

1 A reviser's bill to be entitled
2 An act relating to the Florida Statutes; amending ss.
3 11.40, 28.2401, 101.049, 110.205, 112.061, 117.05,
4 121.021, 121.051, 163.01, 163.3167, 163.524, 192.0105,
5 206.02, 206.9825, 220.187, 265.285, 287.057, 288.1045,
6 288.31, 315.031, 316.1937, 320.02, 322.051, 322.08,
7 322.09, 322.18, 332.004, 341.301, 369.255, 370.01,
8 372.001, 373.0421, 373.45922, 381.06014, 391.029,
9 393.0657, 394.741, 394.9082, 394.917, 400.0075, 402.3057,
10 403.7192, 404.20, 409.017, 409.1671, 409.1757, 409.904,
11 409.9065, 409.908, 409.91196, 409.912, 409.9122, 414.095,
12 440.02, 440.102, 440.14, 440.15, 440.25, 440.33, 440.385,
13 440.45, 440.491, 440.515, 440.60, 443.1215, 455.2125,
14 456.028, 456.048, 456.051, 458.320, 458.347, 459.0085,
15 475.01, 475.278, 475.611, 475.6221, 487.046, 493.6106,
16 499.01, 499.0121, 499.0122, 499.015, 499.03, 499.05,
17 504.011, 504.014, 517.021, 538.18, 552.40, 565.02, 601.48,
18 607.1331, 607.1407, 624.123, 624.307, 624.430, 624.461,
19 624.462, 624.509, 626.175, 626.371, 626.731, 626.7315,
20 626.7351, 626.7355, 626.7845, 626.785, 626.8305, 626.831,
21 626.8414, 626.865, 626.866, 626.867, 626.874, 626.9916,
22 627.351, 627.733, 627.736, 627.832, 628.6012, 628.6013,
23 631.57, 631.60, 636.0145, 636.029, 636.052, 641.21,
24 641.225, 641.31, 641.386, 648.34, 648.355, 648.45,
25 651.013, 657.001, 657.002, 657.021, 657.026, 657.031,
26 657.039, 657.066, 657.068, 679.338, 679.520, 732.2025,
27 741.04, 766.102, 766.203, 766.206, 766.209, 787.03,
28 790.061, 817.566, 817.567, 895.02, 921.0024, 943.171,
29 985.203, 1003.52, 1007.27, 1009.29, 1011.60, 1012.56,

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30 1013.74, and 1013.79, F.S.; amending and reenacting s.
 31 921.0022, F.S.; reenacting ss. 112.191, 220.191, 259.032,
 32 296.10, and 499.007, F.S.; and repealing s. 414.70, F.S.;
 33 pursuant to s. 11.242, F.S.; deleting provisions that have
 34 expired, have become obsolete, have had their effect, have
 35 served their purpose, or have been impliedly repealed or
 36 superseded; replacing incorrect cross references and
 37 citations; correcting grammatical, typographical, and like
 38 errors; removing inconsistencies, redundancies, and
 39 unnecessary repetition in the statutes; improving the
 40 clarity of the statutes and facilitating their correct
 41 interpretation; and confirming the restoration of
 42 provisions unintentionally omitted from republication in
 43 the acts of the Legislature during the amendatory process;
 44 providing effective dates.

45
 46 Be It Enacted by the Legislature of the State of Florida:

47
 48 Section 1. Paragraph (c) of subsection (5) of section
 49 11.40, Florida Statutes, is amended to read:

50 11.40 Legislative Auditing Committee.--

51 (5) Following notification by the Auditor General, the
 52 Department of Financial Services, or the Division of Bond
 53 Finance of the State Board of Administration of the failure of a
 54 local governmental entity, district school board, charter
 55 school, or charter technical career center to comply with the
 56 applicable provisions within s. 11.45(5)-(7), s. 218.32(1), or
 57 s. 218.38, the Legislative Auditing Committee may schedule a
 58 hearing. If a hearing is scheduled, the committee shall

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59 determine if the entity should be subject to further state
 60 action. If the committee determines that the entity should be
 61 subject to further state action, the committee shall:

62 (c) In the case of a charter school or charter technical
 63 career center, notify the appropriate sponsoring entity, which
 64 may terminate the charter pursuant to ss. 1002.33 and 1002.34
 65 ~~228.056 and 228.505~~.

