19 firefighter employers so identified by the division. Those
20 firefighter employers identified by the division as having a
21 high frequency or severity of work-related injuries shall
22 implement a safety and health program developed by the
23 division. The division shall carry out safety inspections of
24 those firefighter employers so identified to ensure compliance
25 with the safety and health program and to assist such
26 firefighter employers in reducing the number of work-related
27 injuries. The division may not assess penalties as the result
28 of such inspections, except as provided by s. 633.813. Copies
29 of any report made as the result of such an inspection shall
30 be provided to the firefighter employer and its insurer.
31 Firefighter employers may submit their own safety and health

1 programs to the division for approval in lieu of using the
2 safety and health program developed by the division. The
3 division shall promptly review the program submitted and
4 approve or disapprove the program within 60 days, or such
5 program shall be deemed approved. Upon approval by the
6 division, the program shall be implemented by the firefighter
7 employer. If the program is not approved or if a program is
8 not submitted, the firefighter employer shall implement the
9 program developed by the division. The division shall adopt
10 rules setting forth the criteria for safety and health
11 programs, as such rules relate to this section.

12 633.810 Workplace safety committees and safety
13 coordinators.--

14 (1) In order to promote health and safety in places of
15 firefighter employment in this state:

16 (a) Each firefighter employer of 20 or more
17 firefighter employees shall establish and administer a
18 workplace safety committee in accordance with rules adopted
19 under this section.

20 (b) Each firefighter employer of fewer than 20
21 firefighter employees identified by the division as having
22 high frequency or severity of work-related injuries shall
23 establish and administer a workplace safety committee or
24 designate a workplace safety coordinator who shall establish
25 and administer workplace safety activities in accordance with
26 rules adopted under this section.

27 (2) The division shall adopt rules:

28 (a) Prescribing the membership of the workplace safety
29 committees so as to ensure an equal number of firefighter
30 employee representatives, who are volunteers or are elected by

31

1 their peers, and of firefighter employer representatives, and
2 specifying the frequency of meetings.

3 (b) Requiring firefighter employers to make adequate
4 records of each meeting and to file and to maintain the
5 records subject to inspection by the division.

6 (c) Prescribing the duties and functions of the
7 workplace safety committee and workplace safety coordinator,
8 which include, but are not limited to:

9 1. Establishing procedures for workplace safety
10 inspections by the committee.

11 2. Establishing procedures for investigating all
12 workplace accidents, safety-related incidents, illnesses, and
13 deaths.

14 3. Evaluating accident prevention and illness
15 prevention programs.

16 4. Prescribing guidelines for the training of safety
17 committee members.

18 (3) The composition, selection, and function of
19 workplace safety committees shall be a mandatory topic of
20 negotiations with any certified collective bargaining agent
21 for firefighter employers that operate under a collective
22 bargaining agreement. Firefighter employers that operate
23 under a collective bargaining agreement that contains
24 provisions regulating the formation and operation of workplace
25 safety committees that meet or exceed the minimum requirements
26 contained in this section, or firefighter employers who
27 otherwise have existing workplace safety committees that meet
28 or exceed the minimum requirements established by this
29 section, are in compliance with this section.

30 (4) Firefighter employees shall be compensated their
31 regular hourly wage while engaged in workplace safety

1 committee or workplace safety coordinator training, meetings,
2 or other duties prescribed under this section.

3 633.811 Firefighter employer penalties.--If any
4 firefighter employer violates or fails or refuses to comply
5 with ss. 633.801-633.821, or with any rule adopted by the
6 division under such sections in accordance with chapter 120
7 for the prevention of injuries, accidents, or occupational
8 diseases or with any lawful order of the division in
9 connection with ss. 633.801-633.821, or fails or refuses to
10 furnish or adopt any safety device, safeguard, or other means
11 of protection prescribed by division rule under ss.
12 633.801-633.821 for the prevention of accidents or
13 occupational diseases, the division may assess against the
14 firefighter employer a civil penalty of not less than \$100 nor
15 more than \$5,000 for each day the violation, omission,
16 failure, or refusal continues after the firefighter employer
17 has been given written notice of such violation, omission,
18 failure, or refusal. The total penalty for each violation may
19 not exceed \$50,000. The division shall adopt rules requiring
20 penalties commensurate with the frequency or severity of
21 safety violations. A hearing shall be held in the county in
22 which the violation, omission, failure, or refusal is alleged
23 to have occurred, unless otherwise agreed to by the
24 firefighter employer and authorized by the division. All
25 penalties assessed and collected under this section shall be
26 deposited in the Insurance Regulatory Trust Fund.

27 633.812 Division cooperation with Federal Government;
28 exemption from requirements for private firefighter
29 employers.--

30 (1) The division shall cooperate with the Federal
31 Government so that duplicate inspections will be avoided while

1 at the same time ensuring safe places of firefighter
2 employment for the citizens of this state.

3 (2) Except as provided in this section, a private
4 firefighter employer is not subject to the requirements of the
5 division if:

6 (a) The private firefighter employer is subject to the
7 federal regulations in 29 C.F.R. ss. 1910 and 1926;

8 (b) The private firefighter employer has adopted and
9 implemented a written safety program that conforms to the
10 requirements of 29 C.F.R. ss. 1910 and 1926;

11 (c) A private firefighter employer with 20 or more
12 full-time firefighter employees shall include provisions for a
13 safety committee in the safety program. The safety committee
14 shall include firefighter employee representation and shall
15 meet at least once each calendar quarter. The private
16 firefighter employer shall make adequate records of each
17 meeting and maintain the records subject to inspections under
18 subsection (3). The safety committee shall, if appropriate,
19 make recommendations regarding improvements to the safety
20 program and corrections of hazards affecting workplace safety;
21 and

22 (d) The private firefighter employer provides the
23 division with a written statement that certifies compliance
24 with this subsection.

25 (3) The division may enter at any reasonable time any
26 place of private firefighter employment for the purpose of
27 verifying the accuracy of the written certification. If the
28 division determines that the private firefighter employer has
29 not complied with the requirements of subsection (2), the
30 private firefighter employer shall be subject to the rules of
31

1 the division until the private firefighter employer complies
2 with subsection (2) and recertifies that fact to the division.

3 (4) This section shall not restrict the division's
4 performance of any duties pursuant to a written contract
5 between the division and the federal Occupational Safety and
6 Health Administration.

7 633.813 Failure to implement a safety and health
8 program; cancellations.--If a firefighter employer that is
9 found by the division to have a high frequency or severity of
10 work-related injuries fails to implement a safety and health
11 program, the insurer or self-insurer's fund that is providing
12 coverage for the firefighter employer may cancel the contract
13 for insurance with the firefighter employer. In the
14 alternative, the insurer or fund may terminate any discount or
15 deviation granted to the firefighter employer for the
16 remainder of the term of the policy. If the contract is
17 canceled or the discount or deviation is terminated, the
18 insurer shall make such reports as are required by law.

19 633.814 Expenses of administration.--The amounts that
20 are needed to administer ss. 633.801-633.821 shall be
21 disbursed from the Insurance Regulatory Trust Fund.

22 633.815 Refusal to admit; penalty.--The division and
23 authorized representatives of the division may enter and
24 inspect any place of firefighter employment at any reasonable
25 time for the purpose of investigating compliance with ss.
26 633.801-633.821 and conducting inspections for the proper
27 enforcement of ss. 633.801-633.821. A firefighter employer
28 who refuses to admit any member of the division or authorized
29 representative of the division to any place of employment or
30 to allow investigation and inspection pursuant to this section

31

1 commits a misdemeanor of the second degree, punishable as
2 provided in s. 775.082 or s. 775.083.

3 633.816 Firefighter employee rights and
4 responsibilities.--

5 (1) Each firefighter employee of a firefighter
6 employer covered under ss. 633.801-633.821 shall comply with
7 rules adopted by the division and with reasonable workplace
8 safety and health standards, rules, policies, procedures, and
9 work practices established by the firefighter employer and the
10 workplace safety committee. A firefighter employee who
11 knowingly fails to comply with this subsection may be
12 disciplined or discharged by the firefighter employer.

13 (2) A firefighter employer may not discharge, threaten
14 to discharge, cause to be discharged, intimidate, coerce,
15 otherwise discipline, or in any manner discriminate against a
16 firefighter employee for any of the following reasons:

17 (a) The firefighter employee has testified or is about
18 to testify, on her or his own behalf, or on behalf of others,
19 in any proceeding instituted under ss. 633.801-633.821;

20 (b) The firefighter employee has exercised any other
21 right afforded under ss. 633.801-633.821; or

22 (c) The firefighter employee is engaged in activities
23 relating to the workplace safety committee.

24 (3) No pay, position, seniority, or other benefit may
25 be lost for exercising any right under, or for seeking
26 compliance with, any requirement of ss. 633.801-633.821.

27 633.817 Compliance.--Failure of a firefighter employer
28 or an insurer to comply with ss. 633.801-633.821, or with any
29 rules adopted under ss. 633.801-633.821, constitutes grounds
30 for the division to seek remedies, including injunctive

31

1 relief, for compliance by making appropriate filings with the
2 circuit court.

3 633.818 False statements to insurers.--A firefighter
4 employer who knowingly and willfully falsifies or conceals a
5 material fact; makes a false, fictitious, or fraudulent
6 statement or representation; or makes or uses any false
7 document knowing the document to contain any false,
8 fictitious, or fraudulent entry or statement to an insurer of
9 workers' compensation insurance under ss. 633.801-633.821
10 commits a misdemeanor of the second degree, punishable as
11 provided in s. 775.082 or s. 775.083.

12 633.819 Matters within jurisdiction of the division;
13 false, fictitious, or fraudulent acts, statements, and
14 representations prohibited; penalty; statute of
15 limitations.--A person may not, in any matter within the
16 jurisdiction of the division, knowingly and willfully falsify
17 or conceal a material fact; make any false, fictitious, or
18 fraudulent statement or representation; or make or use any
19 false document, knowing the same to contain any false,
20 fictitious, or fraudulent statement or entry. A person who
21 violates this section commits a misdemeanor of the second
22 degree, punishable as provided in s. 775.082 or s. 775.083.
23 The statute of limitations for prosecution of an act committed
24 in violation of this section is 5 years after the date the act
25 was committed or, if not discovered within 30 days after the
26 act was committed, 5 years after the date the act was
27 discovered.

28 633.820 Volunteer firefighters.--Sections
29 633.803-633.821 apply to volunteer firefighters and volunteer
30 fire departments.

31 633.821 Workplace safety.--

1 (1) The division shall assist in making the workplace
2 of a firefighter place of employment a safer place to work and
3 decreasing the frequency and severity of on-the-job injuries
4 in such workplace.

5 (2) The division shall have the authority to adopt
6 rules for the purpose of ensuring safe working conditions for
7 all firefighter employees by authorizing the enforcement of
8 effective standards, by assisting and encouraging firefighter
9 employers to maintain safe working conditions, and by
10 providing for education and training in the field of safety.
11 Specifically, the division may by rule adopt all or any part
12 of subparts C through T and subpart Z of 29 C.F.R. s. 1910, as
13 revised April 8, 1998; the National Fire Protection
14 Association, Inc., Standard 1500, paragraph 5-7 (Personal
15 Alert Safety System) (1992 edition); and ANSI A 10.4-1990.

16 (3) With respect to 29 C.F.R. s. 1910.134(g)(4), the
17 two individuals located outside the immediately dangerous to
18 life and health atmosphere may be assigned to an additional
19 role, such as incident commander, pumper operator, engineer,
20 or driver, so long as such individual is able to immediately
21 perform assistance or rescue activities without jeopardizing
22 the safety or health of any firefighter working at an
23 incident. Also with respect to 29 C.F.R. s. 1910.134(g)(4):

24 (a) Each county, municipality, and special district
25 shall implement such provision by April 1, 2003, except as
26 provided in paragraphs (b) and (c).

27 (b) If any county, municipality, or special district
28 is unable to implement such provision by April 1, 2003,
29 without adding additional personnel to its firefighting staff
30 or expending significant additional funds, such county,
31 municipality, or special district shall have an additional 6

1 months within which to implement such provision. Such county,
2 municipality, or special district shall notify the division
3 that the 6-month extension to implement such provision is in
4 effect in such county, municipality, or special district
5 within 30 days after its decision to extend the time for the
6 additional 6 months. The decision to extend the time for
7 implementation shall be made prior to April 1, 2003.

8 (c) If, after the extension granted in paragraph (b),
9 the county, municipality, or special district, after having
10 worked with and cooperated fully with the division and the
11 Firefighters Employment, Standards, and Training Council, is
12 still unable to implement such provisions without adding
13 additional personnel to its firefighting staff or expending
14 significant additional funds, such municipality, county, or
15 special district shall be exempt from the requirements of 29
16 C.F.R. s. 1910.134(g)(4). Nevertheless, each year thereafter
17 the division shall review each such county, municipality, or
18 special district to determine if such county, municipality, or
19 special district has the ability to implement such provision
20 without adding additional personnel to its firefighting staff
21 or expending significant additional funds. If the division
22 determines that any county, municipality, or special district
23 has the ability to implement such provision without adding
24 additional personnel to its firefighting staff or expending
25 significant additional funds, the division shall require such
26 county, municipality, or special district to implement such
27 provision. Such requirement by the division under this
28 paragraph constitutes final agency action subject to chapter
29 120.

30 (4) The provisions of chapter 440 which pertain to
31 workplace safety apply to the division.

1 (5) The division may adopt any rule necessary to
2 implement, interpret, and make specific the provisions of this
3 section, provided the division may not adopt by rule any other
4 standard or standards of the Occupational Safety and Health
5 Administration or the National Fire Protection Association
6 relating solely to ss. 633.801-633.821 and firefighter
7 employment safety without specific legislative authority.

8 Section 760. Section 633.31, Florida Statutes, is
9 amended to read:

10 633.31 Firefighters Employment, Standards, and
11 Training Council.--

12 (1) There is created within the department ~~of~~
13 ~~insurance~~ a Firefighters Employment, Standards, and Training
14 Council of 13 ~~nine~~ members ~~appointed by the State Fire~~
15 ~~Marshal~~. Two members shall be fire chiefs, who shall be
16 appointed by the Florida Fire Chiefs Association; ~~two~~ members
17 shall be firefighters who are not officers, who shall be
18 appointed by the Florida Professional Firefighters
19 Association; ~~two~~ members shall be firefighter officers who
20 are not fire chiefs, who shall be appointed by the State Fire
21 Marshal; one member shall be a director or instructor of a
22 state-certified firefighting training facility, who shall be
23 appointed by the State Fire Marshal; one member shall be
24 appointed by the Florida League of Cities, one member shall be
25 appointed by the Florida Association of Counties, one member
26 shall be appointed by the Florida Association of Special
27 Districts, one member shall be appointed by the Florida Fire
28 Marshal's Association, and one member shall be appointed by
29 the State Fire Marshal ~~and one member shall be a director or~~
30 ~~instructor of a state-certified firefighting training~~
31 ~~facility~~. To be eligible for appointment as a fire chief

1 member, firefighter officer member, firefighter member, or a
2 director or instructor of a state-certified firefighting
3 facility, a person shall have had at least 4 years' experience
4 in the firefighting profession. The remaining member, who
5 shall be appointed by the State Fire Marshal, two members
6 shall not be a member or representative members of the
7 firefighting profession or of any local government. Members
8 shall serve only as long as they continue to meet the criteria
9 under which they were appointed, or unless a member has failed
10 to appear at three consecutive and properly noticed meetings
11 unless excused by the chair.

12 (2) ~~Initially, the State Fire Marshal shall appoint~~
13 ~~three members for terms of 4 years, two members for terms of 3~~
14 ~~years, two members for terms of 2 years, and two members for~~
15 ~~terms of 1 year. Thereafter, Members shall be appointed for~~
16 4-year terms and in no event shall a member serve more than
17 two consecutive terms. Any vacancy shall be filled in the
18 manner of the original appointment for the remaining time of
19 the term.

20 (3) The State Fire Marshal, in making her or his
21 appointments, shall take into consideration representation by
22 geography, population, and other relevant factors, in order
23 that the membership on the council will be apportioned to give
24 representation to the state at large rather than to a
25 particular area.

26 (4) Membership on the council shall not disqualify a
27 member from holding any other public office or being employed
28 by a public entity, except that no member of the Legislature
29 shall serve on the council.

30 Section 761. Subsections (4) and (5) of section
31 633.33, Florida Statutes, are amended to read:

1 633.33 Special powers; firefighter training.--The
2 council shall have special powers in connection with the
3 employment and training of firefighters to:

4 (4) Consult and cooperate with any employing agency,
5 university, college, community college, the Florida State Fire
6 College, or other educational institution concerning the
7 employment and safety of firefighters, including, but not
8 limited to, the safety of firefighters while at the scene of a
9 fire or the scene of an incident related to the provision of
10 emergency services to which a firefighter responds and
11 development of firefighter training schools and programs of
12 courses of instruction, including, but not limited to,
13 education and training in the areas of firefighter employment,
14 fire science, fire technology, fire administration, and all
15 allied and supporting fields.

16 (5) Make or support studies on any aspect of
17 firefighting employment, education, and training or
18 recruitment.

19 Section 762. Paragraph (c) of subsection (3) of
20 section 383.3362, Florida Statutes, is amended to read:

21 383.3362 Sudden Infant Death Syndrome.--

22 (3) TRAINING.--

23 (c) The Department of Health, in consultation with the
24 Emergency Medical Services Advisory Council, the Firefighters
25 Employment, Standards, and Training Council, and the Criminal
26 Justice Standards and Training Commission, shall develop and
27 adopt, by rule, curriculum that, at a minimum, includes
28 training in the nature of SIDS, standard procedures to be
29 followed by law enforcement agencies in investigating cases
30 involving sudden deaths of infants, and training in responding
31

1 appropriately to the parents or caretakers who have requested
2 assistance.

3 Section 763. Subsection (4) of section 633.30, Florida
4 Statutes, is amended to read:

5 633.30 Standards for firefighting; definitions.--As
6 used in this chapter:

7 (4) "Council" means the Firefighters Employment,
8 Standards, and Training Council.

9 Section 764. Subsection (4) of section 633.32, Florida
10 Statutes, is amended to read:

11 633.32 Organization; meetings; quorum; compensation;
12 seal.--

13 (4) The council may adopt a seal for its use
14 containing the words "Firefighters Employment, Standards, and
15 Training Council."

16 Section 765. The Legislature determines and declares
17 that sections 759-765 of this act fulfill an important state
18 interest.

19 Section 766. Subsection (4) of section 634.011,
20 Florida Statutes, is amended to read:

21 634.011 Definitions.--As used in this part, the term:

22 (4) "Department" means the Department of Financial
23 Services ~~Insurance~~.

24 Section 767. Subsection (3) of section 634.137,
25 Florida Statutes, is amended to read:

26 634.137 Financial and statistical reporting
27 requirements.--

28 (3) Any service agreement company that does not file
29 an annual statement in the form and within the time provided
30 by this section shall forfeit up to \$100 for each day during
31 which the default continues, and, upon notice by the

1 department, the authority of the company to do business in
2 this state shall cease while the default continues. The
3 department shall deposit all sums collected under this
4 subsection in the Insurance ~~Commissioner's~~ Regulatory Trust
5 Fund.

6 Section 768. Section 634.151, Florida Statutes, is
7 amended to read:

8 634.151 Service of process; appointment of
9 commissioner as process agent.--

10 (1) Each company applying for authority to transact
11 business in this state, whether domestic or foreign, shall
12 file with the department its appointment of the Chief
13 Financial Officer ~~Insurance Commissioner and Treasurer~~ and her
14 or his successors in office, on a form as furnished by the
15 department, as its attorney to receive service of all legal
16 process issued against it in any civil action or proceeding in
17 this state and agreeing that process so served shall be valid
18 and binding upon the company. The appointment shall be
19 irrevocable, shall bind the company and any successor in
20 interest as to the assets or liabilities of the company, and
21 shall remain in effect as long as there is outstanding in this
22 state any obligation or liability of the company resulting
23 from its service agreement transactions therein.

24 (2) At the time of such appointment of the Chief
25 Financial Officer ~~Insurance Commissioner and Treasurer~~ as its
26 process agent the company shall file with the department a
27 designation of the name and address of the person to whom
28 process against it served upon the Chief Financial Officer
29 ~~Insurance Commissioner and Treasurer~~ is to be forwarded. The
30 company may change the designation at any time by a new
31 filing.