66
 67 Reviser's note.--Amended to reincorporate the changes
 68 made to conform this section to the revised Florida K-
 69 20 Education Code by s. 879, ch. 2002-387, Laws of
 70 Florida. The amendment to this section by s. 5, ch.
 71 2003-261, Laws of Florida, had failed to incorporate
 72 those changes.

73
 74 Section 2. Effective July 1, 2004, paragraph (a) of
 75 subsection (1) and subsection (4) of section 28.2401, Florida
 76 Statutes, as amended by section 29 of chapter 2003-402, Laws of
 77 Florida, are amended to read:

78 28.2401 Service charges in probate matters.--

79 (1) Except when otherwise provided, the clerk may impose
 80 service charges for the following services, not to exceed the
 81 following amounts:

82 (a) For the opening of any estate of one document or more,
 83 including, but not limited to, petitions and orders to approve
 84 settlement of minor's claims; to open a safe-deposit box; to
 85 enter rooms and places; for the determination of heirs, if not
 86 formal administration; and for a foreign guardian to manage

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87 | property of a nonresident; but not to include issuance of
 88 | letters or order of summary administration....\$100

89 | (4) Recording shall be required for all petitions opening
 90 | and closing an estate; petitions regarding real estate; and
 91 | orders, letters, bonds, oaths, wills, proofs of wills, returns,
 92 | and such other papers as the judge shall deem advisable to
 93 | record or that shall be required to be recorded under the
 94 | Florida Probate Code ~~Law~~.

95 |
 96 | Reviser's note.--Paragraph (1)(a) is amended to
 97 | improve clarity and facilitate correct interpretation.
 98 | Subsection (4) is amended to conform to the repeal of
 99 | the provisions encompassing the Florida Probate Law by
 100 | s. 3, ch. 74-106, Laws of Florida, and creation of the
 101 | Florida Probate Code by ch. 74-106.

102 |
 103 | Section 3. Subsection (1) of section 101.049, Florida
 104 | Statutes, is amended to read:

105 | 101.049 Provisional ballots; special circumstances.--

106 | (1) Any person who votes in an election after the regular
 107 | poll-closing time pursuant to a court or other order extending
 108 | the statutory polling hours must vote a provisional ballot. Once
 109 | voted, the provisional ballot shall be placed in a secrecy
 110 | envelope and thereafter sealed in a provisional ballot envelope.
 111 | The election official witnessing the voter's subscription and
 112 | affirmation on the Provisional Ballot Voter's Certificate shall
 113 | indicate whether or not the voter met all requirements to vote a
 114 | regular ballot at the polls. All such provisional ballots shall

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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115 remain sealed in their envelopes and be transmitted to the
 116 supervisor of elections.

117
 118 Reviser's note.--Amended to improve clarity and
 119 facilitate correct interpretation.

120
 121 Section 4. Paragraph (m) of subsection (2) of section
 122 110.205, Florida Statutes, is amended to read:

123 110.205 Career service; exemptions.--

124 (2) EXEMPT POSITIONS.--The exempt positions that are not
 125 covered by this part include the following:

126 (m) All assistant division director, deputy division
 127 director, and bureau chief positions in any department, and
 128 those positions determined by the department to have managerial
 129 responsibilities comparable to such positions, which positions
 130 include, but are not limited to:

131 1. Positions in the Department of Health and the
 132 Department of Children and Family Services that are assigned
 133 primary duties of serving as the superintendent or assistant
 134 superintendent of an institution.

135 2. Positions in the Department of Corrections that are
 136 assigned primary duties of serving as the warden, assistant
 137 warden, colonel, or major of an institution or that are assigned
 138 primary duties of serving as the circuit administrator or deputy
 139 circuit administrator.

140 3. Positions in the Department of Transportation that are
 141 assigned primary duties of serving as regional toll managers and
 142 managers of offices as defined in s. 20.23(3)(c) and (4)(c)

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143 ~~20.23(3)(c) and (4)(d)~~, and captains and majors of the Office of
 144 Motor Carrier Compliance.

145 4. Positions in the Department of Environmental Protection
 146 that are assigned the duty of an Environmental Administrator or
 147 program administrator.

148 5. Positions in the Department of Health that are assigned
 149 the duties of Environmental Administrator, Assistant County
 150 Health Department Director, and County Health Department
 151 Financial Administrator.

152
 153 Unless otherwise fixed by law, the department shall set the
 154 salary and benefits of the positions listed in this paragraph in
 155 accordance with the rules established for the Selected Exempt
 156 Service.

157
 158 Reviser's note.--Amended to conform to the
 159 redesignation of subunits within s. 20.23 by s. 5, ch.
 160 2003-286, Laws of Florida.

161
 162 Section 5. Paragraph (b) of subsection (14) of section
 163 112.061, Florida Statutes, is amended to read:

164 112.061 Per diem and travel expenses of public officers,
 165 employees, and authorized persons.--

166 (14) APPLICABILITY TO COUNTIES, COUNTY OFFICERS, DISTRICT
 167 SCHOOL BOARDS, AND SPECIAL DISTRICTS.--

168 (b) Rates established pursuant to paragraph (a) ~~(15)(a)~~
 169 must apply uniformly to all travel by the county, county
 170 constitutional officer and entity governed by that officer,
 171 district school board, or special district.

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Reviser's note.--Amended to conform to the context of the reference and the fact that there is no subsection (15).

Section 6. Paragraph (g) of subsection (2) of section 112.191, Florida Statutes, is reenacted to read:

112.191 Firefighters; death benefits.--
(2)

(g)1. Any employer who employs a full-time firefighter who, on or after January 1, 1995, suffers a catastrophic injury, as defined in s. 440.02, Florida Statutes 2002, in the line of duty shall pay the entire premium of the employer's health insurance plan for the injured employee, the injured employee's spouse, and for each dependent child of the injured employee until the child reaches the age of majority or until the end of the calendar year in which the child reaches the age of 25 if the child continues to be dependent for support, or the child is a full-time or part-time student and is dependent for support. The term "health insurance plan" does not include supplemental benefits that are not part of the basic group health insurance plan. If the injured employee subsequently dies, the employer shall continue to pay the entire health insurance premium for the surviving spouse until remarried, and for the dependent children, under the conditions outlined in this paragraph.

However:

a. Health insurance benefits payable from any other source shall reduce benefits payable under this section.

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200 b. It is unlawful for a person to willfully and knowingly
 201 make, or cause to be made, or to assist, conspire with, or urge
 202 another to make, or cause to be made, any false, fraudulent, or
 203 misleading oral or written statement to obtain health insurance
 204 coverage as provided under this paragraph. A person who
 205 violates this sub-subparagraph commits a misdemeanor of the
 206 first degree, punishable as provided in s. 775.082 or s.
 207 775.083.

208 c. In addition to any applicable criminal penalty, upon
 209 conviction for a violation as described in sub-subparagraph b.,
 210 a firefighter or other beneficiary who receives or seeks to
 211 receive health insurance benefits under this paragraph shall
 212 forfeit the right to receive such health insurance benefits, and
 213 shall reimburse the employer for all benefits paid due to the
 214 fraud or other prohibited activity. For purposes of this sub-
 215 subparagraph, "conviction" means a determination of guilt that
 216 is the result of a plea or trial, regardless of whether
 217 adjudication is withheld.