1 Section 769. Section 634.161, Florida Statutes, is
2 amended to read:

3 634.161 Service of process; method.--

4 (1) Service of process upon the Chief Financial
5 Officer ~~Insurance Commissioner and Treasurer~~ as process agent
6 of the company shall be made by serving copies in triplicate
7 of the process upon the Chief Financial Officer ~~Insurance~~
8 ~~Commissioner and Treasurer~~ or upon her or his assistant,
9 deputy, or other person in charge of her or his office. Upon
10 receiving such service, the Chief Financial Officer ~~Insurance~~
11 ~~Commissioner and Treasurer~~ shall file one copy with the
12 department, return one copy with her or his admission of
13 service, and promptly forward one copy of the process by
14 registered or certified mail to the person last designated by
15 the company to receive the same, as provided under s. 634.151.

16 (2) Process served upon the Chief Financial Officer
17 ~~Insurance Commissioner and Treasurer~~ and copy thereof
18 forwarded as in this section provided shall for all purposes
19 constitute valid and binding service thereof upon the company.

20 Section 770. Section 634.221, Florida Statutes, is
21 amended to read:

22 634.221 Disposition of taxes and fees.--All license
23 taxes, taxes on premiums and assessments, registration fees,
24 and administrative fines and penalties collected under this
25 act from motor vehicle service agreement companies shall be
26 deposited to the credit of the Insurance ~~Commissioner's~~
27 Regulatory Trust Fund.

28 Section 771. Subsection (1) of section 634.301,
29 Florida Statutes, is amended to read:

30 634.301 Definitions.--As used in this part, the term:

31

1 (1) "Department" means the Department of Financial
2 Services Insurance.

3 Section 772. Subsections (1) and (3) of section
4 634.313, Florida Statutes, are amended to read:

5 634.313 Tax on premiums; annual statement; reports.--

6 (1) In addition to paying the license taxes provided
7 for in this part for home warranty associations and license
8 taxes provided in the insurance code as to insurers, each such
9 association and each such insurer must, annually on or before
10 March 1, file with the department its annual statement, in the
11 form prescribed by the department, showing all premiums
12 received by it in connection with the issuance of warranties
13 in this state during the preceding calendar year and using
14 accounting principles that will enable the department to
15 ascertain whether the reserve required by s. 634.3077 has been
16 maintained. Each annual statement must contain a balance
17 sheet listing all assets and liabilities; a statement of
18 operations and retained earnings; and a schedule used to
19 report all claims statistics. The annual statement must be
20 completed using generally accepted accounting principles
21 except as otherwise provided in this part. Further, each
22 association and each insurer must pay to the Chief Financial
23 Officer ~~Treasurer~~ a tax in an amount equal to 2 percent of the
24 amount of such premiums so received.

25 (3) Any association or insurer neglecting to file the
26 annual statement in the form and within the time provided by
27 this section shall forfeit up to \$100 for each day during
28 which such neglect continues; and, upon notice by the
29 department to that effect, its authority to do business in
30 this state shall cease while such default continues. The
31 department shall deposit all sums collected by it under this

1 section to the credit of the Insurance ~~Commissioner's~~
2 Regulatory Trust Fund.

3 Section 773. Section 634.324, Florida Statutes, is
4 amended to read:

5 634.324 Disposition of taxes and fees.--All license
6 taxes, taxes on premiums, license and appointment fees, and
7 administrative fines and penalties collected under this part
8 from home warranty associations and sales representatives
9 shall be deposited to the credit of the Insurance
10 ~~Commissioner's~~ Regulatory Trust Fund.

11 Section 774. Section 634.327, Florida Statutes, is
12 amended to read:

13 634.327 Applicability to warranty on new home.--This
14 part shall not apply to any program offering a warranty on a
15 new home which is underwritten by an insurer licensed to do
16 business in the state when the insurance policy underwriting
17 such program has been filed with and approved by the
18 department ~~of Insurance~~ as required by law.

19 Section 775. Subsection (4) of section 634.3284,
20 Florida Statutes, is amended to read:

21 634.3284 Civil remedy.--

22 (4) This section shall not be construed to authorize a
23 class action suit against a home warranty association or a
24 civil action against the department, its employees, or the
25 Chief Financial Officer ~~Insurance Commissioner~~.

26 Section 776. Subsection (2) of section 634.401,
27 Florida Statutes, is amended to read:

28 634.401 Definitions.--As used in this part, the term:

29 (2) "Department" means the Department of Financial
30 Services ~~Insurance~~.

31

1 Section 777. Subsection (3) of section 634.415,
2 Florida Statutes, is amended to read:

3 634.415 Tax on premiums; annual statement; reports;
4 quarterly statements.--

5 (3) The department may levy a fine of up to \$100 a day
6 for each day an association neglects to file the annual
7 statement in the form and within the time provided by this
8 part. The amount of the fine shall be established by rules
9 promulgated by the department. The department shall deposit
10 all sums collected by it under this section to the credit of
11 the Insurance ~~Commissioner's~~ Regulatory Trust Fund.

12 Section 778. Subsection (1) of section 634.416,
13 Florida Statutes, is amended to read:

14 634.416 Examination of associations.--

15 (1) Service warranty associations licensed under this
16 part are subject to periodic examination by the department, in
17 the same manner and subject to the same terms and conditions
18 that apply to insurers under part II of chapter 624. However,
19 the rate charged a service warranty association by the
20 department for examination may be adjusted to reflect the
21 amount collected for the Form 10-K filing fee as provided in
22 this section. On or before May 1 of each year, an association
23 may submit to the department the Form 10-K, as filed with the
24 United States Securities and Exchange Commission pursuant to
25 the Securities Exchange Act of 1934, as amended. Upon receipt
26 and review of the most current Form 10-K, the department may
27 waive the examination requirement; if the department
28 determines not to waive the examination, such examination will
29 be limited to that examination necessary to ensure compliance
30 with this part. The Form 10-K shall be accompanied by a
31

1 filing fee of \$2,000 to be deposited into the Insurance
2 ~~Commissioner's~~ Regulatory Trust Fund.

3 Section 779. Section 634.427, Florida Statutes, is
4 amended to read:

5 634.427 Disposition of taxes and fees.--All license
6 fees, taxes on premiums, registration fees, and administrative
7 fines and penalties collected under this part from service
8 warranty associations and sales representatives shall be
9 deposited to the credit of the Insurance ~~Commissioner's~~
10 Regulatory Trust Fund.

11 Section 780. Subsection (4) of section 634.433,
12 Florida Statutes, is amended to read:

13 634.433 Civil remedy.--

14 (4) This section shall not be construed to authorize a
15 class action suit against a service warranty association or a
16 civil action against the department, its employees, or the
17 Chief Financial Officer ~~Insurance Commissioner~~.

18 Section 781. Subsection (3) of section 635.011,
19 Florida Statutes, is amended to read:

20 635.011 Definitions.--As used in this chapter, the
21 term:

22 (3) "Department" means the Department of Financial
23 Services ~~Insurance of this state~~.

24 Section 782. Subsection (2) of section 635.041,
25 Florida Statutes, is amended to read:

26 635.041 Contingency reserve.--

27 (2) Subject to approval by the insurance department of
28 the insurer's state of domicile and upon 30 days' prior notice
29 to the Department of Financial Services ~~Insurance~~ of this
30 state, the contingency reserve shall be available for loss
31 payments only when the insurer's incurred losses in any one

1 calendar year exceed 35 percent of the corresponding earned
2 premiums.

3 Section 783. Subsections (2) and (3) of section
4 636.003, Florida Statutes, are amended to read:

5 636.003 Definitions.--As used in this act, the term:

6 ~~(2) "Commissioner" means the Commissioner of~~
7 ~~Insurance.~~

8 (2)(3) "Department" means the Department of Financial
9 Services Insurance.

10 Section 784. Subsection (3) of section 636.043,
11 Florida Statutes, is amended to read:

12 636.043 Annual, quarterly, and miscellaneous
13 reports.--

14 (3) Every prepaid limited health service organization
15 which fails to file an annual report or quarterly report in
16 the form and within the time required by this section shall
17 forfeit up to \$500 for each day for the first 10 days during
18 which the neglect continues and shall forfeit up to \$1,000 for
19 each day after the first 10 days during which the neglect
20 continues; and, upon notice by the department to that effect,
21 the organization's authority to enroll new subscribers or to
22 do business in this state ceases while such default continues.
23 The department shall deposit all sums collected by it under
24 this section to the credit of the Insurance ~~Commissioner's~~
25 Regulatory Trust Fund. The department may not collect more
26 than \$50,000 for each report.

27 Section 785. Subsection (2) of section 636.047,
28 Florida Statutes, is amended to read:

29 636.047 Officers' and employees' fidelity bond.--

30 (2) In lieu of the bond specified in subsection (1), a
31 prepaid limited health service organization may deposit with

1 the department cash or securities or other investments of the
2 types set forth in s. 636.042. Such a deposit must be
3 maintained in joint custody with the Chief Financial Officer
4 ~~commissioner~~ in the amount and subject to the same conditions
5 required for a bond under this subsection.

6 Section 786. Section 636.052, Florida Statutes, is
7 amended to read:

8 636.052 Civil remedy.--In any civil action brought to
9 enforce the terms and conditions of a prepaid limited health
10 service organization contract, the prevailing party is
11 entitled to recover reasonable attorney's fees and court
12 costs. This section does not authorize a civil action against
13 the department, its employees, or the Chief Financial Officer
14 ~~commissioner~~ or against the Agency for Health Care
15 Administration, its employees, or the director of that agency.

16 Section 787. Subsection (1) of section 641.185,
17 Florida Statutes, is amended to read:

18 641.185 Health maintenance organization subscriber
19 protections.--

20 (1) With respect to the provisions of this part and
21 part III, the principles expressed in the following statements
22 shall serve as standards to be followed by the Department of
23 Financial Services Insurance ~~Insurance~~ and the Agency for Health Care
24 Administration in exercising their powers and duties, in
25 exercising administrative discretion, in administrative
26 interpretations of the law, in enforcing its provisions, and
27 in adopting rules:

28 (a) A health maintenance organization shall ensure
29 that the health care services provided to its subscribers
30 shall be rendered under reasonable standards of quality of
31 care which are at a minimum consistent with the prevailing

1 standards of medical practice in the community pursuant to ss.
2 641.495(1) and 641.51.

3 (b) A health maintenance organization subscriber
4 should receive quality health care from a broad panel of
5 providers, including referrals, preventive care pursuant to s.
6 641.402(1), emergency screening and services pursuant to ss.
7 641.31(12) and 641.513, and second opinions pursuant to s.
8 641.51.

9 (c) A health maintenance organization subscriber
10 should receive assurance that the health maintenance
11 organization has been independently accredited by a national
12 review organization pursuant to s. 641.512, and is financially
13 secure as determined by the state pursuant to ss. 641.221,
14 641.225, and 641.228.

15 (d) A health maintenance organization subscriber
16 should receive continuity of health care, even after the
17 provider is no longer with the health maintenance organization
18 pursuant to s. 641.51(8).

19 (e) A health maintenance organization subscriber
20 should receive timely, concise information regarding the
21 health maintenance organization's reimbursement to providers
22 and services pursuant to ss. 641.31 and 641.31015.

23 (f) A health maintenance organization subscriber
24 should receive the flexibility to transfer to another Florida
25 health maintenance organization, regardless of health status,
26 pursuant to ss. 641.228, 641.3104, 641.3107, 641.3111,
27 641.3921, and 641.3922.

28 (g) A health maintenance organization subscriber
29 should be eligible for coverage without discrimination against
30 individual participants and beneficiaries of group plans based
31 on health status pursuant to s. 641.31073.

1 (h) A health maintenance organization that issues a
2 group health contract must: provide coverage for preexisting
3 conditions pursuant to s. 641.31071; guarantee renewability of
4 coverage pursuant to s. 641.31074; provide notice of
5 cancellation pursuant to s. 641.3108; provide extension of
6 benefits pursuant to s. 641.3111; provide for conversion on
7 termination of eligibility pursuant to s. 641.3921; and
8 provide for conversion contracts and conditions pursuant to s.
9 641.3922.

10 (i) A health maintenance organization subscriber
11 should receive timely and, if necessary, urgent grievances and
12 appeals within the health maintenance organization pursuant to
13 ss. 641.228, 641.31(5), 641.47, and 641.511.

14 (j) A health maintenance organization should receive
15 timely and, if necessary, urgent review by an independent
16 state external review organization for unresolved grievances
17 and appeals pursuant to s. 408.7056.

18 (k) A health maintenance organization subscriber shall
19 be given written notice at least 30 days in advance of a rate
20 change pursuant to s. 641.31(3)(b). In the case of a group
21 member, there may be a contractual agreement with the health
22 maintenance organization to have the employer provide the
23 required notice to the individual members of the group
24 pursuant to s. 641.31(3)(b).

25 (l) A health maintenance organization subscriber shall
26 be given a copy of the applicable health maintenance contract,
27 certificate, or member handbook specifying: all the
28 provisions, disclosure, and limitations required pursuant to
29 s. 641.31(1) and (4); the covered services, including those
30 services, medical conditions, and provider types specified in
31 ss. 641.31, 641.31094, 641.31095, 641.31096, 641.51(11), and

1 641.513; and where and in what manner services may be obtained
2 pursuant to s. 641.31(4).

3 Section 788. Subsections (6) and (11) of section
4 641.19, Florida Statutes, are amended to read:

5 641.19 Definitions.--As used in this part, the term:

6 (6) "Department" means the Department of Financial
7 Services Insurance.

8 (11) "Guaranteeing organization" is an organization
9 that which is domiciled in the United States; that which has
10 authorized service of process against it; and that which has
11 appointed the Chief Financial Officer Insurance Commissioner
12 ~~and Treasurer~~ as its agent for service of process issuing upon
13 any cause of action arising in this state, based upon any
14 guarantee entered into under this part.

15 Section 789. Subsection (1) of section 641.23, Florida
16 Statutes, is amended to read:

17 641.23 Revocation or cancellation of certificate of
18 authority; suspension of enrollment of new subscribers; terms
19 of suspension.--

20 (1) The maintenance of a valid and current health care
21 provider certificate issued pursuant to part III of this
22 chapter is a condition of the maintenance of a valid and
23 current certificate of authority issued by the department to
24 operate a health maintenance organization. Denial or
25 revocation of a health care provider certificate shall be
26 deemed to be an automatic and immediate cancellation of a
27 health maintenance organization's certificate of authority.
28 At the discretion of the department ~~of Insurance~~, nonrenewal
29 of a health care provider certificate may be deemed to be an
30 automatic and immediate cancellation of a health maintenance
31 organization's certificate of authority if the Agency for

1 Health Care Administration notifies the department of
2 ~~insurance~~, in writing, that the health care provider
3 certificate will not be renewed.

4 Section 790. Subsection (4) of section 641.26, Florida
5 Statutes, is amended to read:

6 641.26 Annual report.--

7 (4) Any health maintenance organization that neglects
8 to file an annual report or quarterly report in the form and
9 within the time required by this section shall forfeit up to
10 \$1,000 for each day for the first 10 days during which the
11 neglect continues and shall forfeit up to \$2,000 for each day
12 after the first 10 days during which the neglect continues;
13 and, upon notice by the department to that effect, the
14 organization's authority to enroll new subscribers or to do
15 business in this state shall cease while such default
16 continues. The department shall deposit all sums collected by
17 it under this section to the credit of the Insurance
18 ~~Commissioner's~~ Regulatory Trust Fund. The department shall not
19 collect more than \$100,000 for each report.

20 Section 791. Section 641.28, Florida Statutes, is
21 amended to read:

22 641.28 Civil remedy.--In any civil action brought to
23 enforce the terms and conditions of a health maintenance
24 organization contract, the prevailing party is entitled to
25 recover reasonable attorney's fees and court costs. This
26 section shall not be construed to authorize a civil action
27 against the department, its employees, or the Chief Financial
28 Officer ~~Insurance Commissioner~~ or against the Agency for
29 Health Care Administration, its employees, or the director of
30 the agency.

31

1 Section 792. Subsection (1) of section 641.39001,
2 Florida Statutes, is amended to read:

3 641.39001 Soliciting or accepting new or renewal
4 health maintenance contracts by insolvent or impaired health
5 maintenance organization prohibited; penalty.--

6 (1) Whether or not delinquency proceedings as to a
7 health maintenance organization have been or are to be
8 initiated, a director or officer of a health maintenance
9 organization, except with the written permission of the
10 department ~~of Insurance~~, may not authorize or permit the
11 health maintenance organization to solicit or accept new or
12 renewal health maintenance contracts or provider contracts in
13 this state after the director or officer knew, or reasonably
14 should have known, that the health maintenance organization
15 was insolvent or impaired. As used in this section, the term
16 "impaired" means that the health maintenance organization does
17 not meet the requirements of s. 641.225.

18 Section 793. Subsections (2) and (3) of section
19 641.402, Florida Statutes, are amended to read:

20 641.402 Definitions.--As used in this part, the term:

21 (2) "Department" means the Department of Financial
22 Services Insurance.

23 (3) "Guaranteeing organization" means an organization
24 that which is domiciled in the United States; that which has
25 authorized service of process against it; and that which has
26 appointed the Chief Financial Officer ~~Insurance Commissioner~~
27 ~~and Treasurer~~ as its agent for service of process in
28 connection with any cause of action arising in this state,
29 based upon any guarantee entered into under this part.

30 Section 794. Section 641.403, Florida Statutes, is
31 amended to read:

1 641.403 Rulemaking authority.--The department may of
2 ~~insurance has authority to~~ adopt rules pursuant to ss.
3 120.536(1) and 120.54 to implement the provisions of this
4 part.

5 Section 795. Subsection (2) of section 641.412,
6 Florida Statutes, is amended to read:

7 641.412 Fees.--

8 (2) The fees charged under this section shall be
9 distributed as follows:

10 (a) One-third of the total amount of fees shall be
11 distributed to the Agency for Health Care Administration; and

12 (b) Two-thirds of the total amount of fees shall be
13 distributed to the department ~~of Insurance~~.

14 Section 796. Section 641.454, Florida Statutes, is
15 amended to read:

16 641.454 Civil action to enforce prepaid health clinic
17 contract; attorney's fees; court costs.--In any civil action
18 brought to enforce the terms and conditions of a prepaid
19 health clinic contract, the prevailing party is entitled to
20 recover reasonable attorney's fees and court costs. This
21 section shall not be construed to authorize a civil action
22 against the department, its employees, or the Chief Financial
23 Officer ~~Insurance Commissioner and Treasurer~~ or against the
24 Agency for Health Care Administration, the employees of the
25 Agency for Health Care Administration, or the Secretary of
26 Health Care Administration.

27 Section 797. Section 641.455, Florida Statutes, is
28 amended to read:

29 641.455 Disposition of moneys collected under this
30 part.--Fees, administrative penalties, examination expenses,
31 and other sums collected by the department under this part

1 shall be deposited to the credit of the Insurance
2 ~~Commissioner's~~ Regulatory Trust Fund; however, fees,
3 examination expenses, and other sums collected by, or
4 allocated to, the Agency for Health Care Administration under
5 this part shall be deposited to the credit of the General
6 Revenue Fund.

7 Section 798. Section 641.48, Florida Statutes, is
8 amended to read:

9 641.48 Purpose and application of part.--The purpose
10 of this part is to ensure that health maintenance
11 organizations and prepaid health clinics deliver high-quality
12 health care to their subscribers. To achieve this purpose,
13 this part requires all such organizations to obtain a health
14 care provider certificate from the agency as a condition
15 precedent to obtaining a certificate of authority to do
16 business in Florida from the Department of Financial Services
17 ~~Insurance~~, under part I or part II of this chapter.

18 Section 799. Subsection (2) of section 641.49, Florida
19 Statutes, is amended to read:

20 641.49 Certification of health maintenance
21 organization and prepaid health clinic as health care
22 providers; application procedure.--

23 (2) The Department of Financial Services ~~Insurance~~
24 shall not issue a certificate of authority under part I or
25 part II of this chapter to any applicant which does not
26 possess a valid health care provider certificate issued by the
27 agency under this part.

28 Section 800. Subsection (7), paragraph (a) of
29 subsection (8), and subsection (11) of section 641.511,
30 Florida Statutes, are amended to read:

31

1 641.511 Subscriber grievance reporting and resolution
2 requirements.--

3 (7) Each organization shall send to the agency a copy
4 of its quarterly grievance reports submitted to the Department
5 of Financial Services Insurance pursuant to s. 408.7056(12).

6 (8) The agency shall investigate all reports of
7 unresolved quality of care grievances received from:

8 (a) Annual and quarterly grievance reports submitted
9 by the organization to the Department of Financial Services
10 Insurance.