218 2. In order for the firefighter, spouse, and dependent
 219 children to be eligible for such insurance coverage, the injury
 220 must have occurred as the result of the firefighter's response
 221 to what is reasonably believed to be an emergency involving the
 222 protection of life or property, or an unlawful act perpetrated
 223 by another. Except as otherwise provided herein, nothing in
 224 this paragraph shall be construed to limit health insurance
 225 coverage for which the firefighter, spouse, or dependent
 226 children may otherwise be eligible, except that a person who
 227 qualifies for benefits under this section shall not be eligible

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228 for the health insurance subsidy provided under chapter 121,
 229 chapter 175, or chapter 185.

230
 231 Notwithstanding any provision of this section to the contrary,
 232 the death benefits provided in paragraphs (b), (c), and (f)
 233 shall also be applicable and paid in cases where a firefighter
 234 received bodily injury prior to July 1, 1993, and subsequently
 235 died on or after July 1, 1993, as a result of such in-line-of-
 236 duty injury.

237
 238 Reviser's note.--Section 47, ch. 2003-412, Laws of
 239 Florida, amended paragraph (2)(g) without publishing
 240 the flush left language at the end of the paragraph.
 241 Absent affirmative evidence of legislative intent to
 242 repeal it, paragraph (2)(g) is reenacted here to
 243 confirm that the omission was not intended.

244
 245 Section 7. Paragraph (b) of subsection (5) of section
 246 117.05, Florida Statutes, is amended to read:

247 117.05 Use of notary commission; unlawful use; notary fee;
 248 seal; duties; employer liability; name change; advertising;
 249 photocopies; penalties.--

250 (5) A notary public may not notarize a signature on a
 251 document unless he or she personally knows, or has satisfactory
 252 evidence, that the person whose signature is to be notarized is
 253 the individual who is described in and who is executing the
 254 instrument. A notary public shall certify in the certificate of
 255 acknowledgment or jurat the type of identification, either based

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256 on personal knowledge or other form of identification, upon
 257 which the notary public is relying.

258 (b) For the purposes of this subsection, "satisfactory
 259 evidence" means the absence of any information, evidence, or
 260 other circumstances which would lead a reasonable person to
 261 believe that the person whose signature is to be notarized is
 262 not the person he or she claims to be and any one of the
 263 following:

264 1. The sworn written statement of one credible witness
 265 personally known to the notary public or the sworn written
 266 statement of two credible witnesses whose identities are proven
 267 to the notary public upon the presentation of satisfactory
 268 evidence that each of the following is true:

269 a. That the person whose signature is to be notarized is
 270 the person named in the document;

271 b. That the person whose signature is to be notarized is
 272 personally known to the witnesses;

273 c. That it is the reasonable belief of the witnesses that
 274 the circumstances of the person whose signature is to be
 275 notarized are such that it would be very difficult or impossible
 276 for that person to obtain another acceptable form of
 277 identification;

278 d. That it is the reasonable belief of the witnesses that
 279 the person whose signature is to be notarized does not possess
 280 any of the identification documents specified in subparagraph
 281 2.; and

282 e. That the witnesses do not have a financial interest in
 283 nor are parties to the underlying transaction; or

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284 2. Reasonable reliance on the presentation to the notary
 285 public of any one of the following forms of identification, if
 286 the document is current or has been issued within the past 5
 287 years and bears a serial or other identifying number:

288 a. A Florida identification card or driver's license
 289 issued by the public agency authorized to issue driver's
 290 licenses;

291 b. A passport issued by the Department of State of the
 292 United States;

293 c. A passport issued by a foreign government if the
 294 document is stamped by the United States Bureau of Citizenship
 295 and Immigration Services ~~Immigration and Naturalization Service~~;

296 d. A driver's license or an identification card issued by
 297 a public agency authorized to issue driver's licenses in a state
 298 other than Florida, a territory of the United States, or Canada
 299 or Mexico;