11 (11) Each organization, as part of its contract with
12 any provider, must require the provider to post a consumer
13 assistance notice prominently displayed in the reception area
14 of the provider and clearly noticeable by all patients. The
15 consumer assistance notice must state the addresses and
16 toll-free telephone numbers of the Agency for Health Care
17 Administration, the Statewide Provider and Subscriber
18 Assistance Program, and the Department of Financial Services
19 Insurance. The consumer assistance notice must also clearly
20 state that the address and toll-free telephone number of the
21 organization's grievance department shall be provided upon
22 request. The agency is authorized to promulgate rules to
23 implement this section.

24 Section 801. Section 641.52, Florida Statutes, is
25 amended to read:

26 641.52 Revocation of certificate; suspension of new
27 enrollment; suspension of the health care provider
28 certificate; administrative fine; notice of action to the
29 Department of Financial Services Insurance; penalty for use of
30 unlicensed providers.--

31

1 (1) The agency may suspend the authority of an
2 organization to enroll new subscribers or revoke the health
3 care provider certificate of any organization, or order
4 compliance within a time certain, if it finds that any of the
5 following conditions exist:

6 (a) The organization is in substantial violation of
7 its contracts.

8 (b) The organization is unable to fulfill its
9 obligations under outstanding contracts entered into with its
10 subscribers.

11 (c) The organization knowingly utilizes a provider who
12 is furnishing or has furnished health care services and who
13 does not have a subsisting license or other authority to
14 practice or furnish health care services in this state.

15 (d) The organization no longer meets the requirements
16 for the certificate as originally issued.

17 (e) The organization has violated any lawful rule or
18 order of the agency or any provision of this part.

19 (f) The organization has refused to be examined or to
20 produce its accounts, records, and files for examination or to
21 perform any other legal obligation as to such examination,
22 when required by the agency.

23 (g) The organization has not, after given reasonable
24 notice, maintained accreditation or received favorable
25 external quality assurance reviews under s. 641.512 or,
26 following an investigation under s. 641.515, has been
27 determined to not materially meet requirements under this
28 part.

29 (2) Revocation of an organization's certificate shall
30 be for a period of 2 years. After 2 years, the organization
31

1 may apply for a new certificate by compliance with all
2 application requirements applicable to first-time applicants.

3 (3) Suspension of an organization's authority to
4 enroll new subscribers shall be for such period, not to exceed
5 1 year, as is fixed by the agency. The agency shall, in its
6 order suspending the authority of an organization to enroll
7 new subscribers, specify the period during which the
8 suspension is to be in effect and the conditions, if any,
9 which must be met by the organization prior to reinstatement
10 of its authority to enroll new subscribers. The order of
11 suspension is subject to rescission or modification by further
12 order of the agency prior to the expiration of the suspension
13 period. Authority to enroll new subscribers shall not be
14 reinstated unless requested by the organization; however, the
15 agency may not grant reinstatement if it finds that the
16 circumstances for which the suspension of authority to enroll
17 new subscribers occurred still exist or are likely to recur.

18 (4) The agency may suspend the health care provider
19 certificate issued to an organization. The agency shall, in
20 its order suspending the health care provider certificate,
21 specify the period during which the suspension is to be in
22 effect and the conditions, if any, which must be met by the
23 organization for reinstatement. Upon expiration of the
24 suspension period, the organization's certificate
25 automatically reinstates unless the agency finds that the
26 causes of the suspension have not been removed or that the
27 organization is otherwise not in compliance with this part.
28 If the agency makes such a finding, the health care provider
29 certificate shall not be reinstated and is considered to have
30 expired as of the end of the suspension period.

31

1 (5) If the agency finds that one or more grounds exist
2 for the revocation or suspension of a certificate issued under
3 this part, the agency may, in lieu of such revocation or
4 suspension, impose a fine upon the organization. With respect
5 to any nonwillful violation, the fine may not exceed \$2,500
6 per violation. Such fines may not exceed an aggregate amount
7 of \$25,000 for all nonwillful violations arising out of the
8 same action. With respect to any knowing and willful
9 violation of a lawful order or rule of the agency or a
10 provision of this part, the agency may impose a fine upon the
11 organization in an amount not to exceed \$20,000 for each such
12 violation. Such fines may not exceed an aggregate amount of
13 \$250,000 for all knowing and willful violations arising out of
14 the same action. The agency shall, by January 1, 1997, adopt
15 by rule penalty categories that specify varying ranges of
16 fines for willful violations and for nonwillful violations.

17 (6) The agency shall immediately notify the Department
18 of Financial Services ~~Insurance~~ whenever it issues an
19 administrative complaint or an order or otherwise initiates
20 legal proceedings resulting in or which may result in
21 suspension or revocation of an organization's health care
22 provider certificate or suspension of new enrollment.

23 (7) Any organization that knowingly utilizes the
24 services of a provider who is not licensed or otherwise
25 authorized by law to provide such services is guilty of a
26 felony of the third degree, punishable as provided in s.
27 775.082, s. 775.083, or s. 775.084.

28 Section 802. Subsection (4) of section 641.55, Florida
29 Statutes, is amended to read:

30 641.55 Internal risk management program.--
31

1 (4) The Agency for Health Care Administration shall
2 adopt rules necessary to carry out the provisions of this
3 section, including rules governing the establishment of
4 required internal risk management programs to meet the needs
5 of individual organizations and each specific organization
6 type governed by this part. The Department of Financial
7 Services ~~Insurance~~ shall assist the agency in preparing these
8 rules. Each internal risk management program shall include the
9 use of incident reports to be filed with the risk manager.
10 The risk manager shall have free access to all organization or
11 provider medical records. The incident reports shall be
12 considered to be a part of the workpapers of the attorney
13 defending the organization in litigation relating thereto and
14 shall be subject to discovery, but not be admissible as
15 evidence in court, nor shall any person filing an incident
16 report be subject to civil suit by virtue of the incident
17 report and the matters it contains. As a part of each
18 internal risk management program, the incident reports shall
19 be utilized to develop categories of incidents which identify
20 problem areas. Once identified, procedures must be adjusted to
21 correct these problem areas.

22
23 The gross data compiled under this section or s. 395.0197
24 shall be furnished by the agency upon request to organizations
25 to be utilized for risk management purposes. The agency shall
26 adopt rules necessary to carry out the provisions of this
27 section.

28 Section 803. Subsection (2) of section 641.58, Florida
29 Statutes, is amended to read:

30 641.58 Regulatory assessment; levy and amount; use of
31 funds; tax returns; penalty for failure to pay.--

1 (2) The Department of Financial Services Insurance
2 shall determine the amount of gross premiums for the purposes
3 of the regulatory assessment, and then the agency shall
4 determine on or before December 1 of each year the regulatory
5 assessment percentage necessary to be imposed for that
6 calendar year, payable on or before the following April 1, as
7 herein prescribed, to provide the funds appropriated to the
8 agency to carry out the provisions of subsection (4).

9 Section 804. Subsection (1) of section 642.015,
10 Florida Statutes, is amended to read:

11 642.015 Definitions.--As used in ss. 642.011-642.049,
12 the term:

13 (1) "Department" means the Department of Financial
14 Services Insurance.

15 Section 805. Subsection (4) of section 642.0475,
16 Florida Statutes, is amended to read:

17 642.0475 Civil remedy.--

18 (4) This section shall not be construed to authorize a
19 class action suit against a legal expense insurance
20 corporation or a civil action against the department, its
21 employees, or the Chief Financial Officer Insurance
22 Commissioner.

23 Section 806. Subsection (2) of section 648.25, Florida
24 Statutes, is amended to read:

25 648.25 Definitions.--The following words when used in
26 this chapter have the meanings respectively ascribed to them
27 in this section:

28 (2) "Department" means the Department of Financial
29 Services Insurance.

30 Section 807. Section 648.26, Florida Statutes, is
31 amended to read:

1 648.26 Department of Financial Services ~~Insurance~~;
2 administration.--

3 (1) The department shall administer the provisions of
4 this chapter as provided in this chapter.

5 (a) The department has authority to adopt rules
6 pursuant to ss. 120.536(1) and 120.54 to implement the
7 provisions of this chapter conferring powers or duties upon
8 it.

9 (b) The department may employ and discharge such
10 employees, examiners, counsel, and other assistants as shall
11 be deemed necessary, and it shall prescribe their duties;
12 their compensation shall be the same as other state employees
13 receive for similar services.

14 (2) The department shall adopt a seal by which its
15 proceedings are authenticated. Any written instrument
16 purporting to be a copy of any action, proceeding, or finding
17 of fact by the department, or any record of the department
18 authenticated by the seal, shall be accepted by all the courts
19 of this state as prima facie evidence of the contents thereof.

20 (3) The papers, documents, reports, or any other
21 investigatory records of the department are confidential and
22 exempt from the provisions of s. 119.07(1) until such
23 investigation is completed or ceases to be active. For the
24 purpose of this section, an investigation is considered
25 "active" while the investigation is being conducted by the
26 department with a reasonable, good faith belief that it may
27 lead to the filing of administrative, civil, or criminal
28 proceedings. An investigation does not cease to be active if
29 the department is proceeding with reasonable dispatch and
30 there is good faith belief that action may be initiated by the
31 department or other administrative or law enforcement agency.

1 Section 808. Subsection (3) of section 648.34, Florida
2 Statutes, is amended to read:

3 648.34 Bail bond agents; qualifications.--

4 (3) The department may collect a fee necessary to
5 cover the cost of a character and credit report made by an
6 established and reputable independent reporting service. The
7 fee shall be deposited to the credit of the Insurance
8 ~~Commissioner's~~ Regulatory Trust Fund. Any information so
9 furnished is confidential and exempt from the provisions of s.
10 119.07(1).

11 Section 809. Subsection (5) of section 648.355,
12 Florida Statutes, is amended to read:

13 648.355 Temporary limited license as limited surety
14 agent or professional bail bond agent; pending examination.--

15 (5) The department may collect a fee necessary to
16 cover the cost of a character and credit report made by an
17 established and reputable independent reporting service. The
18 fee shall be deposited to the credit of the Insurance
19 ~~Commissioner's~~ Regulatory Trust Fund.

20 Section 810. Subsection (3) of section 648.37, Florida
21 Statutes, is amended to read:

22 648.37 Runners; qualifications.--

23 (3) The department may collect a fee necessary to
24 cover the cost of a character and credit report made by an
25 established and reputable independent reporting service. The
26 fee shall be deposited to the credit of the Insurance
27 ~~Commissioner's~~ Regulatory Trust Fund. Any information so
28 furnished is confidential and exempt from the provisions of s.
29 119.07(1).

30
31

1 Section 811. Paragraph (b) of subsection (1) and
2 paragraph (b) of subsection (2) of section 648.386, Florida
3 Statutes, are amended to read:

4 648.386 Qualifications for prelicensing and continuing
5 education schools and instructors.--

6 (1) SCHOOLS AND CURRICULUM FOR PRELICENSING
7 SCHOOLS.--In order to be considered for approval and
8 certification as an approved limited surety agent and
9 professional bail bond agent prelicensing school, such entity
10 must:

11 (b) Submit a prelicensing course curriculum to the
12 Department of Financial Services ~~Insurance~~ for approval.

13 (2) SCHOOLS AND CURRICULUM FOR CONTINUING EDUCATION
14 SCHOOLS.--In order to be considered for approval and
15 certification as an approved limited surety agent and
16 professional bail bond agent continuing education school, such
17 entity must:

18 (b) Submit a course curriculum to the Department of
19 Financial Services ~~Insurance~~ for approval.

20 Section 812. Subsection (9) of section 648.442,
21 Florida Statutes, is amended to read:

22 648.442 Collateral security.--

23 (9) An indemnity agreement may not be entered into
24 between a principal and either a surety or any agent of the
25 surety, and an application may not be accepted either by a
26 bail bond agent engaged in the bail bond business or by a
27 surety company for a bail bond in which an indemnity agreement
28 is required between a principal and either a surety or any
29 agent of such surety, unless the indemnity agreement reads as
30 follows: "For good and valuable consideration, the
31 undersigned principal agrees to indemnify and hold harmless

1 the surety company or its agent for all losses not otherwise
2 prohibited by law or by rules of the Department of Financial
3 Services Insurance."

4 Section 813. Subsection (4) of section 650.06, Florida
5 Statutes, is amended to read:

6 650.06 Social Security Contribution Trust Fund.--

7 (4) The Chief Financial Officer ~~Treasurer of the state~~
8 shall be ex officio treasurer and custodian of the Social
9 Security Contribution Trust Fund and shall administer such
10 fund in accordance with the provisions of this chapter and the
11 directions of the state agency. The Chief Financial Officer
12 ~~Treasurer~~ shall pay all warrants drawn ~~by the Comptroller~~ upon
13 the fund in accordance with the provisions of this section and
14 with such regulations as the state agency may prescribe
15 pursuant thereto.

16 Section 814. Subsection (3) of section 651.011,
17 Florida Statutes, is amended to read:

18 651.011 Definitions.--For the purposes of this
19 chapter, the term:

20 (3) "Department" means the Department of Financial
21 Services Insurance ~~of this state~~.

22 Section 815. Subsection (5) of section 651.015,
23 Florida Statutes, is amended to read:

24 651.015 Administration; forms; fees; rules;
25 fines.--The administration of this chapter is vested in the
26 department, which shall:

27 (5) Deposit all fees and fines collected under the
28 provisions of this chapter into the Insurance ~~Commissioner's~~
29 Regulatory Trust Fund.

30 Section 816. Subsection (3) of section 651.0235,
31 Florida Statutes, is amended to read:

1 651.0235 Validity of provisional certificates of
2 authority and certificates of authority.--

3 (3) The department ~~of Insurance~~ shall notify the
4 Agency for Health Care Administration of any facility for
5 which a provisional certificate of authority or certificate of
6 authority is no longer valid.

7 Section 817. Paragraph (b) of subsection (1) of
8 section 651.035, Florida Statutes, is amended to read:

9 651.035 Minimum liquid reserve requirements.--

10 (1)

11 (b) A provider which has outstanding indebtedness
12 which requires what is normally referred to as a "debt service
13 reserve" to be held in escrow pursuant to a trust indenture or
14 mortgage lien on the facility and for which the debt service
15 reserve may only be used to pay principal and interest
16 payments on the debt which the debtor is obligated to pay, and
17 which may include taxes and insurance, may include such debt
18 service reserve in its computation of its minimum liquid
19 reserve to satisfy this subsection, provided that the provider
20 furnishes to the department ~~of Insurance~~ a copy of the
21 agreement under which such debt service is held, together with
22 a statement of the amount being held in escrow for the debt
23 service reserve, certified by the lender or trustee and the
24 provider to be correct. The trustee shall provide the
25 department with any information concerning the debt service
26 reserve account upon request of the provider or the
27 department.

28 Section 818. Subsection (1) of section 651.121,
29 Florida Statutes, is amended to read:

30 651.121 Advisory council.--

31

1 (1) The Continuing Care Advisory Council to the
2 Department of Financial Services ~~Insurance~~ is created to
3 consist of 10 members who are residents of this state
4 appointed by the Governor and geographically representative of
5 this state. Three members shall be administrators of
6 facilities which hold valid certificates of authority under
7 this chapter and shall have been actively engaged in the
8 offering of continuing care agreements in this state for 5
9 years before appointment. The remaining members shall include:

10 (a) A representative of the business community whose
11 expertise is in the area of management.

12 (b) A representative of the financial community who is
13 not a facility owner or administrator.

14 (c) A certified public accountant.

15 (d) An attorney.

16 (e) Three residents who hold continuing care
17 agreements with a facility certified in this state.

18 Section 819. Subsection (4) of section 651.125,
19 Florida Statutes, is amended to read:

20 651.125 Criminal penalties; injunctive relief.--

21 (4) Any action brought by the department against a
22 provider shall not abate by reason of a sale or other transfer
23 of ownership of the facility used to provide care, which
24 provider is a party to the action, except with the express
25 written consent of the Chief Financial Officer ~~Treasurer and~~
26 ~~Insurance Commissioner~~.

27 Section 820. Subsection (1) of section 655.001,
28 Florida Statutes, is amended to read:

29 655.001 Purpose; application.--The purposes of the
30 financial institutions codes are to:

31

1 (1) Provide general regulatory powers to be exercised
2 by the Department of Financial Services ~~Banking and Finance~~ in
3 relation to the regulation of financial institutions. The
4 financial institutions codes apply to all state-authorized or
5 state-chartered financial institutions and to the enforcement
6 of all laws relating to state-authorized or state-chartered
7 financial institutions.

8 Section 821. Paragraph (e) of subsection (1) of
9 section 655.005, Florida Statutes, is amended to read:

10 655.005 Definitions.--

11 (1) As used in the financial institutions codes,
12 unless the context otherwise requires, the term:

13 (e) "Department" means the Department of Financial
14 Services ~~Banking and Finance~~.

15 Section 822. Paragraph (f) of subsection (3) of
16 section 655.057, Florida Statutes, is amended to read:

17 655.057 Records; limited restrictions upon public
18 access.--

19 (3) The provisions of this section do not prevent or
20 restrict:

21 (f) Furnishing information upon request to the
22 Division of Treasury ~~State Treasurer~~ regarding the financial
23 condition of any financial institution that is, or has applied
24 to be, designated as a qualified public depository pursuant to
25 chapter 280.

26
27 Any confidential information or records obtained from the
28 department pursuant to this subsection shall be maintained as
29 confidential and exempt from the provisions of s. 119.07(1).

30 Section 823. Paragraph (a) of subsection (1) of
31 section 655.90, Florida Statutes, is amended to read:

1 655.90 Closing during emergencies and other special
2 days.--

3 (1) DEFINITIONS.--As used in this section, the term:

4 (a) "Commissioner" means the officer of this state
5 designated by law as the head of the department of ~~Banking and~~
6 ~~Finance~~ and any other person lawfully exercising such powers,
7 whether as a deputy to such officer, as a director, bureau
8 chief, or financial administrator of or within such
9 department, or otherwise.

10 Section 824. Subsection (7) of section 657.002,
11 Florida Statutes, is amended to read:

12 657.002 Definitions.--As used in this part:

13 (7) "Department" means the Department of Financial
14 Services ~~Banking and Finance~~.

15 Section 825. Subsection (3) of section 657.253,
16 Florida Statutes, is amended to read:

17 657.253 Definitions.--As used in this part:

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

20 Section 826. Subsection (3) of section 658.23, Florida
21 Statutes, is amended to read:

22 658.23 Submission of articles of incorporation;
23 contents; form; approval; filing; commencement of corporate
24 existence; bylaws.--

25 (3) Within 30 days of receipt of the executed articles
26 of incorporation in the form previously approved, and the
27 required filing fees, the department shall place the following
28 legend upon the articles of incorporation and affix the seal
29 of the Office of the Chief Financial Officer ~~Comptroller of~~
30 ~~Florida~~ thereto. The legend shall in substance read:

31 "Approved by the Department of Financial Services ~~Banking and~~

1 ~~Finance~~ this day of(herein the name and
2 signature of the head of the department)...." Thereafter, the
3 articles of incorporation shall be filed with the Department
4 of State.

5 Section 827. Paragraph (k) of subsection (2) of
6 section 658.295, Florida Statutes, is amended to read:

7 658.295 Interstate banking.--

8 (2) DEFINITIONS.--For purposes of this section, the
9 term:

10 (k) "Department" means the Department of Financial
11 Services ~~Banking and Finance~~.

12 Section 828. Paragraph (e) of subsection (4) of
13 section 658.2953, Florida Statutes, is amended to read:

14 658.2953 Interstate branching.--

15 (4) DEFINITIONS.--As used in this section, unless a
16 different meaning is required by the context:

17 (e) "Department" means the Department of Financial
18 Services ~~Banking and Finance~~.

19 Section 829. Subsection (3) of section 658.83, Florida
20 Statutes, is amended to read:

21 658.83 Liquidator; powers and duties.--

22 (3) Such liquidator shall pay all moneys received to
23 the Chief Financial Officer ~~Treasurer~~ to be held as a special
24 deposit for the use and benefit of the creditors subject to
25 the order of the department and also shall make reports
26 quarterly, or when called upon, to the department of all her
27 or his acts and proceedings.

28 Section 830. Section 660.27, Florida Statutes, is
29 amended to read:

30 660.27 Deposit of securities with Chief Financial
31 Officer ~~Treasurer~~.--

1 (1) Before transacting any trust business in this
2 state, every trust company and every state or national bank or
3 state or federal association having trust powers shall give
4 satisfactory security by the deposit or pledge of security of
5 the kind or type provided in this section having at all times
6 a market value in an amount equal to 25 percent of the issued
7 and outstanding capital stock of such trust company, bank, or
8 state or federal stock association or, in the case of a
9 federal mutual association, an equivalent amount determined by
10 the department, or the sum of \$25,000, whichever is greater.
11 However, the value of the security deposited or pledged
12 pursuant to the provisions of this section shall not be
13 required to exceed \$500,000. Any notes, mortgages, bonds, or
14 other securities, other than shares of stock, eligible for
15 investment by a state bank, state association, or state trust
16 company, or eligible for investment by fiduciaries, shall be
17 accepted as satisfactory security for the purposes of this
18 section.

19 (2) The trust company, bank, or association shall
20 provide to the Chief Financial Officer ~~Treasurer~~ the
21 following:

22 (a) Written information which includes full legal
23 name; federal employer identification number; principal place
24 of business; amount of capital stock; and amount of required
25 collateral.

26 (b) The required information listed in paragraph (a)
27 shall be provided annually as of September 30 and shall be due
28 November 15.

29 (3) The Chief Financial Officer ~~Treasurer~~ shall
30 determine whether the security deposited or pledged pursuant
31 to this section, or tendered for such deposit or pledge, is of

1 the kind or type permitted, and has a market value in the
2 amount required, by subsection (1). The security required by
3 this section shall be deposited with or to the credit of, or
4 pledged to, the Chief Financial Officer ~~Treasurer~~ for the
5 account of each state or national bank, state or federal
6 association, or trust company depositing or pledging the same
7 and shall be used, if at all, by the liquidator of such bank,
8 association, or trust company with first priority being given
9 to claims on account of the trust business or fiduciary
10 functions of such bank, association, or trust company or,
11 prior to liquidation, for the payment of any judgment or
12 decree which may be rendered against such bank, association,
13 or trust company in connection with its trust business or its
14 fiduciary functions if such judgment or decree is not
15 otherwise paid by, or out of other assets of, such bank,
16 association, or trust company.

17 (4) Any security of any kind which has been deposited
18 or pledged as provided in this section may at any time, by or
19 upon the direction of such bank, association, or trust company
20 which deposited or pledged such security, be withdrawn and
21 released from such pledge provided that simultaneously
22 therewith satisfactory security as provided in this section,
23 in such amount, if any, as may be necessary in order to comply
24 with the requirements of this section, is substituted for the
25 security so withdrawn and released.

26 (5) With the approval of the Chief Financial Officer
27 ~~Treasurer~~, each trust company, bank, or association as pledgor
28 may deposit eligible collateral with a custodian. This
29 custodian shall not be affiliated or related to the trust
30 company, bank, or association. Collateral must be deposited
31

1 using the collateral agreements and provisions as set forth in
2 s. 280.041(1) and (2).

3 Section 831. Section 660.28, Florida Statutes, is
4 amended to read:

5 660.28 Exemption from bond and other security as
6 fiduciary.--A trust company or trust department maintaining
7 security with the Chief Financial Officer ~~Treasurer~~ as
8 required by s. 660.27 shall not be required by the state or
9 any of its political subdivisions or by a court of this state
10 to furnish any bond or other security as a condition of, or in
11 connection with, acting in any fiduciary capacity which such
12 trust company or trust department is lawfully permitted to
13 accept or assume.

14 Section 832. Subsection (2) of section 687.13, Florida
15 Statutes, is amended to read:

16 687.13 International transactions.--

17 (2) The provisions of this chapter shall not apply to
18 any international banking facility "deposit," "borrowing," or
19 "extension of credit," as those terms are defined by the
20 Department of Financial Services ~~Banking and Finance~~ pursuant
21 to s. 655.071.

22 Section 833. Subsection (3) of section 687.14, Florida
23 Statutes, is amended to read:

24 687.14 Definitions.--As used in this act, unless the
25 context otherwise requires:

26 (3) "Department" means the Department of Financial
27 Services ~~Banking and Finance~~.

28 Section 834. Subsection (2) of section 697.202,
29 Florida Statutes, is amended to read:

30 697.202 Definitions of terms used in ss.

31 697.20-697.206.--As used in ss. 697.20-697.206, the term:

1 (2) "Department" means the Department of Financial
2 Services Insurance.

3 Section 835. Section 697.205, Florida Statutes, is
4 amended to read:

5 697.205 Recoveries from the trust fund.--

6 (1)(a) Any person is eligible to seek recovery from
7 the Treasury ~~Treasurer's~~ Administrative and Investment Trust
8 Fund if:

9 1. Such person was the mortgagee of a home equity
10 conversion mortgage which was foreclosed upon termination, and
11 the proceeds from the foreclosure sale were insufficient to
12 repay the full loan amount due;

13 2. Such person has caused to be issued a writ of
14 execution upon a decree rendered pursuant to chapter 702, and
15 the officer executing the writ has made a return showing that
16 no real or personal property of the judgment debtor can be
17 found which is liable to be levied upon in satisfaction of the
18 decree or that the amount realized on the sale of the judgment
19 debtor's property pursuant to such execution was insufficient
20 to satisfy the judgment;

21 3. Such person has made all searches and inquiries
22 which are reasonable to ascertain whether the judgment debtor
23 possesses real or personal property or other assets subject to
24 being sold or applied in satisfaction of the judgment, and
25 such person through her or his search has discovered no
26 property or assets or has discovered property and assets and
27 taken all necessary action and proceedings for the application
28 of such property and assets in satisfaction of the judgment
29 but the amounts thereby realized were insufficient to satisfy
30 the judgment;

31

1 4. Such person has applied any amounts recovered from
2 the judgment debtor, or from any other source, to the
3 deficiency decree; or

4 5. The mortgage on which recovery is sought was
5 insured pursuant to s. 697.204 prior to July 1, 1993.

6 (b) Any person who meets all of the conditions
7 prescribed in subsection (1) may apply to the department for
8 payment to be made to such person from the Treasury
9 ~~Treasurer's~~ Administrative and Investment Trust Fund in an
10 amount equal to the unsatisfied portion of such person's
11 deficiency decree. Such amount may not exceed the difference
12 between the amount of the proceeds from a foreclosure sale and
13 the loan amount due, including principal and interest.

14 (c) Upon receipt by the mortgagee of the payment from
15 the Treasury ~~Treasurer's~~ Administrative and Investment Trust
16 Fund, the mortgagee shall assign to the department any
17 additional right, title, and interest in the judgment, to the
18 extent of such payment.

19 (2)(a) If a search is made by the mortgagee to
20 determine all of the debtor's real and personal property which
21 may be applied towards payment of the debt and it is
22 determined that foreclosure of the home equity conversion
23 mortgage would not result in recovering any significant
24 additional assets of the debtor which may be used to satisfy
25 the mortgage, the mortgagee may still be able to recover from
26 the fund without having to foreclose, provided that such
27 mortgage was insured pursuant to s. 697.204 prior to July 1,
28 1993.

29 (b) Any person who meets all of the conditions set by
30 rule for recovery under this subsection may apply to the
31 department for payment to be made to such person from the

1 Treasury ~~Treasurer's~~ Administrative and Investment Trust Fund
2 in an amount equal to the maximum recovery as provided herein.

3 Section 836. Section 697.206, Florida Statutes, is
4 amended to read:

5 697.206 Department of Financial Services Insurance;
6 powers and duties.--

7 (1) The Department of Financial Services Insurance
8 shall have all the powers necessary or appropriate to carry
9 out the purposes and provisions of ss. 697.20-697.206,
10 including the power to:

11 (a) Make contracts and agreements with other agencies
12 of the state, the Federal Government, any other public agency,
13 or any other public person, association, corporation, local
14 government, or other entity in exercising its powers and
15 performing its duties under ss. 697.20-697.206.

16 (b) Seek and accept funding from any public or private
17 source.

18 (2) On or before March 1 of each year, the Department
19 of Financial Services Insurance shall make a report to the
20 Legislature on the activities undertaken pursuant to ss.
21 697.20-697.206.

22 Section 837. Paragraph (c) of subsection (3) of
23 section 713.596, Florida Statutes, is amended to read:

24 713.596 Molder's liens.--

25 (3) SALE.--

26 (c)1. The proceeds of the sale must be paid first to
27 any holder of a security interest perfected in this state. Any
28 excess must be paid to the molder holding the lien created by
29 this section. Any remaining amount is to be paid to the
30 customer, if the customer's address is known, or to the Chief
31 Financial Officer ~~State Treasurer~~ for deposit in the General

1 Revenue Fund if the customer's address is unknown to the
2 molder at the time of the sale.

3 2. A sale may not be made under this section if it
4 would be in violation of any right of a customer under federal
5 patent or copyright law.

6 Section 838. Subsection (4) of section 716.02, Florida
7 Statutes, is amended to read:

8 716.02 Escheat of funds in the possession of federal
9 agencies.--All property within the provisions of subsections
10 (1), (2), (3), (4) and (5), are declared to have escheated, or
11 to escheat, including all principal and interest accruing
12 thereon, and to have become the property of the state.

13 (4) In the event any money is due to any resident of
14 this state as a refund, rebate or tax rebate from the United
15 States Commissioner of Internal Revenue, the United States
16 Treasurer, or other governmental agency or department, which
17 said resident will, or is likely to have her or his rights to
18 apply for and secure such refund or rebate barred by any
19 statute of limitations or, in any event, has failed for a
20 period of 1 year after said resident could have filed a claim
21 for said refund or rebate, the Department of Financial
22 Services ~~Banking and Finance~~ is hereby appointed agent of such
23 resident to demand, file and apply for said refund or rebate,
24 and is hereby appointed to do any act which a natural person
25 could do to recover such ~~said~~ money, and it is hereby declared
26 that when the department files such ~~said~~ application or any
27 other proceeding to secure such ~~said~~ refund or rebate, its
28 agency is coupled with an interest in the money sought and
29 money recovered.

30 Section 839. Section 716.03, Florida Statutes, is
31 amended to read:

1 716.03 Department to institute proceedings to recover
2 escheated property.--When there exists, or may exist,
3 escheated funds or property under this chapter, the Department
4 of Financial Services ~~Banking and Finance~~ shall demand or
5 institute proceedings in the name of the state for an
6 adjudication that an escheat to the state of such funds or
7 property has occurred; and shall take appropriate action to
8 recover such funds or property.

9 Section 840. Section 716.04, Florida Statutes, is
10 amended to read:

11 716.04 Jurisdiction.--Whenever the Department of
12 Financial Services ~~Banking and Finance~~ is of the opinion an
13 escheat has occurred, or shall occur, of any money or other
14 property deposited in the custody of, or under the control of,
15 any court of the United States, in and for any district within
16 the state, or in the custody of any depository, registry or
17 clerk or other officer of such court, or the treasury of the
18 United States, it shall cause to be filed a complaint in the
19 Circuit Court of Leon County, or in any other court of
20 competent jurisdiction, to ascertain if any escheat has
21 occurred, and to cause said court to enter a judgment or
22 decree of escheat in favor of the state, with costs,
23 disbursements, and attorney fee.

24 Section 841. Section 716.05, Florida Statutes, is
25 amended to read:

26 716.05 Money recovered to be paid into State
27 Treasury.--When any funds or property which has escheated
28 within the meaning of this chapter has been recovered by the
29 Department of Financial Services ~~Banking and Finance~~, the
30 department shall first pay all costs incident to the
31 collection and recovery of such funds or property and shall

1 promptly deposit the remaining balance of such funds or
2 property with the Chief Financial Officer ~~Treasurer of the~~
3 ~~state~~, to be distributed in accordance with law.

4 Section 842. Section 716.06, Florida Statutes, is
5 amended to read:

6 716.06 Public records.--All records in the office of
7 the Chief Financial Officer ~~State Treasurer~~ or the Department
8 of Financial Services ~~Banking and Finance~~ relating to federal
9 funds, pursuant to this chapter, shall be public records.

10 Section 843. Section 716.07, Florida Statutes, is
11 amended to read:

12 716.07 Recovery of escheated property by claimant.--

13 (1) Any person who claims any property, funds, or
14 money delivered to the ~~State~~ Treasurer or Chief Financial
15 Officer under this chapter, shall, within 5 years from the
16 date of receipt of such ~~said~~ property, funds, or money, file a
17 verified claim with the Chief Financial Officer ~~State~~
18 ~~Treasurer~~, setting forth the facts upon which such ~~said~~ party
19 claims to be entitled to recover such ~~said~~ money or property.
20 The Chief Financial Officer ~~State Treasurer~~, within 5 days
21 after receipt of such claim, shall submit the ~~said~~ verified
22 claim or a verified copy thereof, to the Department of
23 Financial Services ~~Banking and Finance~~. All claims made for
24 recovery of property, funds, or money, not filed within 5
25 years from the date that such ~~said~~ property, funds, or money
26 is received by the Chief Financial Officer ~~State Treasurer~~,
27 shall be forever barred, and the Chief Financial Officer
28 ~~Treasurer of the state~~ shall be without power to consider or
29 determine any claims so made by any claimant after 5 years
30 from the date that the property, funds, or money was received
31 by the Chief Financial Officer ~~State Treasurer~~.

1 (2) The Chief Financial Officer ~~Comptroller~~ shall
2 approve or disapprove the claim. If the claim is approved,
3 the funds, money, or property of the claimant, less any
4 expenses and costs which shall have been incurred by the state
5 in securing the possession of said property, as provided by
6 this chapter, shall be delivered to the claimant by the Chief
7 Financial Officer ~~State Treasurer~~ upon warrant issued
8 according to law and her or his receipt taken therefor. If
9 the court finds, upon any judicial review, that the claimant
10 is entitled to the property, money, or funds claimed, and
11 shall render judgment in her or his or its favor, declaring
12 that the claimant is entitled to such ~~said~~ property, funds, or
13 money, then upon presentation of said judgment or a certified
14 copy thereof to the Chief Financial Officer ~~State Comptroller~~,
15 the Chief Financial Officer ~~said Comptroller~~ shall draw her or
16 his warrant for the amount of money stated in such ~~said~~
17 judgment, without interest or cost to the state, less any sum
18 paid by the state as costs or expenses in securing possession
19 of such ~~said~~ property, funds, or money. When payment has been
20 made to any claimant, no action thereafter shall be maintained
21 by any other claimant against the state or any officer
22 thereof, for or on account of such ~~said~~ money, property, or
23 funds.

24 Section 844. Subsection (6) of section 717.101,
25 Florida Statutes, is amended to read:

26 717.101 Definitions.--As used in this chapter, unless
27 the context otherwise requires:

28 (6) "Department" means the Department of Financial
29 Services ~~Banking and Finance~~.

30 Section 845. Subsection (1) of section 717.135,
31 Florida Statutes, is amended to read:

1 717.135 Agreement to locate reported property.--

2 (1) All agreements between an owner's representative
3 and an owner for compensation to recover or assist in the
4 recovery of property reported to the department under s.
5 717.117 shall either:

6 (a) Limit the fees for services for each owner
7 contract to \$25 for all contracts relating to unclaimed
8 property with a dollar value below \$250. For all contracts
9 relating to unclaimed property with a dollar value of \$250 and
10 above, fees shall be limited to 15 percent on property held by
11 the department for 24 months or less and 25 percent on
12 property held by the department for more than 24 months. Fees
13 for cash accounts shall be based on the value of the property
14 at the time the agreement for recovery is signed by the
15 apparent owner. Fees for accounts containing securities or
16 other intangible ownership interests, which securities or
17 interests are not converted to cash, shall be based on the
18 purchase price of the security as quoted on a national
19 exchange or other market on which the ownership interest is
20 regularly traded at the time the securities or other ownership
21 interest is remitted to the owner or the owner's
22 representative. Fees for tangible property or safe-deposit box
23 accounts shall be based on the value of the tangible property
24 or contents of the safe-deposit box at the time the ownership
25 interest is transferred or remitted to the owner or the
26 owner's representative; or

27 (b) Disclose that the property is held by the
28 Department of Financial Services ~~Banking and Finance~~ pursuant
29 to this chapter, the person or name of the entity that held
30 the property prior to the property becoming unclaimed, the
31 date of the holder's last contact with the owner, if known,

1 and the approximate value of the property, and identify which
2 of the following categories of unclaimed property the owner's
3 representative is seeking to recover:

- 4 1. Cash accounts.
- 5 2. Stale dated checks.
- 6 3. Life insurance or annuity contract assets.
- 7 4. Utility deposits.
- 8 5. Securities or other interests in business
9 associations.
- 10 6. Wages.
- 11 7. Accounts receivable.
- 12 8. Contents of safe-deposit boxes.

13
14 However, this section shall not apply to contracts made in
15 connection with guardianship proceedings or the probate of an
16 estate.

17 Section 846. Section 717.138, Florida Statutes, is
18 amended to read:

19 717.138 Rulemaking authority.--The Department of
20 Financial Services ~~Banking and Finance~~ shall administer and
21 provide for the enforcement of this chapter. The department
22 has authority to adopt rules pursuant to ss. 120.536(1) and
23 120.54 to implement the provisions of this chapter. The
24 department may adopt rules to allow for electronic filing of
25 fees, forms, and reports required by this chapter.

26 Section 847. Paragraph (d) of subsection (1) of
27 section 718.501, Florida Statutes, is amended to read:

28 718.501 Powers and duties of Division of Florida Land
29 Sales, Condominiums, and Mobile Homes.--

30 (1) The Division of Florida Land Sales, Condominiums,
31 and Mobile Homes of the Department of Business and

1 Professional Regulation, referred to as the "division" in this
2 part, in addition to other powers and duties prescribed by
3 chapter 498, has the power to enforce and ensure compliance
4 with the provisions of this chapter and rules promulgated
5 pursuant hereto relating to the development, construction,
6 sale, lease, ownership, operation, and management of
7 residential condominium units. In performing its duties, the
8 division has the following powers and duties:

9 (d) Notwithstanding any remedies available to unit
10 owners and associations, if the division has reasonable cause
11 to believe that a violation of any provision of this chapter
12 or rule promulgated pursuant hereto has occurred, the division
13 may institute enforcement proceedings in its own name against
14 any developer, association, officer, or member of the board of
15 administration, or its assignees or agents, as follows:

16 1. The division may permit a person whose conduct or
17 actions may be under investigation to waive formal proceedings
18 and enter into a consent proceeding whereby orders, rules, or
19 letters of censure or warning, whether formal or informal, may
20 be entered against the person.

21 2. The division may issue an order requiring the
22 developer, association, officer, or member of the board of
23 administration, or its assignees or agents, to cease and
24 desist from the unlawful practice and take such affirmative
25 action as in the judgment of the division will carry out the
26 purposes of this chapter. Such affirmative action may include,
27 but is not limited to, an order requiring a developer to pay
28 moneys determined to be owed to a condominium association.

29 3. The division may bring an action in circuit court
30 on behalf of a class of unit owners, lessees, or purchasers
31 for declaratory relief, injunctive relief, or restitution.

1 4. The division may impose a civil penalty against a
2 developer or association, or its assignee or agent, for any
3 violation of this chapter or a rule promulgated pursuant
4 hereto. The division may impose a civil penalty individually
5 against any officer or board member who willfully and
6 knowingly violates a provision of this chapter, a rule adopted
7 pursuant hereto, or a final order of the division. The term
8 "willfully and knowingly" means that the division informed the
9 officer or board member that his or her action or intended
10 action violates this chapter, a rule adopted under this
11 chapter, or a final order of the division and that the officer
12 or board member refused to comply with the requirements of
13 this chapter, a rule adopted under this chapter, or a final
14 order of the division. The division, prior to initiating
15 formal agency action under chapter 120, shall afford the
16 officer or board member an opportunity to voluntarily comply
17 with this chapter, a rule adopted under this chapter, or a
18 final order of the division. An officer or board member who
19 complies within 10 days is not subject to a civil penalty. A
20 penalty may be imposed on the basis of each day of continuing
21 violation, but in no event shall the penalty for any offense
22 exceed \$5,000. By January 1, 1998, the division shall adopt,
23 by rule, penalty guidelines applicable to possible violations
24 or to categories of violations of this chapter or rules
25 adopted by the division. The guidelines must specify a
26 meaningful range of civil penalties for each such violation of
27 the statute and rules and must be based upon the harm caused
28 by the violation, the repetition of the violation, and upon
29 such other factors deemed relevant by the division. For
30 example, the division may consider whether the violations were
31 committed by a developer or owner-controlled association, the

1 size of the association, and other factors. The guidelines
2 must designate the possible mitigating or aggravating
3 circumstances that justify a departure from the range of
4 penalties provided by the rules. It is the legislative intent
5 that minor violations be distinguished from those which
6 endanger the health, safety, or welfare of the condominium
7 residents or other persons and that such guidelines provide
8 reasonable and meaningful notice to the public of likely
9 penalties that may be imposed for proscribed conduct. This
10 subsection does not limit the ability of the division to
11 informally dispose of administrative actions or complaints by
12 stipulation, agreed settlement, or consent order. All amounts
13 collected shall be deposited with the Chief Financial Officer
14 ~~Treasurer~~ to the credit of the Division of Florida Land Sales,
15 Condominiums, and Mobile Homes Trust Fund. If a developer
16 fails to pay the civil penalty, the division shall thereupon
17 issue an order directing that such developer cease and desist
18 from further operation until such time as the civil penalty is
19 paid or may pursue enforcement of the penalty in a court of
20 competent jurisdiction. If an association fails to pay the
21 civil penalty, the division shall thereupon pursue enforcement
22 in a court of competent jurisdiction, and the order imposing
23 the civil penalty or the cease and desist order will not
24 become effective until 20 days after the date of such order.
25 Any action commenced by the division shall be brought in the
26 county in which the division has its executive offices or in
27 the county where the violation occurred.