300 e. An identification card issued by any branch of the
 301 armed forces of the United States;

302 f. An inmate identification card issued on or after
 303 January 1, 1991, by the Florida Department of Corrections for an
 304 inmate who is in the custody of the department;

305 g. An inmate identification card issued by the United
 306 States Department of Justice, Bureau of Prisons, for an inmate
 307 who is in the custody of the department;

308 h. A sworn, written statement from a sworn law enforcement
 309 officer that the forms of identification for an inmate in an
 310 institution of confinement were confiscated upon confinement and
 311 that the person named in the document is the person whose
 312 signature is to be notarized; or

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313 i. An identification card issued by the United States
 314 Bureau of Citizenship and Immigration Services ~~Immigration and~~
 315 ~~Naturalization Service.~~

316
 317 Reviser's note.--Amended to conform to the
 318 redesignation of the Immigration and Naturalization
 319 Service pursuant to its transfer to the Department of
 320 Homeland Security by s. 451, Pub. L. No. 107-296.

321
 322 Section 8. Paragraph (a) of subsection (22) and subsection
 323 (38) of section 121.021, Florida Statutes, are amended to read:

324 121.021 Definitions.--The following words and phrases as
 325 used in this chapter have the respective meanings set forth
 326 unless a different meaning is plainly required by the context:

327 (22) "Compensation" means the monthly salary paid a member
 328 by his or her employer for work performed arising from that
 329 employment.

330 (a) Compensation shall include:

- 331 1. Overtime payments paid from a salary fund.
 - 332 2. Accumulated annual leave payments.
 - 333 3. Payments in addition to the employee's base rate of pay
- 334 if all the following apply:

335 a. The payments are paid according to a formal written
 336 policy that applies to all eligible employees equally;

337 b. The policy provides that payments shall commence no
 338 later than the 11th year of employment;

339 c. The payments are paid for as long as the employee
 340 continues his or her employment; and

341 d. The payments are paid at least annually.

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342 4. Amounts withheld for tax sheltered annuities or
 343 deferred compensation programs, or any other type of salary
 344 reduction plan authorized under the Internal Revenue Code.

345 5. Payments made in lieu of a permanent increase in the
 346 base rate of pay, whether made annually or in 12 or 26 equal
 347 payments within a 12-month period, when the member's base pay is
 348 at the maximum of his or her pay range. When a portion of a
 349 member's annual increase raises his or her pay range and the
 350 excess is paid as a lump sum payment, such lump sum payment
 351 shall be compensation for retirement purposes.

352 6. Effective July 1, 2002, salary supplements made
 353 pursuant to s. 1012.72 ~~ss. 231.700 and 236.08106~~ requiring a
 354 valid National Board for Professional Standards certificate ~~or~~
 355 ~~equivalent status as provided in s. 1012.73(3)(e)5.~~,
 356 notwithstanding the provisions of subparagraph 3.

357 (38) "Continuous service" means creditable service as a
 358 member, beginning with the first day of employment with an
 359 employer covered under a state-administered retirement system
 360 consolidated herein and continuing for as long as the member
 361 remains in an employer-employee relationship with an employer
 362 covered under this chapter. An absence of 1 calendar month or
 363 more from an employer's payroll shall be considered a break in
 364 continuous service, except for periods of absence during which
 365 an employer-employee relationship continues to exist and such
 366 period of absence is creditable under this chapter or under one
 367 of the existing systems consolidated herein. However, a law
 368 enforcement officer as defined in s. 121.0515(2)(a) who was a
 369 member of a state-administered retirement system under chapter
 370 122 or chapter 321 and who resigned and was subsequently

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371 reemployed in a law enforcement position within 12 calendar
 372 months of such resignation by an employer under such state-
 373 administered retirement system shall be deemed to have not
 374 experienced a break in service. Further, with respect to a
 375 state-employed law enforcement officer who meets the criteria
 376 specified in s. 121.0515(2)(a), if the absence from the
 377 employer's payroll is the result of a "layoff" as defined in s.
 378 110.107 ~~110.203(24)~~ or a resignation to run for an elected
 379 office that meets the criteria specified in s. 121.0515(2)(a),
 380 no break in continuous service shall be deemed to have occurred
 381 if the member is reemployed as a state law enforcement officer
 382 or is elected to an office which meets the criteria specified in
 383 s. 121.0515(2)(a) within 12 calendar months after the date of
 384 the layoff or resignation, notwithstanding the fact that such
 385 period of layoff or resignation is not creditable service under
 386 this chapter. A withdrawal of contributions will constitute a
 387 break in service. Continuous service also includes past service
 388 purchased under this chapter, provided such service is
 389 continuous within this definition and the rules established by
 390 the administrator. The administrator may establish
 391 administrative rules and procedures for applying this definition
 392 to creditable service authorized under this chapter. Any
 393 correctional officer, as defined in s. 943.10, whose
 394 participation in the state-administered retirement system is
 395 terminated due to the transfer of a county detention facility
 396 through a contractual agreement with a private entity pursuant
 397 to s. 951.062, shall be deemed an employee with continuous
 398 service in the Special Risk Class, provided return to employment
 399 with the former employer takes place within 3 years due to

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400 contract termination or the officer is employed by a covered
 401 employer in a special risk position within 1 year after his or
 402 her initial termination of employment by such transfer of its
 403 detention facilities to the private entity.

404
 405 Reviser's note.--Paragraph (22)(a) is amended to
 406 conform to the replacement of ss. 231.700 and
 407 236.08106 by ss. 1012.73 and 1012.72, respectively, in
 408 the revised Florida K-20 Education Code and the
 409 subsequent repeal of s. 1012.73 by s. 23, ch. 2003-
 410 391, Laws of Florida. Subsection (38) is amended to
 411 conform to the repeal of s. 110.203(24) by s. 19, ch.
 412 2003-138, Laws of Florida, and the enactment of s.
 413 110.107, which also defines the term "layoff," by s.
 414 3, ch. 2003-138.

415
 416 Section 9. Paragraph (c) of subsection (2) of section
 417 121.051, Florida Statutes, is amended to read:

418 121.051 Participation in the system.--

419 (2) OPTIONAL PARTICIPATION.--

420 (c) Employees of public community colleges or charter
 421 technical career centers sponsored by public community colleges,
 422 as designated in s. 1000.21(3), who are members of the Regular
 423 Class of the Florida Retirement System and who comply with the
 424 criteria set forth in this paragraph and in s. 1012.875 may
 425 elect, in lieu of participating in the Florida Retirement
 426 System, to withdraw from the Florida Retirement System
 427 altogether and participate in an optional retirement program
 428 provided by the employing agency under s. 1012.875, to be known

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429 as the State Community College System Optional Retirement
 430 Program. Pursuant thereto:

431 1. Through June 30, 2001, the cost to the employer for
 432 such annuity shall equal the normal cost portion of the employer
 433 retirement contribution which would be required if the employee
 434 were a member of the Regular Class defined benefit program, plus
 435 the portion of the contribution rate required by s. 112.363(8)
 436 that would otherwise be assigned to the Retiree Health Insurance
 437 Subsidy Trust Fund. Effective July 1, 2001, each employer shall
 438 contribute on behalf of each participant in the optional program
 439 an amount equal to 10.43 percent of the participant's gross
 440 monthly compensation. The employer shall deduct an amount to
 441 provide for the administration of the optional retirement
 442 program. The employer providing the optional program shall
 443 contribute an additional amount to the Florida Retirement System
 444 Trust Fund equal to the unfunded actuarial accrued liability
 445 portion of the Regular Class contribution rate.