28 Section 848. Paragraph (d) of subsection (1) of
29 section 719.501, Florida Statutes, is amended to read:

30 719.501 Powers and duties of Division of Florida Land
31 Sales, Condominiums, and Mobile Homes.--

1 (1) The Division of Florida Land Sales, Condominiums,
2 and Mobile Homes of the Department of Business and
3 Professional Regulation, referred to as the "division" in this
4 part, in addition to other powers and duties prescribed by
5 chapter 498, has the power to enforce and ensure compliance
6 with the provisions of this chapter and rules promulgated
7 pursuant hereto relating to the development, construction,
8 sale, lease, ownership, operation, and management of
9 residential cooperative units. In performing its duties, the
10 division shall have the following powers and duties:

11 (d) Notwithstanding any remedies available to unit
12 owners and associations, if the division has reasonable cause
13 to believe that a violation of any provision of this chapter
14 or rule promulgated pursuant hereto has occurred, the division
15 may institute enforcement proceedings in its own name against
16 a developer, association, officer, or member of the board, or
17 its assignees or agents, as follows:

18 1. The division may permit a person whose conduct or
19 actions may be under investigation to waive formal proceedings
20 and enter into a consent proceeding whereby orders, rules, or
21 letters of censure or warning, whether formal or informal, may
22 be entered against the person.

23 2. The division may issue an order requiring the
24 developer, association, officer, or member of the board, or
25 its assignees or agents, to cease and desist from the unlawful
26 practice and take such affirmative action as in the judgment
27 of the division will carry out the purposes of this chapter.
28 Such affirmative action may include, but is not limited to, an
29 order requiring a developer to pay moneys determined to be
30 owed to a condominium association.

31

1 3. The division may bring an action in circuit court
2 on behalf of a class of unit owners, lessees, or purchasers
3 for declaratory relief, injunctive relief, or restitution.

4 4. The division may impose a civil penalty against a
5 developer or association, or its assignees or agents, for any
6 violation of this chapter or a rule promulgated pursuant
7 hereto. The division may impose a civil penalty individually
8 against any officer or board member who willfully and
9 knowingly violates a provision of this chapter, a rule adopted
10 pursuant to this chapter, or a final order of the division.
11 The term "willfully and knowingly" means that the division
12 informed the officer or board member that his or her action or
13 intended action violates this chapter, a rule adopted under
14 this chapter, or a final order of the division, and that the
15 officer or board member refused to comply with the
16 requirements of this chapter, a rule adopted under this
17 chapter, or a final order of the division. The division, prior
18 to initiating formal agency action under chapter 120, shall
19 afford the officer or board member an opportunity to
20 voluntarily comply with this chapter, a rule adopted under
21 this chapter, or a final order of the division. An officer or
22 board member who complies within 10 days is not subject to a
23 civil penalty. A penalty may be imposed on the basis of each
24 day of continuing violation, but in no event shall the penalty
25 for any offense exceed \$5,000. By January 1, 1998, the
26 division shall adopt, by rule, penalty guidelines applicable
27 to possible violations or to categories of violations of this
28 chapter or rules adopted by the division. The guidelines must
29 specify a meaningful range of civil penalties for each such
30 violation of the statute and rules and must be based upon the
31 harm caused by the violation, the repetition of the violation,

1 and upon such other factors deemed relevant by the division.
2 For example, the division may consider whether the violations
3 were committed by a developer or owner-controlled association,
4 the size of the association, and other factors. The guidelines
5 must designate the possible mitigating or aggravating
6 circumstances that justify a departure from the range of
7 penalties provided by the rules. It is the legislative intent
8 that minor violations be distinguished from those which
9 endanger the health, safety, or welfare of the cooperative
10 residents or other persons and that such guidelines provide
11 reasonable and meaningful notice to the public of likely
12 penalties that may be imposed for proscribed conduct. This
13 subsection does not limit the ability of the division to
14 informally dispose of administrative actions or complaints by
15 stipulation, agreed settlement, or consent order. All amounts
16 collected shall be deposited with the Chief Financial Officer
17 ~~Treasurer~~ to the credit of the Division of Florida Land Sales,
18 Condominiums, and Mobile Homes Trust Fund. If a developer
19 fails to pay the civil penalty, the division shall thereupon
20 issue an order directing that such developer cease and desist
21 from further operation until such time as the civil penalty is
22 paid or may pursue enforcement of the penalty in a court of
23 competent jurisdiction. If an association fails to pay the
24 civil penalty, the division shall thereupon pursue enforcement
25 in a court of competent jurisdiction, and the order imposing
26 the civil penalty or the cease and desist order shall not
27 become effective until 20 days after the date of such order.
28 Any action commenced by the division shall be brought in the
29 county in which the division has its executive offices or in
30 the county where the violation occurred.

31

1 Section 849. Subsection (3) of section 721.24, Florida
2 Statutes, is amended to read:

3 721.24 Firesafety.--

4 (3) The Division of State Fire Marshal of the
5 Department of Financial Services ~~Insurance~~ may prescribe
6 uniform standards for firesafety equipment for timeshare units
7 of timeshare plans for which the construction contracts were
8 let before October 1, 1983. An entire building shall be
9 equipped as outlined, except that the approved sprinkler
10 system may be delayed by the Division of State Fire Marshal
11 until October 1, 1991, on a schedule for complete compliance
12 in accordance with rules adopted by the Division of State Fire
13 Marshal, which schedule shall include a provision for a 1-year
14 extension which may be granted not more than three times for
15 any individual requesting an extension. The entire system
16 must be installed and operational by October 1, 1994. The
17 Division of State Fire Marshal shall not grant an extension
18 for the approved sprinkler system unless a written request for
19 the extension and a construction work schedule is submitted.
20 The Division of State Fire Marshal may grant an extension upon
21 demonstration that compliance with this section by the date
22 required would impose an extreme hardship and a
23 disproportionate financial impact. Any establishment that has
24 been granted an extension by the Division of State Fire
25 Marshal shall post, in a conspicuous place on the premises, a
26 public notice stating that the establishment has not yet
27 installed the approved sprinkler system required by law.

28 Section 850. Paragraph (e) of subsection (5) of
29 section 721.26, Florida Statutes, is amended to read:

30 721.26 Regulation by division.--The division has the
31 power to enforce and ensure compliance with the provisions of

1 this chapter, except for parts III and IV, using the powers
2 provided in this chapter, as well as the powers prescribed in
3 chapters 498, 718, and 719. In performing its duties, the
4 division shall have the following powers and duties:

5 (5) Notwithstanding any remedies available to
6 purchasers, if the division has reasonable cause to believe
7 that a violation of this chapter, or of any division rule or
8 order promulgated or issued pursuant to this chapter, has
9 occurred, the division may institute enforcement proceedings
10 in its own name against any regulated party, as such term is
11 defined in this subsection:

12 (e)1. The division may impose a penalty against any
13 regulated party for a violation of this chapter or any rule
14 adopted thereunder. A penalty may be imposed on the basis of
15 each day of continuing violation, but in no event may the
16 penalty for any offense exceed \$10,000. All accounts
17 collected shall be deposited with the Chief Financial Officer
18 ~~Treasurer~~ to the credit of the Division of Florida Land Sales,
19 Condominiums, and Mobile Homes Trust Fund.

20 2.a. If a regulated party fails to pay a penalty, the
21 division shall thereupon issue an order directing that such
22 regulated party cease and desist from further operation until
23 such time as the penalty is paid; or the division may pursue
24 enforcement of the penalty in a court of competent
25 jurisdiction.

26 b. If an association or managing entity fails to pay a
27 civil penalty, the division may pursue enforcement in a court
28 of competent jurisdiction.

29 Section 851. Paragraph (e) of subsection (5) of
30 section 723.006, Florida Statutes, is amended to read:

31

1 723.006 Powers and duties of division.--In performing
2 its duties, the division has the following powers and duties:

3 (5) Notwithstanding any remedies available to mobile
4 home owners, mobile home park owners, and homeowners'
5 associations, if the division has reasonable cause to believe
6 that a violation of any provision of this chapter or any rule
7 promulgated pursuant hereto has occurred, the division may
8 institute enforcement proceedings in its own name against a
9 developer, mobile home park owner, or homeowners' association,
10 or its assignee or agent, as follows:

11 (e)1. The division may impose a civil penalty against
12 a mobile home park owner or homeowners' association, or its
13 assignee or agent, for any violation of this chapter, a
14 properly promulgated park rule or regulation, or a rule or
15 regulation promulgated pursuant hereto. A penalty may be
16 imposed on the basis of each separate violation and, if the
17 violation is a continuing one, for each day of continuing
18 violation, but in no event may the penalty for each separate
19 violation or for each day of continuing violation exceed
20 \$5,000. All amounts collected shall be deposited with the
21 Chief Financial Officer ~~Treasurer~~ to the credit of the
22 Division of Florida Land Sales, Condominiums, and Mobile Homes
23 Trust Fund.

24 2. If a violator fails to pay the civil penalty, the
25 division shall thereupon issue an order directing that such
26 violator cease and desist from further violation until such
27 time as the civil penalty is paid or may pursue enforcement of
28 the penalty in a court of competent jurisdiction. If a
29 homeowners' association fails to pay the civil penalty, the
30 division shall thereupon pursue enforcement in a court of
31 competent jurisdiction, and the order imposing the civil

1 penalty or the cease and desist order shall not become
2 effective until 20 days after the date of such order. Any
3 action commenced by the division shall be brought in the
4 county in which the division has its executive offices or in
5 which the violation occurred.

6 Section 852. Subsections (2) and (3) and paragraph (a)
7 of subsection (5) of section 732.107, Florida Statutes, are
8 amended to read:

9 732.107 Escheat.--

10 (2) Property that escheats shall be sold as provided
11 in the Florida Probate Rules and the proceeds paid to the
12 Chief Financial Officer ~~Treasurer~~ of the state and deposited
13 in the State School Fund.

14 (3) At any time within 10 years after the payment to
15 the Chief Financial Officer ~~Treasurer~~, a person claiming to be
16 entitled to the proceeds may reopen the administration to
17 assert entitlement to the proceeds. If no claim is timely
18 asserted, the state's rights to the proceeds shall become
19 absolute.

20 (5)(a) If a person entitled to the proceeds assigns
21 the rights to receive payment to an attorney,
22 Florida-certified public accountant, or private investigative
23 agency which is duly licensed to do business in this state
24 pursuant to a written agreement with that person, the
25 Department of Financial Services ~~Banking and Finance~~ is
26 authorized to make distribution in accordance with the
27 assignment.

28 Section 853. Subsections (1), (2), and (3) and
29 paragraph (a) of subsection (5) of section 733.816, Florida
30 Statutes, are amended to read:

31

1 733.816 Disposition of unclaimed property held by
2 personal representatives.--

3 (1) In all cases in which there is unclaimed property
4 in the hands of a personal representative that cannot be
5 distributed or paid because of the inability to find the
6 lawful owner or because no lawful owner is known or because
7 the lawful owner refuses to accept the property after a
8 reasonable attempt to distribute it and after notice to that
9 lawful owner, the court shall order the personal
10 representative to sell the property and deposit the proceeds
11 and cash already in hand, after retaining those amounts
12 provided for in subsection (4), with the clerk and receive a
13 receipt, and the clerk shall deposit the funds in the registry
14 of the court to be disposed of as follows:

15 (a) If the value of the funds is \$500 or less, the
16 clerk shall post a notice for 30 days at the courthouse door
17 giving the amount involved, the name of the personal
18 representative, and the other pertinent information that will
19 put interested persons on notice.

20 (b) If the value of the funds is over \$500, the clerk
21 shall publish the notice once a month for 2 consecutive months
22 in a newspaper of general circulation in the county.

23
24 After the expiration of 6 months from the posting or first
25 publication, the clerk shall deposit the funds with the Chief
26 Financial Officer ~~State Treasurer~~ after deducting the clerk's
27 fees and the costs of publication.

28 (2) Upon receipt of the funds, the Chief Financial
29 Officer ~~State Treasurer~~ shall deposit them to the credit of
30 the State School Fund, to become a part of the school fund.
31 All interest and all income that may accrue from the money

1 while so deposited shall belong to the fund. The funds so
2 deposited shall constitute and be a permanent appropriation
3 for payments by the Chief Financial Officer ~~State Treasurer~~ in
4 obedience to court orders entered as provided by subsection
5 (3).

6 (3) Within 10 years from the date of deposit with the
7 Chief Financial Officer ~~State Treasurer~~, on written petition
8 to the court that directed the deposit of the funds and
9 informal notice to the Department of Legal Affairs, and after
10 proof of entitlement, any person entitled to the funds before
11 or after payment to the Chief Financial Officer ~~State~~
12 ~~Treasurer~~ and deposit as provided by subsection (1) may obtain
13 a court order directing the payment of the funds to that
14 person. All funds deposited with the Chief Financial Officer
15 ~~State Treasurer~~ and not claimed within 10 years from the date
16 of deposit shall escheat to the state for the benefit of the
17 State School Fund.

18 (5)(a) If a person entitled to the funds assigns the
19 right to receive payment or part payment to an attorney or
20 private investigative agency which is duly licensed to do
21 business in this state pursuant to a written agreement with
22 that person, the Department of Financial Services ~~Banking and~~
23 ~~Finance~~ is authorized to make distribution in accordance with
24 the assignment.

25 Section 854. Paragraphs (a), (b), and (c) of
26 subsection (2) of section 744.534, Florida Statutes, are
27 amended to read:

28 744.534 Disposition of unclaimed funds held by
29 guardian.--

30 (2)(a) In those cases in which it is appropriate for
31 the guardianship to terminate pursuant to s. 744.521 and in

1 which property in the hands of a guardian cannot be
2 distributed to the ward or the ward's estate solely because
3 the guardian is unable to locate the ward through diligent
4 search, the court shall order the guardian of the property to
5 sell the property of the ward and deposit the proceeds and
6 cash already on hand after retaining those amounts provided
7 for in paragraph (e) with the clerk of the court exercising
8 jurisdiction over the guardianship and receive a receipt. The
9 clerk shall deposit the funds in the registry of the court, to
10 be disposed of as follows:

11 1. If the value of the funds is \$50 or less, the clerk
12 shall post a notice for 30 days at the courthouse door giving
13 the amount involved, the name of the ward, and other pertinent
14 information that will put interested persons on notice.

15 2. If the value of the funds is over \$50, the clerk
16 shall publish the notice once a month for 2 consecutive months
17 in a newspaper of general circulation in the county.

18 3. After the expiration of 6 months from the posting
19 or first publication, the clerk shall deposit the funds with
20 the Chief Financial Officer ~~State Treasurer~~ after deducting
21 his or her fees and the costs of publication.

22 (b) Upon receipt of the funds, the Chief Financial
23 Officer ~~State Treasurer~~ shall deposit them to the credit of
24 public guardianship. All interest and all income that may
25 accrue from the money while so deposited shall belong to the
26 fund. The funds so deposited shall constitute and be a
27 permanent appropriation for payments by the Chief Financial
28 Officer ~~State Treasurer~~ in obedience to court orders entered
29 as provided by paragraph (c).

30 (c) Within 10 years from the date of deposit with the
31 Chief Financial Officer ~~State Treasurer~~, on written petition

1 to the court that directed the deposit of the funds and
2 informal notice to the Department of Legal Affairs, and after
3 proof of his or her right to them, any person entitled to the
4 funds, before or after payment to the Chief Financial Officer
5 ~~State Treasurer~~ and deposit as provided for in paragraph (a),
6 may obtain a court order directing the payment of the funds to
7 him or her. All funds deposited with the Chief Financial
8 Officer ~~State Treasurer~~ and not claimed within 10 years from
9 the date of deposit shall escheat to the state for the benefit
10 of public guardianship.

11 Section 855. Paragraphs (b), (c), (d), and (e) of
12 subsection (3) of section 766.105, Florida Statutes, are
13 amended to read:

14 766.105 Florida Patient's Compensation Fund.--

15 (3) THE FUND.--

16 (b) Fund administration and operation.--

17 1. The fund shall operate subject to the supervision
18 and approval of a board of governors consisting of a
19 representative of the insurance industry appointed by the
20 Chief Financial Officer ~~Insurance Commissioner~~, an attorney
21 appointed by The Florida Bar, a representative of physicians
22 appointed by the Florida Medical Association, a representative
23 of physicians' insurance appointed by the Chief Financial
24 Officer ~~Insurance Commissioner~~, a representative of
25 physicians' self-insurance appointed by the Chief Financial
26 Officer ~~Insurance Commissioner~~, two representatives of
27 hospitals appointed by the Florida Hospital Association, a
28 representative of hospital insurance appointed by the Chief
29 Financial Officer ~~Insurance Commissioner~~, a representative of
30 hospital self-insurance appointed by the Chief Financial
31 Officer ~~Insurance Commissioner~~, a representative of the

1 osteopathic physicians' or podiatric physicians' insurance or
2 self-insurance appointed by the Chief Financial Officer
3 ~~Insurance Commissioner~~, and a representative of the general
4 public appointed by the Chief Financial Officer ~~Insurance~~
5 ~~Commissioner~~. The board of governors shall, during the first
6 meeting after June 30 of each year, choose one of its members
7 to serve as chair of the board and another member to serve as
8 vice chair of the board. The members of the board shall be
9 appointed to serve terms of 4 years, except that the initial
10 appointments of a representative of the general public by the
11 Chief Financial Officer ~~Insurance Commissioner~~, an attorney by
12 The Florida Bar, a representative of physicians by the Florida
13 Medical Association, and one of the two representatives of the
14 Florida Hospital Association shall be for terms of 3 years;
15 thereafter, such representatives shall be appointed for terms
16 of 4 years. Subsequent to initial appointments for 4-year
17 terms, the representative of the osteopathic physicians' or
18 podiatric physicians' insurance or self-insurance appointed by
19 the Chief Financial Officer ~~Insurance Commissioner~~ and the
20 representative of hospital self-insurance appointed by the
21 Chief Financial Officer ~~Insurance Commissioner~~ shall be
22 appointed for 2-year terms; thereafter, such representatives
23 shall be appointed for terms of 4 years. Each appointed member
24 may designate in writing to the chair an alternate to act in
25 the member's absence or incapacity. A member of the board, or
26 the member's alternate, may be reimbursed from the assets of
27 the fund for expenses incurred by him or her as a member, or
28 alternate member, of the board and for committee work, but he
29 or she may not otherwise be compensated by the fund for his or
30 her service as a board member or alternate.

31

1 2. There shall be no liability on the part of, and no
2 cause of action of any nature shall arise against, the fund or
3 its agents or employees, professional advisers or consultants,
4 members of the board of governors or their alternates, or the
5 Department of Financial Services ~~Insurance~~ or its
6 representatives for any action taken by them in the
7 performance of their powers and duties pursuant to this
8 section.

9 (c) Powers of the fund.--The fund has the power to:

10 1. Sue and be sued, and appear and defend, in all
11 actions and proceedings in its name to the same extent as a
12 natural person.

13 2. Adopt, change, amend, and repeal a plan of
14 operation, not inconsistent with law, for the regulation and
15 administration of the affairs of the fund. The plan and any
16 changes thereto shall be filed with the Chief Financial
17 Officer ~~Insurance Commissioner~~ and are all subject to his or
18 her approval before implementation by the fund. All fund
19 members, board members, and employees shall comply with the
20 plan of operation.

21 3. Have and exercise all powers necessary or
22 convenient to effect any or all of the purposes for which the
23 fund is created.

24 4. Enter into such contracts as are necessary or
25 proper to carry out the provisions and purposes of this
26 section.

27 5. Employ or retain such persons as are necessary to
28 perform the administrative and financial transactions and
29 responsibilities of the fund and to perform other necessary or
30 proper functions unless prohibited by law.

31

1 6. Take such legal action as may be necessary to avoid
2 payment of improper claims.

3 7. Indemnify any employee, agent, member of the board
4 of governors or his or her alternate, or person acting on
5 behalf of the fund in an official capacity, for expenses,
6 including attorney's fees, judgments, fines, and amounts paid
7 in settlement actually and reasonably incurred by him or her
8 in connection with any action, suit, or proceeding, including
9 any appeal thereof, arising out of his or her capacity in
10 acting on behalf of the fund, if he or she acted in good faith
11 and in a manner he or she reasonably believed to be in, or not
12 opposed to, the best interests of the fund and, with respect
13 to any criminal action or proceeding, he or she had reasonable
14 cause to believe his or her conduct was lawful.

15 (d) Fees and assessments.--Each health care provider,
16 as set forth in subsection (2), electing to comply with
17 paragraph (2)(b) for a given fiscal year shall pay the fees
18 and any assessments established under this section relative to
19 such fiscal year, for deposit into the fund. Those entering
20 the fund after the fiscal year has begun shall pay a prorated
21 share of the yearly fees for a prorated membership.
22 Actuarially sound membership fees payable annually,
23 semiannually, or quarterly with appropriate service charges
24 shall be established by the fund before January 1 of each
25 fiscal year, based on the following considerations:

26 1. Past and prospective loss and expense experience in
27 different types of practice and in different geographical
28 areas within the state;

29 2. The prior claims experience of the members covered
30 under the fund; and

31

1 3. Risk factors for persons who are retired,
2 semiretired, or part-time professionals.
3
4 Such fees shall be based on not more than three geographical
5 areas, not necessarily contiguous, with five categories of
6 practice and with categories which contemplate separate risk
7 ratings for hospitals, for health maintenance organizations,
8 for ambulatory surgical facilities, and for other medical
9 facilities. The fund is authorized to adjust the fees of an
10 individual member to reflect the claims experience of such
11 member. Each fiscal year of the fund shall operate
12 independently of preceding fiscal years. Participants shall
13 only be liable for assessments for claims from years during
14 which they were members of the fund; in cases in which a
15 participant is a member of the fund for less than the total
16 fiscal year, a member shall be subject to assessments for that
17 year on a pro rata basis determined by the percentage of
18 participation for the year. The fund shall submit to the
19 Chief Financial Officer ~~Insurance Commissioner~~ the
20 classifications and membership fees to be charged, and the
21 Chief Financial Officer ~~Insurance Commissioner~~ shall review
22 such fees and shall approve them if they comply with all the
23 requirements of this section and fairly reflect the
24 considerations provided for in this section. If the
25 classifications or membership fees do not comply with this
26 section, the Chief Financial Officer ~~Insurance Commissioner~~
27 shall set classifications or membership fees which do comply
28 and which give due recognition to all considerations provided
29 for in this section. Nothing contained herein shall be
30 construed as imposing liability for payment of any part of a
31 fund deficit on the Joint Underwriting Association authorized

1 by s. 627.351(4) or its member insurers. If the fund
2 determines that the amount of money in an account for a given
3 fiscal year is in excess of or not sufficient to satisfy the
4 claims made against the account, the fund shall certify the
5 amount of the projected excess or insufficiency to the Chief
6 Financial Officer ~~Insurance Commissioner~~ and request the Chief
7 Financial Officer ~~Insurance Commissioner~~ to levy an assessment
8 against or refund to all participants in the fund for that
9 fiscal year, prorated, based on the number of days of
10 participation during the year in question. The Chief Financial
11 Officer ~~Insurance Commissioner~~ shall approve the request of
12 the fund to refund to, or levy any assessment against, the
13 participants, provided the refund or assessment fairly
14 reflects the same considerations and classifications upon
15 which the membership fees were based. The assessment shall be
16 in an amount sufficient to satisfy reserve requirements for
17 known claims, including expenses to satisfy the claims, made
18 against the account for a given fiscal year. In any
19 proceeding to challenge the amount of the refund or
20 assessment, it is to be presumed that the amount of refund or
21 assessment requested by the fund is correct, if the fund
22 demonstrates that it has used reasonable claims handling and
23 reserving procedures. Additional assessments may be certified
24 and levied in accordance with this paragraph as necessary for
25 any fiscal year. If a fund member objects to his or her
26 assessment, he or she shall, as a condition precedent to
27 bringing legal action contesting the assessment, pay the
28 assessment, under protest, to the fund. The fund may borrow
29 money needed for current operations, if necessary to pay
30 claims and related expenses, fees, and costs timely for a
31 given fiscal year, from an account for another fiscal year

1 until such time as sufficient funds have been obtained through
2 the assessment process. Any such money, together with
3 interest at the mean interest rate earned on the investment
4 portfolio of the fund, shall be repaid from the next
5 assessment for the given fiscal year. If any assessments are
6 levied in accordance with this subsection as a result of
7 claims in excess of \$500,000 per occurrence, and such
8 assessments are a result of the liability of certain
9 individuals and entities specified in paragraph (2)(e), only
10 hospitals shall be subject to such assessments. Before
11 approving the request of the fund to charge membership fees,
12 issue refunds, or levy assessments, the Chief Financial
13 Officer ~~Insurance Commissioner~~ shall publish notice of the
14 request in the Florida Administrative Weekly. Pursuant to
15 chapter 120, any party substantially affected may request an
16 appropriate proceeding. Any petition for such a proceeding
17 shall be filed with the Department of Financial Services
18 ~~Insurance~~ within 21 days after the date of publication of the
19 notice in the Florida Administrative Weekly.

20 (e) Fund accounting and audit.--

21 1. Money shall be withdrawn from the fund only upon a
22 voucher as authorized by the board of governors.
23 2. All books, records, and audits of the fund shall be
24 open for reasonable inspection to the general public, except
25 that a claim file in possession of the fund, fund members, and
26 their insurers is confidential and exempt from the provisions
27 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution
28 until termination of litigation or settlement of the claim,
29 although medical records and other portions of the claim file
30 may remain confidential and exempt as otherwise provided by
31 law. Any book, record, document, audit, or asset acquired by,

1 prepared for, or paid for by the fund is subject to the
2 authority of the board of governors, which shall be
3 responsible therefor.

4 3. Persons authorized to receive deposits, issue
5 vouchers, or withdraw or otherwise disburse any fund moneys
6 shall post a blanket fidelity bond in an amount reasonably
7 sufficient to protect fund assets. The cost of such bond shall
8 be paid from the fund.

9 4. Annually, the fund shall furnish, upon request,
10 audited financial reports to any fund participant and to the
11 Department of Financial Services ~~Insurance~~ and the Joint
12 Legislative Auditing Committee. The reports shall be prepared
13 in accordance with accepted accounting procedures and shall
14 include income and such other information as may be required
15 by the Department of Financial Services ~~Insurance~~ or the Joint
16 Legislative Auditing Committee.

17 5. Any money held in the fund shall be invested in
18 interest-bearing investments by the board of governors of the
19 fund as administrator. However, in no case may any such money
20 be invested in the stock of any insurer participating in the
21 Joint Underwriting Association authorized by s. 627.351(4) or
22 in the parent company of, or company owning a controlling
23 interest in, such insurer. All income derived from such
24 investments shall be credited to the fund.

25 6. Any health care provider participating in the fund
26 may withdraw from such participation only at the end of a
27 fiscal year; however, such health care provider shall remain
28 subject to any assessment or any refund pertaining to any year
29 in which such member participated in the fund.

30 Section 856. Subsection (7) of section 766.1115,
31 Florida Statutes, is amended to read:

1 766.1115 Health care providers; creation of agency
2 relationship with governmental contractors.--

3 (7) RISK MANAGEMENT REPORT.--The Division of Risk
4 Management of the Department of Financial Services ~~Insurance~~
5 shall annually compile a report of all claims statistics for
6 all entities participating in the risk management program
7 administered by the division, which shall include the number
8 and total of all claims pending and paid, and defense and
9 handling costs associated with all claims brought against
10 contract providers under this section. This report shall be
11 forwarded to the department and included in the annual report
12 submitted to the Legislature pursuant to this section.

13 Section 857. Paragraph (c) of subsection (2),
14 subsection (5), paragraph (a) of subsection (6), subsection
15 (7), and paragraph (c) of subsection (9) of section 766.314,
16 Florida Statutes, are amended to read:

17 766.314 Assessments; plan of operation.--

18 (2) The assessments and appropriations dedicated to
19 the plan shall be administered by the Florida Birth-Related
20 Neurological Injury Compensation Association established in s.
21 766.315, in accordance with the following requirements:

22 (c) Amendments to the plan of operation may be made by
23 the directors of the plan, subject to the approval of the
24 Department of Financial Services ~~Insurance~~.

25 (5)(a) Beginning January 1, 1990, the persons and
26 entities listed in paragraphs (4)(b) and (c), except those
27 persons or entities who are specifically excluded from said
28 provisions, as of the date determined in accordance with the
29 plan of operation, taking into account persons licensed
30 subsequent to the payment of the initial assessment, shall pay
31 an annual assessment in the amount equal to the initial

1 assessments provided in paragraphs (4)(b) and (c). On ~~January~~
2 ~~1, 1991, and on~~ each January 1 ~~thereafter~~, the association
3 shall determine the amount of additional assessments necessary
4 pursuant to subsection (7), in the manner required by the plan
5 of operation, subject to any increase determined to be
6 necessary by the Department of Financial Services Insurance
7 pursuant to paragraph (7)(b). On July 1, 1991, and on each
8 July 1 thereafter, the persons and entities listed in
9 paragraphs (4)(b) and (c), except those persons or entities
10 who are specifically excluded from said provisions, shall pay
11 the additional assessments which were determined on January 1.
12 Beginning January 1, 1990, the entities listed in paragraph
13 (4)(a), including those licensed on or after October 1, 1988,
14 shall pay an annual assessment of \$50 per infant delivered
15 during the prior calendar year. The additional assessments
16 which were determined on January 1, 1991, pursuant to the
17 provisions of subsection (7) shall not be due and payable by
18 the entities listed in paragraph (4)(a) until July 1.

19 (b) If the assessments collected pursuant to
20 subsection (4) and the appropriation of funds provided by s.
21 76, chapter 88-1, Laws of Florida, as amended by s. 41,
22 chapter 88-277, Laws of Florida, to the plan from the
23 Insurance ~~Commissioner's~~ Regulatory Trust Fund are
24 insufficient to maintain the plan on an actuarially sound
25 basis, there is hereby appropriated for transfer to the
26 association from the Insurance ~~Commissioner's~~ Regulatory Trust
27 Fund an additional amount of up to \$20 million.

28 (c)1. Taking into account the assessments collected
29 pursuant to subsection (4) and appropriations from the
30 Insurance ~~Commissioner's~~ Regulatory Trust Fund, if required to
31 maintain the plan on an actuarially sound basis, the

1 Department of Financial Services ~~Insurance~~ shall require each
2 entity licensed to issue casualty insurance as defined in s.
3 624.605(1)(b), (k), and (q) to pay into the association an
4 annual assessment in an amount determined by the department
5 pursuant to paragraph (7)(a), in the manner required by the
6 plan of operation.

7 2. All annual assessments shall be made on the basis
8 of net direct premiums written for the business activity which
9 forms the basis for each such entity's inclusion as a funding
10 source for the plan in the state during the prior year ending
11 December 31, as reported to the Department of Financial
12 Services ~~Insurance~~, and shall be in the proportion that the
13 net direct premiums written by each carrier on account of the
14 business activity forming the basis for its inclusion in the
15 plan bears to the aggregate net direct premiums for all such
16 business activity written in this state by all such entities.

17 3. No entity listed in this paragraph shall be
18 individually liable for an annual assessment in excess of 0.25
19 percent of that entity's net direct premiums written.

20 4. Casualty insurance carriers shall be entitled to
21 recover their initial and annual assessments through a
22 surcharge on future policies, a rate increase applicable
23 prospectively, or a combination of the two.

24 (6)(a) The association shall make all assessments
25 required by this section, except initial assessments of
26 physicians licensed on or after October 1, 1988, which
27 assessments will be made by the Department of Business and
28 Professional Regulation, and except assessments of casualty
29 insurers pursuant to subparagraph (5)(c)1., which assessments
30 will be made by the Department of Financial Services
31 ~~Insurance~~. Beginning October 1, 1989, for any physician

1 licensed between October 1 and December 31 of any year, the
2 Department of Business and Professional Regulation shall make
3 the initial assessment plus the assessment for the following
4 calendar year. The Department of Business and Professional
5 Regulation shall provide the association, with such frequency
6 as determined to be necessary, a listing, in a
7 computer-readable form, of the names and addresses of all
8 physicians licensed under chapter 458 or chapter 459.

9 (7)(a) The Department of Insurance shall undertake an
10 actuarial investigation of the requirements of the plan based
11 on the plan's experience in the first year of operation and
12 any additional relevant information, including without
13 limitation the assets and liabilities of the plan. Pursuant to
14 such investigation, the Department of Insurance shall
15 establish the rate of contribution of the entities listed in
16 paragraph (5)(c) for the tax year beginning January 1, 1990.
17 Following the initial valuation, the Department of Financial
18 Services Insurance shall cause an actuarial valuation to be
19 made of the assets and liabilities of the plan no less
20 frequently than biennially. Pursuant to the results of such
21 valuations, the Department of Financial Services Insurance
22 shall prepare a statement as to the contribution rate
23 applicable to the entities listed in paragraph (5)(c).
24 However, at no time shall the rate be greater than 0.25
25 percent of net direct premiums written.

26 (b) If the Department of Financial Services Insurance
27 finds that the plan cannot be maintained on an actuarially
28 sound basis based on the assessments and appropriations listed
29 in subsections (4) and (5), the department shall increase the
30 assessments specified in subsection (4) on a proportional
31 basis as needed.

1 (9)
2 (c) In the event the total of all current estimates
3 equals 80 percent of the funds on hand and the funds that will
4 become available to the association within the next 12 months
5 from all sources described in subsections (4) and (5) and
6 paragraph (7)(a), the association shall not accept any new
7 claims without express authority from the Legislature. Nothing
8 herein shall preclude the association from accepting any claim
9 if the injury occurred 18 months or more prior to the
10 effective date of this suspension. Within 30 days of the
11 effective date of this suspension, the association shall
12 notify the Governor, the Speaker of the House of
13 Representatives, the President of the Senate, the Department
14 of Financial Services Insurance, the Agency for Health Care
15 Administration, the Department of Health, and the Department
16 of Business and Professional Regulation of this suspension.

17 Section 858. Paragraph (c) of subsection (1),
18 subsection (2), and paragraph (d) of subsection (5) of section
19 766.315, Florida Statutes, are amended to read:

20 766.315 Florida Birth-Related Neurological Injury
21 Compensation Association; board of directors.--

22 (1)

23 (c) The directors shall be appointed by the Chief
24 Financial Officer Insurance Commissioner as follows:

- 25 1. One citizen representative.
- 26 2. One representative of participating physicians.
- 27 3. One representative of hospitals.
- 28 4. One representative of casualty insurers.
- 29 5. One representative of physicians other than
30 participating physicians.

31

1 (2)(a) The Chief Financial Officer Insurance
2 ~~Commissioner~~ may select the representative of the
3 participating physicians from a list of at least three names
4 to be recommended by the Florida Obstetric and Gynecologic
5 Society; the representative of hospitals from a list of at
6 least three names to be recommended by the Florida Hospital
7 Association; the representative of casualty insurers from a
8 list of at least three names, one of which is recommended by
9 the American Insurance Association, one by the Alliance of
10 American Insurers, and one by the National Association of
11 Independent Insurers; and the representative of physicians
12 other than participating physicians from a list of three names
13 to be recommended by the Florida Medical Association and a
14 list of three names to be recommended by the Florida
15 Osteopathic Medical Association. In no case shall the Chief
16 Financial Officer Insurance ~~Commissioner~~ be bound to make any
17 appointment from among the nominees of such respective
18 associations.

19 (b) The Chief Financial Officer Insurance ~~Commissioner~~
20 shall promptly notify the appropriate medical association upon
21 the occurrence of any vacancy, and like nominations may be
22 made for the filling of the vacancy.

23 (5)

24 (d) Annually, the association shall furnish audited
25 financial reports to any plan participant upon request, to the
26 Department of Financial Services Insurance, and to the Joint
27 Legislative Auditing Committee. The reports must be prepared
28 in accordance with accepted accounting procedures and must
29 include such information as may be required by the Department
30 of Financial Services Insurance or the Joint Legislative
31 Auditing Committee. At any time determined to be necessary,

1 the Department of Financial Services ~~Insurance~~ or the Joint
2 Legislative Auditing Committee may conduct an audit of the
3 plan.

4 Section 859. Subsection (3), paragraphs (a) and (d) of
5 subsection (6), and subsection (7) of section 768.28, Florida
6 Statutes, are amended to read:

7 768.28 Waiver of sovereign immunity in tort actions;
8 recovery limits; limitation on attorney fees; statute of
9 limitations; exclusions; indemnification; risk management
10 programs.--

11 (3) Except for a municipality and the Spaceport
12 Florida Authority, the affected agency or subdivision may, at
13 its discretion, request the assistance of the Department of
14 Financial Services ~~Insurance~~ in the consideration, adjustment,
15 and settlement of any claim under this act.

16 (6)(a) An action may not be instituted on a claim
17 against the state or one of its agencies or subdivisions
18 unless the claimant presents the claim in writing to the
19 appropriate agency, and also, except as to any claim against a
20 municipality or the Spaceport Florida Authority, presents such
21 claim in writing to the Department of Financial Services
22 ~~Insurance~~, within 3 years after such claim accrues and the
23 Department of Financial Services ~~Insurance~~ or the appropriate
24 agency denies the claim in writing; except that, if such claim
25 is for contribution pursuant to s. 768.31, it must be so
26 presented within 6 months after the judgment against the
27 tortfeasor seeking contribution has become final by lapse of
28 time for appeal or after appellate review or, if there is no
29 such judgment, within 6 months after the tortfeasor seeking
30 contribution has either discharged the common liability by
31

1 payment or agreed, while the action is pending against her or
2 him, to discharge the common liability.

3 (d) For purposes of this section, complete, accurate,
4 and timely compliance with the requirements of paragraph (c)
5 shall occur prior to settlement payment, close of discovery or
6 commencement of trial, whichever is sooner; provided the
7 ability to plead setoff is not precluded by the delay. This
8 setoff shall apply only against that part of the settlement or
9 judgment payable to the claimant, minus claimant's reasonable
10 attorney's fees and costs. Incomplete or inaccurate
11 disclosure of unpaid adjudicated claims due the state, its
12 agency, officer, or subdivision, may be excused by the court
13 upon a showing by the preponderance of the evidence of the
14 claimant's lack of knowledge of an adjudicated claim and
15 reasonable inquiry by, or on behalf of, the claimant to obtain
16 the information from public records. Unless the appropriate
17 agency had actual notice of the information required to be
18 disclosed by paragraph (c) in time to assert a setoff, an
19 unexcused failure to disclose shall, upon hearing and order of
20 court, cause the claimant to be liable for double the original
21 undisclosed judgment and, upon further motion, the court shall
22 enter judgment for the agency in that amount. The failure of
23 the Department of Financial Services ~~Insurance~~ or the
24 appropriate agency to make final disposition of a claim within
25 6 months after it is filed shall be deemed a final denial of
26 the claim for purposes of this section. For purposes of this
27 subsection, in medical malpractice actions, the failure of the
28 Department of Financial Services ~~Insurance~~ or the appropriate
29 agency to make final disposition of a claim within 90 days
30 after it is filed shall be deemed a final denial of the claim.
31

1 The provisions of this subsection do not apply to such claims
2 as may be asserted by counterclaim pursuant to s. 768.14.

3 (7) In actions brought pursuant to this section,
4 process shall be served upon the head of the agency concerned
5 and also, except as to a defendant municipality or the
6 Spaceport Florida Authority, upon the Department of Financial
7 Services Insurance; and the department or the agency concerned
8 shall have 30 days within which to plead thereto.

9 Section 860. Subsection (5) of section 790.001,
10 Florida Statutes, is amended to read:

11 790.001 Definitions.--As used in this chapter, except
12 where the context otherwise requires:

13 (5) "Explosive" means any chemical compound or mixture
14 that has the property of yielding readily to combustion or
15 oxidation upon application of heat, flame, or shock, including
16 but not limited to dynamite, nitroglycerin, trinitrotoluene,
17 or ammonium nitrate when combined with other ingredients to
18 form an explosive mixture, blasting caps, and detonators; but
19 not including:

20 (a) Shotgun shells, cartridges, or ammunition for
21 firearms;

22 (b) Fireworks as defined in s. 791.01;

23 (c) Smokeless propellant powder or small arms
24 ammunition primers, if possessed, purchased, sold,
25 transported, or used in compliance with s. 552.241;

26 (d) Black powder in quantities not to exceed that
27 authorized by chapter 552, or by any rules adopted ~~or~~
28 ~~regulations promulgated~~ thereunder by the Department of
29 Financial Services Insurance, when used for, or intended to be
30 used for, the manufacture of target and sporting ammunition or
31 for use in muzzle-loading flint or percussion weapons.

1
2 The exclusions contained in paragraphs (a)-(d) do not apply to
3 the term "explosive" as used in the definition of "firearm" in
4 subsection (6).

5 Section 861. Section 790.1612, Florida Statutes, is
6 amended to read:

7 790.1612 Authorization for governmental manufacture,
8 possession, and use of destructive devices.--The governing
9 body of any municipality or county and the Division of State
10 Fire Marshal of the Department of Financial Services ~~Insurance~~
11 have the power to authorize the manufacture, possession, and
12 use of destructive devices as defined in s. 790.001(4).

13 Section 862. Subsection (2) of section 791.01, Florida
14 Statutes, is amended to read:

15 791.01 Definitions.--As used in this chapter, the
16 term:

17 (2) "Division" means the Division of the State Fire
18 Marshal of the Department of Financial Services ~~Insurance~~.

19 Section 863. Paragraph (b) of subsection (3) of
20 section 791.015, Florida Statutes, is amended to read:

21 791.015 Registration of manufacturers, distributors,
22 wholesalers, and retailers of sparklers.--

23 (3) FEES.--

24 (b) Revenue from registration fee payments shall be
25 deposited in the Insurance ~~Commissioner's~~ Regulatory Trust
26 Fund for the purposes of implementing the registration and
27 testing provisions of this chapter.

28 Section 864. Section 817.16, Florida Statutes, is
29 amended to read:

30 817.16 False reports, etc., by officers of banks,
31 trust companies, etc., ~~under supervision of Department of~~

1 ~~Banking and Finance~~ with intent to defraud.--Any officer,
2 director, agent or clerk of any bank, trust company, building
3 and loan association, small loan licensee, credit union, or
4 other similar corporation under the supervision of the
5 Department of Financial Services or formerly the Department of
6 Banking and Finance, who willfully and knowingly subscribes or
7 exhibits any false paper with intent to deceive any person
8 authorized to examine as to the records of such bank, trust
9 company, building and loan association, small loan licensee,
10 credit union, or other corporation under the supervision of
11 the Department of Financial Services or formerly the
12 Department of Banking and Finance, or willfully and knowingly
13 subscribes to or makes any false reports to the Department of
14 Financial Services or subscribed to or made any such false
15 report to the Department of Banking and Finance or causes to
16 be published any false report, shall be guilty of a felony of
17 the third degree, punishable as provided s. 775.082 or s.
18 775.083.

19 Section 865. Paragraph (b) of subsection (1) and
20 subsection (10) of section 817.234, Florida Statutes, are
21 amended to read:

22 817.234 False and fraudulent insurance claims.--

23 (1)

24 (b) All claims and application forms shall contain a
25 statement that is approved by the Department of Financial
26 Services which ~~insurance that~~ clearly states in substance the
27 following: "Any person who knowingly and with intent to
28 injure, defraud, or deceive any insurer files a statement of
29 claim or an application containing any false, incomplete, or
30 misleading information is guilty of a felony of the third
31 degree." This paragraph shall not apply to reinsurance

1 contracts, reinsurance agreements, or reinsurance claims
2 transactions.

3 (10) As used in this section, the term "insurer" means
4 any insurer, health maintenance organization, self-insurer,
5 self-insurance fund, or other similar entity or person
6 regulated under chapter 440 or chapter 641 or by the
7 Department of Financial Services ~~Insurance~~ under the Florida
8 Insurance Code.

9 Section 866. Section 839.06, Florida Statutes, is
10 amended to read:

11 839.06 Collectors not to deal in warrants, etc. ;
12 removal.--No tax collector of any county shall, either
13 directly or indirectly, purchase or receive in exchange any
14 Chief Financial Officer's ~~Comptroller's~~ warrants, county
15 orders, jurors' certificates or school district orders for a
16 less amount than expressed on the face of such orders or
17 demand, and any such person so offending shall, for each
18 offense, be deemed guilty of a misdemeanor of the first
19 degree, punishable as provided in s. 775.083, and be removed
20 from office.

21 Section 867. Paragraph (d) of subsection (5) and
22 paragraph (c) of subsection (13) of section 849.086, Florida
23 Statutes, are amended to read:

24 849.086 Cardrooms authorized.--

25 (5) LICENSE REQUIRED; APPLICATION; FEES.--No person
26 may operate a cardroom in this state unless such person holds
27 a valid cardroom license issued pursuant to this section.

28 (d) The annual cardroom license fee shall be \$1,000
29 for the first table and \$500 for each additional table to be
30 operated at the cardroom. This license fee shall be deposited
31

1 by the division with the Chief Financial Officer ~~Treasurer~~ to
2 the credit of the Pari-mutuel Wagering Trust Fund.

3 (13) TAXES AND OTHER PAYMENTS.--

4 (c) Payment of the admission tax and gross receipts
5 tax imposed by this section shall be paid to the division. The
6 division shall deposit these sums with the Chief Financial
7 Officer ~~Treasurer~~, one-half being credited to the Pari-mutuel
8 Wagering Trust Fund and one-half being credited to the General
9 Revenue Fund. The cardroom licensee shall remit to the
10 division payment for the admission tax, the gross receipts
11 tax, and the licensee fees. Such payments shall be remitted
12 to the division on the fifth day of each calendar month for
13 taxes and fees imposed for the preceding month's cardroom
14 activities. Licensees shall file a report under oath by the
15 fifth day of each calendar month for all taxes remitted during
16 the preceding calendar month. Such report shall, under oath,
17 indicate the total of all admissions, the cardroom activities
18 for the preceding calendar month, and such other information
19 as may be prescribed by the division.

20 Section 868. Section 849.33, Florida Statutes, is
21 amended to read:

22 849.33 Judgment and collection of money;
23 execution.--Any judgment recovered in such a suit shall
24 adjudge separately the amounts recovered for the use of the
25 state, and the plaintiff shall not have execution therefor,
26 and such amounts shall not be paid to the plaintiff, but shall
27 be payable to the state attorney, who shall promptly transmit
28 the sums collected by him or her to the Chief Financial
29 Officer ~~State Treasurer~~. The state attorney shall diligently
30 seek the collection of such amounts and may cause a separate
31 execution to issue for the collection thereof.

1 Section 869. Subsection (1) of section 860.154,
2 Florida Statutes, is amended to read:

3 860.154 Florida Motor Vehicle Theft Prevention
4 Authority.--

5 (1) There is ~~hereby~~ established within the Department
6 of Legal Affairs the Florida Motor Vehicle Theft Prevention
7 Authority, which shall exercise its powers, duties, and
8 responsibilities independently of the department. The
9 purposes, powers, and duties of the authority shall be vested
10 in and exercised by a board of directors. There shall be nine
11 members of the board, consisting of the Chief Financial
12 Officer ~~commissioner of the Department of Insurance~~ or his or
13 her ~~the commissioner's~~ designee; the executive director of the
14 Department of Highway Safety and Motor Vehicles; the executive
15 director of the Department of Law Enforcement; six additional
16 members, each of whom shall be appointed by the Attorney
17 General: a state attorney or city or county executive, a chief
18 executive law enforcement official, a sheriff, one
19 representative of companies authorized to sell motor vehicle
20 insurance, one representative of insurers authorized to write
21 motor vehicle insurance in this state, and one representative
22 of purchasers of motor vehicle insurance in this state who is
23 not employed by or connected with the business of insurance.

24 Section 870. Subsection (7) of section 860.157,
25 Florida Statutes, is amended to read:

26 860.157 Powers and duties of the authority.--The
27 authority shall have the following powers, duties, and
28 responsibilities:

29 (7) To report annually, on or before January 1, to the
30 Governor, Attorney General, Chief Financial Officer ~~Insurance~~
31 ~~Commissioner~~, President of the Senate, Speaker of the House of

1 Representatives, Minority Leader of the House of
2 Representatives, Minority Leader of the Senate, and
3 appropriate committee chairs in the House of Representatives
4 and the Senate, and, upon request, to members of the general
5 public on the authority's activities in the preceding year.

6 Section 871. Subsections (1) and (2) of section
7 896.102, Florida Statutes, are amended to read:

8 896.102 Currency more than \$10,000 received in trade
9 or business; report required; noncompliance penalties.--

10 (1) All persons engaged in a trade or business, except
11 for those financial institutions that report to the Chief
12 Financial Officer ~~Comptroller~~ pursuant to s. 655.50, who
13 receive more than \$10,000 in currency, including foreign
14 currency, in one transaction, or who receive this amount
15 through two or more related transactions, must complete and
16 file with the Department of Revenue the information required
17 pursuant to 26 U.S.C. s. 6050I., concerning returns relating
18 to currency received in trade or business. Any person who
19 willfully fails to comply with the reporting requirements of
20 this subsection is guilty of a misdemeanor of the first
21 degree, punishable as provided in s. 775.082, or by a fine not
22 exceeding \$250,000 or twice the value of the amount of the
23 currency transaction involved, whichever is greater, or by
24 both such imprisonment and fine. For a second or subsequent
25 conviction of a violation of the provisions of this
26 subsection, the maximum fine that may be imposed is \$500,000
27 or quintuple the value of the amount of the currency
28 transaction involved, whichever is greater.

29 (2) The Department of Revenue shall enforce compliance
30 with the provisions of subsection (1) and is to be the
31 custodian of all information and documents filed pursuant to

1 subsection (1). Such information and documents are
2 confidential and exempt from the provisions of s. 119.07(1)
3 and s. 24(a), Art. I of the State Constitution; however, the
4 department must provide any report filed under this section,
5 or information contained therein, to federal, state, and local
6 law enforcement and prosecutorial agencies and to the
7 Department of Financial Services ~~Banking and Finance~~, and the
8 information is subject to disclosure pursuant to subpoena as
9 provided in s. 213.053(8).

10 Section 872. Section 903.101, Florida Statutes, is
11 amended to read:

12 903.101 Sureties; licensed persons; to have equal
13 access.--Subject to rules adopted ~~regulations promulgated~~ by
14 the Department of Financial Services ~~Insurance~~, every surety
15 who meets the requirements of ss. 903.05, 903.06, 903.08, and
16 903.09, and every person who is currently licensed by the
17 Department of Financial Services ~~Insurance~~ and registered as
18 required by s. 648.42 shall have equal access to the jails of
19 this state for the purpose of making bonds.

20 Section 873. Subsection (1) of section 903.27, Florida
21 Statutes, is amended to read:

22 903.27 Forfeiture to judgment.--

23 (1) If the forfeiture is not paid or discharged by
24 order of a court of competent jurisdiction within 60 days and
25 the bond is secured other than by money and bonds authorized
26 in s. 903.16, the clerk of the circuit court for the county
27 where the order was made shall enter a judgment against the
28 surety for the amount of the penalty and issue execution.
29 Within 10 days, the clerk shall furnish the Department of
30 Financial Services ~~Insurance~~ with a certified copy of the
31 judgment docket and shall furnish the surety company at its

1 | home office a copy of the judgment, which shall include the
2 | power of attorney number of the bond and the name of the
3 | executing agent. If the judgment is not paid within 35 days,
4 | the clerk shall furnish the Department of Financial Services
5 | ~~Insurance~~ and the sheriff of the county in which the bond was
6 | executed, or the official responsible for operation of the
7 | county jail, if other than the sheriff, two copies of the
8 | judgment and a certificate stating that the judgment remains
9 | unsatisfied. When and if the judgment is properly paid or an
10 | order to vacate the judgment has been entered by a court of
11 | competent jurisdiction, the clerk shall immediately notify the
12 | sheriff, or the official responsible for the operation of the
13 | county jail, if other than the sheriff, and the Department of
14 | Financial Services ~~Insurance~~, if the department had been
15 | previously notified of nonpayment, of such payment or order to
16 | vacate the judgment. The clerk shall also immediately prepare
17 | and record in the public records a satisfaction of the
18 | judgment or record the order to vacate judgment. If the
19 | defendant is returned to the county of jurisdiction of the
20 | court, whenever a motion to set aside the judgment is filed,
21 | the operation of this section is tolled until the court makes
22 | a disposition of the motion.

23 | Section 874. Paragraphs (a) and (b) of subsection (5)
24 | of section 925.037, Florida Statutes, are amended to read:

25 | 925.037 Reimbursement of counties for fees paid to
26 | appointed counsel; circuit conflict committees.--

27 | (5)(a) The clerk of the circuit court in each county
28 | shall submit to the Justice Administrative Commission a
29 | statement of conflict counsel fees at least annually. Such
30 | statement shall identify total expenditures incurred by the
31 | county on fees of counsel appointed by the court pursuant to

1 | this section where such fees are taxed against the county by
2 | judgment of the court. On the basis of such statement of
3 | expenditures, the Justice Administrative Commission shall pay
4 | state conflict case appropriations to the county. The
5 | statement of conflict counsel fees shall be on a form
6 | prescribed by the Justice Administrative Commission in
7 | consultation with the Legislative Committee on
8 | Intergovernmental Relations and the Chief Financial Officer
9 | ~~Comptroller~~. Such form also shall provide for the separate
10 | reporting of total expenditures made by the county on attorney
11 | fees in cases in which other counsel were appointed by the
12 | court where the public defender was unable to accept the case
13 | as a result of a stated lack of resources. To facilitate such
14 | expenditure identification and reporting, the public defender,
15 | within 7 days of the appointment of such counsel by the court,
16 | shall report to the clerk of circuit court case-related
17 | information sufficient to permit the clerk to identify
18 | separately county expenditures on fees of such counsel. No
19 | county shall be required to submit any additional information
20 | to the commission on an annual or other basis in order to
21 | document or otherwise verify the expenditure information
22 | provided on the statement of conflict counsel fees form,
23 | except as provided in paragraph (c).

24 | (b) Before September 30 of each year, the clerk of the
25 | circuit court in each county shall submit to the Justice
26 | Administrative Commission a report of conflict counsel
27 | expenses and costs for the previous local government fiscal
28 | year. Such report shall identify expenditures incurred by the
29 | county on expenses and costs of counsel appointed by the court
30 | pursuant to this section where such expenses and costs are
31 | taxed against the county by judgment of the court. Such report

1 of expenditures shall be on a form prescribed by the
2 commission in consultation with the Legislative Committee on
3 Intergovernmental Relations and the Chief Financial Officer
4 ~~Comptroller~~, provided that such form shall at a minimum
5 separately identify total county expenditures for witness fees
6 and expenses, court reporter fees and costs, and defense
7 counsel travel and per diem. Such form also shall provide for
8 the separate reporting of total county expenditures on
9 attorney expenses and costs in cases in which other counsel
10 were appointed by the court where the public defender was
11 unable to accept the case as a result of a stated lack of
12 resources. To facilitate such expenditure identification and
13 reporting, the public defender, within 7 days of the
14 appointment of such counsel by the court, shall report to the
15 clerk of the circuit court case-related information sufficient
16 to permit the clerk to identify separately county expenditures
17 on expenses and costs of such counsel. No county shall be
18 required to submit any additional information to the Justice
19 Administrative Commission on an annual or other basis in order
20 to document or otherwise verify the expenditure information
21 provided on the report of conflict counsel expenses and costs
22 form, except as provided in paragraph (c).

23 Section 875. Paragraph (b) of subsection (8) of
24 section 932.7055, Florida Statutes, is amended to read:

25 932.7055 Disposition of liens and forfeited
26 property.--

27 (8)

28 (b) The Department of Law Enforcement shall submit an
29 annual report to the criminal justice committees of the House
30 of Representatives and of the Senate compiling the information
31 and data related in the semiannual reports submitted by the

1 law enforcement agencies. The annual report shall also
2 contain a list of law enforcement agencies which have failed
3 to meet the reporting requirements and a summary of any action
4 which has been taken against the noncomplying agency by the
5 Office of the Chief Financial Officer ~~Comptroller~~.

6 Section 876. Section 932.707, Florida Statutes, is
7 amended to read:

8 932.707 Penalty for noncompliance with reporting
9 requirements.--Any seizing agency which fails to comply with
10 the reporting requirements as described in s. 932.7055(8)(a),
11 is subject to a civil fine of \$5,000 payable to the General
12 Revenue Fund. However, such agency will not be subject to the
13 fine if, within 60 days of receipt of written notification
14 from the Department of Law Enforcement of the noncompliance
15 with the reporting requirements of the Florida Contraband
16 Forfeiture Act, the agency substantially complies with said
17 requirements. The Department of Law Enforcement shall submit
18 any substantial noncompliance to the Office of the Chief
19 Financial Officer ~~Comptroller~~, which shall be responsible for
20 the enforcement of this section.

21 Section 877. Subsection (1) of section 938.27, Florida
22 Statutes, is amended to read:

23 938.27 Judgment for costs on conviction.--

24 (1) In all criminal cases the costs of prosecution,
25 including investigative costs incurred by law enforcement
26 agencies, by fire departments for arson investigations, and by
27 investigations of the Division of Financial Investigations of
28 the Department of Financial Services ~~Banking and Finance~~, if
29 requested and documented by such agencies, shall be included
30 and entered in the judgment rendered against the convicted
31 person.

1 Section 878. Section 939.13, Florida Statutes, is
2 amended to read:

3 939.13 Power of Chief Financial Officer
4 ~~Comptroller~~.--The Chief Financial Officer ~~Comptroller~~ may
5 audit and approve or disapprove any claim or any item thereof
6 against the state for costs, fees or expenses of criminal
7 cases prosecuted in the name of the state, and for which the
8 state is liable, if the Chief Financial Officer ~~Comptroller~~ is
9 satisfied that the same is legal, just, necessary and correct
10 or otherwise, and may prescribe forms and methods for the
11 same. The Chief Financial Officer ~~Comptroller~~ shall not
12 dispense with any of the requirements of law relative to the
13 auditing and payment of such accounts, but may prescribe
14 additional requirements.

15 Section 879. Paragraph (h) of subsection (1) of
16 section 943.031, Florida Statutes, is amended to read:

17 943.031 Florida Violent Crime and Drug Control
18 Council.--The Legislature finds that there is a need to
19 develop and implement a statewide strategy to address violent
20 criminal activity and drug control efforts by state and local
21 law enforcement agencies, including investigations of illicit
22 money laundering. In recognition of this need, the Florida
23 Violent Crime and Drug Control Council is created within the
24 department. The council shall serve in an advisory capacity to
25 the department.

26 (1) MEMBERSHIP.--The council shall consist of 14
27 members, as follows:

28 (h) The Chief Financial Officer ~~Comptroller~~, or a
29 designate.

30
31

1 The Governor, when making appointments under this subsection,
2 must take into consideration representation by geography,
3 population, ethnicity, and other relevant factors to ensure
4 that the membership of the council is representative of the
5 state at large. Designates appearing on behalf of a council
6 member who is unable to attend a meeting of the council are
7 empowered to vote on issues before the council to the same
8 extent the designating council member is so empowered.

9 Section 880. Subsection (2) of section 943.032,
10 Florida Statutes, is amended to read:

11 943.032 Financial Crime Analysis Center and Financial
12 Transaction Database.--

13 (2) The department shall compile information and data
14 available from financial transaction reports required to be
15 submitted by state or federal law that are provided to the
16 Department of Financial Services ~~Banking and Finance~~, to the
17 Department of Revenue, or to which the department otherwise
18 has access. Information and data so received shall be utilized
19 by the department in the Financial Transaction Database. The
20 department shall implement a system utilizing the database
21 that allows data review and processing to reveal patterns,
22 trends, and correlations that are indicative of money
23 laundering or other financial transactions indicative of
24 criminal activity. The department shall, in consultation with
25 the Department of Financial Services ~~Banking and Finance~~ and
26 the Department of Revenue, establish the methods and
27 parameters by which information and data received by the
28 Department of Financial Services ~~Banking and Finance~~ or the
29 Department of Revenue are transferred to the department for
30 inclusion in the database. Information developed in or
31 through the use of the database shall be made available to law

1 enforcement agencies and prosecutors in this state in a manner
2 defined by the department and as allowed by state or federal
3 law or regulation. All information contained in the database
4 shall be considered "active criminal intelligence" or "active
5 criminal investigative information" as defined in s. 119.011.

6 Section 881. Subsections (3) and (4) of section
7 944.516, Florida Statutes, are amended to read:

8 944.516 Money or other property received for personal
9 use or benefit of inmate; deposit; disposition of unclaimed
10 trust funds.--The Department of Corrections shall protect the
11 financial interest of the state with respect to claims which
12 the state may have against inmates in state institutions under
13 its supervision and control and shall administer money and
14 other property received for the personal benefit of such
15 inmates. In carrying out the provisions of this section, the
16 department may delegate any of its enumerated powers and
17 duties affecting inmates of an institution to the warden or
18 regional director who shall personally, or through designated
19 employees of his or her personal staff under his or her direct
20 supervision, exercise such powers or perform such duties.

21 (3) Moneys received by the department in payment of
22 claims of the state against inmates shall be transmitted to
23 the Chief Financial Officer ~~Treasurer~~ for deposit into the
24 General Revenue Fund.

25 (4) Upon the death of any inmate in an institution
26 affected by the provisions of this section, any unclaimed
27 money held for the inmate in trust by the department or by the
28 Chief Financial Officer ~~Treasurer~~ shall be applied first to
29 the payment of any unpaid state claim against the inmate, and
30 any balance remaining unclaimed for a period of 1 year shall
31 escheat to the state as unclaimed funds held by fiduciaries.

1 Section 882. Section 946.33, Florida Statutes, is
2 amended to read:

3 946.33 Disbursements from fund.--The funds in the
4 Correctional Work Program Trust Fund shall be deposited in the
5 State Treasury and paid out only on warrants drawn by the
6 Chief Financial Officer ~~Comptroller~~, duly approved by the
7 Department of Corrections. The department shall maintain all
8 necessary records and accounts relative to such funds.

9 Section 883. Subsection (2) of section 946.509,
10 Florida Statutes, is amended to read:

11 946.509 Insurance of property leased or acquired by
12 the corporation.--

13 (2) Coverage under the State Risk Management Trust
14 Fund of property leased to or otherwise acquired by the
15 corporation shall be secured and maintained through the
16 existing policy and account of the Department of Corrections
17 with the Division of Risk Management of the Department of
18 Financial Services ~~Insurance~~. All matters, including premium
19 calculations, assessments and payments, retrospective premium
20 adjustments, reporting requirements, and other requirements,
21 concerning coverage of such property under the State Risk
22 Management Trust Fund shall be conducted as if all such
23 property were owned solely by the department. Except as
24 required by chapter 284, if the corporation finds that it is
25 more economical to do so, the corporation may secure private
26 insurance coverage on all or a portion of the activities of or
27 properties used by the corporation. If coverage through the
28 State Risk Management Trust Fund is not secured, the
29 corporation must present documentation of insurance coverage
30 to the Division of Risk Management equal to the coverage that
31

1 could otherwise be provided by the State Risk Management Trust
2 Fund.

3 Section 884. Section 946.510, Florida Statutes, is
4 amended to read:

5 946.510 Insurance by Division of Risk
6 Management.--Pursuant to the applicable provisions of chapter
7 284, the Division of Risk Management of the Department of
8 Financial Services ~~Insurance~~ is authorized to insure the
9 corporation under the same general terms and conditions as the
10 Department of Corrections was insured by the division prior to
11 the corporation leasing the correctional work programs as
12 authorized by this chapter.

13 Section 885. Section 946.517, Florida Statutes, is
14 amended to read:

15 946.517 Corporation records.--Corporation records are
16 public records; however, proprietary confidential business
17 information shall be confidential and exempt from the
18 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
19 Constitution. However, the Legislature, the Chief Financial
20 Officer ~~Comptroller~~, and the Governor, pursuant to their
21 oversight and auditing functions, shall have access to all
22 proprietary confidential business information upon request and
23 without subpoena and shall retain the confidentiality of
24 information so received. "Proprietary confidential business
25 information" means information regardless of form or
26 characteristics, that is owned or controlled by the
27 corporation; is intended to be and is treated by the
28 corporation as private and the disclosure of the information
29 would cause harm to the corporation's business operations; has
30 not been disclosed unless disclosed pursuant to a statutory
31 provision, an order of a court or administrative body, a

1 legislative proceeding pursuant to s. 5, Art. III of the State
2 Constitution, or a private agreement that provides that the
3 information may be released to the public; and, which is
4 information regarding:

5 (1) Internal auditing controls and reports of internal
6 auditors.

7 (2) Matters reasonably encompassed in privileged
8 attorney-client communications.

9 (3) Security measures, systems, or procedures.

10 (4) Information concerning bids or other contractual
11 data, banking records, and credit agreements, the disclosure
12 of which would impair the efforts of the corporation to
13 contract for goods or services on favorable terms.

14 (5) Information relating to private contractual data,
15 the disclosure of which would impair the competitive interest
16 of the provider of the information.

17 (6) Corporate officer, employee personnel, or inmate
18 worker information unrelated to compensation, duties,
19 qualifications, or responsibilities.

20 Section 886. Subsections (1) and (2) of section
21 946.522, Florida Statutes, are amended to read:

22 946.522 Prison Industries Trust Fund.--

23 (1) The Prison Industries Trust Fund is created, to be
24 administered by the Department of Financial Services ~~Banking~~
25 ~~and Finance~~. The trust fund shall consist of moneys authorized
26 to be deducted pursuant to 18 U.S.C. s. 1761(c) and the
27 applicable federal guidelines, to be appropriated by the
28 Legislature, and moneys deposited by the corporation
29 authorized under this part to manage and operate correctional
30 work programs. The appropriated funds shall be used by the
31 corporation for purposes of construction or renovation of its

1 facilities or for the expansion or establishment of
2 correctional work programs as described in this part or for
3 prison industries enhancement (PIE) programs as authorized
4 under s. 946.523.

5 (2) The funds must be deposited in the State Treasury
6 and may be paid out only on warrants drawn by the Chief
7 Financial Officer ~~Comptroller~~ upon receipt of a corporate
8 resolution that has been duly authorized by the board of
9 directors of the corporation authorized under this part to
10 manage and operate correctional work programs. The corporation
11 shall maintain all necessary records and accounts relative to
12 such funds.

13 Section 887. Paragraph (f) of subsection (3) of
14 section 946.525, Florida Statutes, is amended to read:

15 946.525 Participation by the corporation in the state
16 group health insurance and prescription drug programs.--

17 (3) If the Department of Management Services
18 determines that the corporation is eligible to enroll, the
19 corporation must agree to the following terms and conditions:

20 (f) If the corporation fails to make the payments
21 required by this section to fully reimburse the state, the
22 Department of Revenue or the Department of Financial Services
23 ~~Banking and Finance~~ shall, upon the request of the Department
24 of Management Services, deduct the amount owed by the employer
25 from any funds to be distributed by it to the corporation. The
26 amounts so deducted shall be transferred to the Department of
27 Management Services for further distribution to the trust
28 funds in accordance with this chapter.

29 Section 888. Subsection (1) of section 947.12, Florida
30 Statutes, is amended to read:

31 947.12 Members, employees, expenses.--

1 (1) The members of the commission and its employees
2 shall be reimbursed for travel expenses as provided in s.
3 112.061. All bills for expenses shall be properly receipted,
4 audited, and approved and forwarded to the Chief Financial
5 Officer ~~Comptroller~~ and shall be paid in a manner and form as
6 the bills for the expenses of the several departments of the
7 state government are paid. All expenses, including salaries
8 and other compensation, shall be paid from the General Revenue
9 Fund and within the appropriation as fixed therefor by the
10 Legislature. Such expenses shall be paid by the Chief
11 Financial Officer ~~Treasurer~~ upon proper warrants ~~issued by the~~
12 ~~Comptroller of the state~~, drawn upon vouchers and requisitions
13 approved by the commission, ~~and signed by the Comptroller.~~

14 Section 889. Subsection (8) of section 950.002,
15 Florida Statutes, is amended to read:

16 950.002 County work camps.--

17 (8) Pursuant to the applicable provisions of chapter
18 284, the Division of Risk Management of the Department of
19 Financial Services ~~Insurance~~ is authorized to insure any
20 county work camp facility established pursuant to this act
21 under the same general terms and conditions as the Department
22 of Corrections is insured by the division for any of its
23 comparable work camps.

24 Section 890. Paragraph (b) of subsection (1) of
25 section 957.04, Florida Statutes, is amended to read:

26 957.04 Contract requirements.--

27 (1) A contract entered into under this chapter for the
28 operation of private correctional facilities shall maximize
29 the cost savings of such facilities and shall:

30 (b) Indemnify the state and the department, including
31 their officials and agents, against any and all liability,

1 including, but not limited to, civil rights liability. Proof
2 of satisfactory insurance is required in an amount to be
3 determined by the commission, following consultation with the
4 Division of Risk Management of the Department of Financial
5 Services Insurance. Not less than 30 days prior to the
6 release of each request for proposals by the commission, the
7 commission shall request the written recommendation of the
8 division regarding indemnification of the state and the
9 department under this paragraph. Within 15 days after such
10 request, the division shall provide a written recommendation
11 to the commission regarding the amount and manner of such
12 indemnification. The commission shall adopt the division's
13 recommendation unless, based on substantial competent
14 evidence, the commission determines a different amount and
15 manner of indemnification is sufficient.

16 Section 891. Paragraph (a) of subsection (6) and
17 subsection (8) of section 985.406, Florida Statutes, are
18 amended to read:

19 985.406 Juvenile justice training academies
20 established; Juvenile Justice Standards and Training
21 Commission created; Juvenile Justice Training Trust Fund
22 created.--

23 (6) SCHOLARSHIPS AND STIPENDS.--

24 (a) By rule, the commission shall establish criteria
25 to award scholarships or stipends to qualified juvenile
26 justice personnel who are residents of the state who want to
27 pursue a bachelor's or associate in arts degree in juvenile
28 justice or a related field. The department shall handle the
29 administration of the scholarship or stipend. The Department
30 of Education shall handle the notes issued for the payment of
31 the scholarships or stipends. All scholarship and stipend

1 awards shall be paid from the Juvenile Justice Training Trust
2 Fund upon vouchers approved by the Department of Education and
3 properly certified by the Chief Financial Officer ~~Comptroller~~.
4 Prior to the award of a scholarship or stipend, the juvenile
5 justice employee must agree in writing to practice her or his
6 profession in juvenile justice or a related field for 1 month
7 for each month of grant or to repay the full amount of the
8 scholarship or stipend together with interest at the rate of 5
9 percent per annum over a period not to exceed 10 years.
10 Repayment shall be made payable to the state for deposit into
11 the Juvenile Justice Training Trust Fund.

12 (8) PARTICIPATION OF CERTAIN PROGRAMS IN THE STATE
13 RISK MANAGEMENT TRUST FUND.--Pursuant to s. 284.30, the
14 Division of Risk Management of the Department of Financial
15 Services ~~Insurance~~ is authorized to insure a private agency,
16 individual, or corporation operating a state-owned training
17 school under a contract to carry out the purposes and
18 responsibilities of any program of the department. The
19 coverage authorized herein shall be under the same general
20 terms and conditions as the department is insured for its
21 responsibilities under chapter 284.

22 Section 892. Section 985.409, Florida Statutes, is
23 amended to read:

24 985.409 Participation of certain programs in the State
25 Risk Management Trust Fund.--Pursuant to s. 284.30, the
26 Division of Risk Management of the Department of Financial
27 Services ~~Insurance~~ is authorized to insure a private agency,
28 individual, or corporation operating a state-owned training
29 school under a contract to carry out the purposes and
30 responsibilities of any program of the department. The
31 coverage authorized herein shall be under the same general

1 terms and conditions as the department is insured for its
2 responsibilities under chapter 284.

3 Section 893. Effective June 30, 2002, paragraphs (a)
4 and (c) of subsection (1) and subsections (4), (5), (6), (7),
5 (8), and (9) of section 163.05, Florida Statutes, are amended
6 to read:

7 163.05 Small County Technical Assistance Program.--

8 (1) Among small counties, the Legislature finds that:

9 (a) The percentage of the population of small counties
10 residing in the unincorporated areas is relatively high based
11 on the United States Decennial Census of 2000 ~~and increased~~
12 ~~substantially between 1980 and 1990.~~

13 (c) Fiscal shortfalls persist even though 12 ~~13~~ of the
14 small counties levied the maximum ad valorem millage
15 authorized in their jurisdictions in 2001 ~~1990~~ and an
16 additional 15 ~~13~~ small counties levied between 8 and 10 mills.

17 (4) The Commissioner of Agriculture ~~Comptroller~~ shall
18 enter into contracts with program providers who shall:

19 (a) Be a foundation that meets the requirements for
20 nonprofit status under s. 501(c)(3) of the Internal Revenue
21 Code with a governing board which includes in its membership
22 county commissioners and professional staff of the county
23 ~~public agency or private, nonprofit corporation, association,~~
24 ~~or entity.~~

25 (b) Have substantial and documented experience working
26 closely with county governments in providing both educational
27 and technical assistance.

28 ~~(c)(b)~~ Use existing resources, services, and
29 information that are available from state or local agencies,
30 universities, or the private sector.

31

1 ~~(d)(e)~~ Seek and accept funding from any public or
2 private source.

3 ~~(d)~~ ~~Annually submit information to assist the~~
4 ~~Legislative Committee on Intergovernmental Relations in~~
5 ~~preparing a performance review that will include an analysis~~
6 ~~of the effectiveness of the program.~~

7 (e) Assist small counties in developing alternative
8 revenue sources.

9 (f) Provide assistance to small counties in ~~the~~ areas
10 such as ~~of~~ financial management, accounting, investing,
11 purchasing, planning and budgeting, debt issuance, public
12 management, management systems, computers and information
13 technology, economic and community development, and public
14 safety management.

15 (g) Provide for an annual independent financial audit
16 of the program.

17 (h) In each county served, conduct a needs assessment
18 upon which the assistance provided for that county will be
19 designed.

20 (5)(a) The Commissioner of Agriculture ~~Comptroller~~
21 shall issue a request for proposals to provide assistance to
22 small counties. The request for proposals shall be required no
23 more frequently than every third year beginning with fiscal
24 year 2004-2005. All contracts in existence on the effective
25 date of this act between the Comptroller and any other party
26 with respect to the Small County Technical Assistance Program
27 may be accepted by the Commissioner of Agriculture as the
28 party in interest and said contracts shall remain in full
29 force and effect according to their terms. ~~At the request of~~
30 ~~the Comptroller, the Legislative Committee on~~

31

1 ~~Intergovernmental Relations shall assist in the preparation of~~
2 ~~the request for proposals.~~

3 (b) The Commissioner of Agriculture ~~Comptroller~~ shall
4 review each contract proposal submitted.

5 ~~(c) The Legislative Committee on Intergovernmental~~
6 ~~Relations shall review each contract proposal and submit to~~
7 ~~the Comptroller, in writing, advisory comments and~~
8 ~~recommendations, citing with specificity the reasons for its~~
9 ~~recommendations.~~

10 ~~(c)(d)~~ The Commissioner of Agriculture ~~Comptroller~~ and
11 ~~the council~~ shall consider the following factors in reviewing
12 contract proposals:

13 1. The demonstrated capacity of the provider to
14 conduct needs assessments and implement the program as
15 proposed.

16 2. The number of small counties to be served under the
17 proposal.

18 3. The cost of the program as specified in a proposed
19 budget.

20 4. The short-term and long-term benefits of the
21 assistance to small counties.

22 5. The form and extent to which existing resources,
23 services, and information that are available from state and
24 local agencies, universities, and the private sector will be
25 used by the provider under the contract.

26 (6) A decision of the Commissioner of Agriculture
27 ~~Comptroller~~ to award a contract under this section is final
28 and shall be in writing ~~with a copy provided to the~~
29 ~~Legislative Committee on Intergovernmental Relations.~~

30 ~~(7) The Comptroller may enter into contracts and~~
31 ~~agreements with other state and local agencies and with any~~

1 ~~person, association, corporation, or entity other than the~~
2 ~~program providers, for the purpose of administering this~~
3 ~~section.~~

4 (7)(8) The Commissioner of Agriculture Comptroller
5 shall provide fiscal oversight to ensure that funds expended
6 for the program are used in accordance with the contracts
7 entered into pursuant to subsection (4) and shall conduct a
8 performance review of the program as may be necessary to
9 ensure that the goals and objectives of the program are being
10 met.

11 ~~(9) The Legislative Committee on Intergovernmental~~
12 ~~Relations shall annually conduct a performance review of the~~
13 ~~program. The findings of the review shall be presented in a~~
14 ~~report submitted to the Governor, the President of the Senate,~~
15 ~~the Speaker of the House of Representatives, and the~~
16 ~~Comptroller by January 15 of each year.~~

17 Section 894. Specific Appropriation 2252 in the
18 2002-2003 General Appropriations Act is hereby repealed and an
19 identical amount is hereby appropriated to the Department of
20 Agriculture and Consumer Services from the General Revenue
21 Fund for the purposes of this act. This section shall take
22 effect June 30, 2002.

23 Section 895. Paragraph (a) of subsection (7) of
24 section 112.313, Florida Statutes, is amended to read:

25 112.313 Standards of conduct for public officers,
26 employees of agencies, and local government attorneys.--

27 (7) CONFLICTING EMPLOYMENT OR CONTRACTUAL
28 RELATIONSHIP.--

29 (a) No public officer or employee of an agency shall
30 have or hold any employment or contractual relationship with
31 any business entity or any agency which is subject to the

1 regulation of, or is doing business with, an agency of which
2 he or she is an officer or employee, excluding those
3 organizations and their officers who, when acting in their
4 official capacity, enter into or negotiate a collective
5 bargaining contract with the state or any municipality,
6 county, or other political subdivision of the state; nor shall
7 an officer or employee of an agency have or hold any
8 employment or contractual relationship that will create a
9 continuing or frequently recurring conflict between his or her
10 private interests and the performance of his or her public
11 duties or that would impede the full and faithful discharge of
12 his or her public duties.

13 1. When the agency referred to is that certain kind of
14 special tax district created by general or special law and is
15 limited specifically to constructing, maintaining, managing,
16 and financing improvements in the land area over which the
17 agency has jurisdiction, or when the agency has been organized
18 pursuant to chapter 298, then employment with, or entering
19 into a contractual relationship with, such business entity by
20 a public officer or employee of such agency shall not be
21 prohibited by this subsection or be deemed a conflict per se.
22 However, conduct by such officer or employee that is
23 prohibited by, or otherwise frustrates the intent of, this
24 section shall be deemed a conflict of interest in violation of
25 the standards of conduct set forth by this section.

26 2. When the agency referred to is a legislative body
27 and the regulatory power over the business entity resides in
28 another agency, or when the regulatory power which the
29 legislative body exercises over the business entity or agency
30 is strictly through the enactment of laws or ordinances, then
31 employment or a contractual relationship with such business

1 entity by a public officer or employee of a legislative body
2 shall not be prohibited by this subsection or be deemed a
3 conflict.

4 3. When the agency referred to consists of the
5 Governor and members of the Cabinet who possess the power of
6 appointment, confirmation, or termination and the regulatory
7 power over the business entity resides in another agency, or
8 when the regulatory power that the Governor and members of the
9 Cabinet exercise over the business entity or agency is to
10 adopt rules establishing the organizational structure of the
11 agency, then employment or a contractual relationship with
12 such business entity by the Governor or member of the Cabinet
13 shall not be prohibited by this subsection or be deemed a
14 conflict.

15 Section 896. Sections 18.03, 18.07, 18.09, 18.091,
16 18.22, 627.0623, 655.019, and 657.067, Florida Statutes, are
17 repealed.

18 Section 897. If any law that is amended by this act
19 was also amended by a law enacted at the 2002 Regular Session
20 of the Legislature, such laws shall be construed as if they
21 had been enacted at the same session of the Legislature, and
22 full effect should be given to each if that is possible.

23 Section 898. Except as otherwise expressly provided in
24 this act, this act shall take effect January 7, 2003.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
SB's 42-E and 26-E

Revises the premium tax credit for Program Two established under the Certified Capital Company Act, to provide that the tax credit may not be used by insurers until the annual return due March 1, 2004, and that the premium tax credit for that return may not exceed \$10 million.

Incorporates the bill number and sponsor for Senate Bill 26-E.