446 2. The decision to participate in such an optional
 447 retirement program shall be irrevocable for as long as the
 448 employee holds a position eligible for participation, except as
 449 provided in subparagraph 3. Any service creditable under the
 450 Florida Retirement System shall be retained after the member
 451 withdraws from the Florida Retirement System; however,
 452 additional service credit in the Florida Retirement System shall
 453 not be earned while a member of the optional retirement program.

454 3. An employee who has elected to participate in the
 455 optional retirement program shall have one opportunity, at the
 456 employee's discretion, to choose to transfer from the optional
 457 retirement program to the defined benefit program of the Florida

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458 Retirement System or to the Public Employee Optional Retirement
 459 Program, subject to the terms of the applicable optional
 460 retirement program contracts.

461 a. If the employee chooses to move to the Public Employee
 462 Optional Retirement Program, any contributions, interest, and
 463 earnings creditable to the employee under the State Community
 464 College System Optional Retirement Program shall be retained by
 465 the employee in the State Community College System Optional
 466 Retirement Program, and the applicable provisions of s.
 467 121.4501(4) shall govern the election.

468 b. If the employee chooses to move to the defined benefit
 469 program of the Florida Retirement System, the employee shall
 470 receive service credit equal to his or her years of service
 471 under the State Community College Optional Retirement Program.

472 (I) The cost for such credit shall be an amount
 473 representing the present value of that employee's accumulated
 474 benefit obligation for the affected period of service. The cost
 475 shall be calculated as if the benefit commencement occurs on the
 476 first date the employee would become eligible for unreduced
 477 benefits, using the discount rate and other relevant actuarial
 478 assumptions that were used to value the Florida Retirement
 479 System defined benefit plan liabilities in the most recent
 480 actuarial valuation. The calculation shall include any service
 481 already maintained under the defined benefit plan in addition to
 482 the years under the State Community College Optional Retirement
 483 Program. The present value of any service already maintained
 484 under the defined benefit plan shall be applied as a credit to
 485 total cost resulting from the calculation. The division shall

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486 ensure that the transfer sum is prepared using a formula and
 487 methodology certified by an enrolled actuary.

488 (II) The employee must transfer from his or her State
 489 Community College System Optional Retirement Program account and
 490 from other employee moneys as necessary, a sum representing the
 491 present value of that employee's accumulated benefit obligation
 492 immediately following the time of such movement, determined
 493 assuming that attained service equals the sum of service in the
 494 defined benefit program and service in the State Community
 495 College System Optional Retirement Program.

496 4. Participation in the optional retirement program shall
 497 be limited to those employees who satisfy the following
 498 eligibility criteria:

499 a. The employee must be otherwise eligible for membership
 500 in the Regular Class of the Florida Retirement System, as
 501 provided in s. 121.021(11) and (12).

502 b. The employee must be employed in a full-time position
 503 classified in the Accounting Manual for Florida's Public
 504 Community Colleges as:

505 (I) Instructional; or

506 (II) Executive Management, Instructional Management, or
 507 Institutional Management, if a community college determines that
 508 recruiting to fill a vacancy in the position is to be conducted
 509 in the national or regional market, and:

510 (A) The duties and responsibilities of the position
 511 include either the formulation, interpretation, or
 512 implementation of policies; or

513 (B) The duties and responsibilities of the position
 514 include the performance of functions that are unique or

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515 specialized within higher education and that frequently involve
 516 the support of the mission of the community college.

517 c. The employee must be employed in a position not
 518 included in the Senior Management Service Class of the Florida
 519 Retirement System, as described in s. 121.055.

520 5. Participants in the program are subject to the same
 521 reemployment limitations, renewed membership provisions, and
 522 forfeiture provisions as are applicable to regular members of
 523 the Florida Retirement System under ss. 121.091(9), 121.122, and
 524 121.091(5), respectively.

525 6. Eligible community college employees shall be
 526 compulsory members of the Florida Retirement System until,
 527 pursuant to the procedures set forth in s. 1012.875, a written
 528 election to withdraw from the Florida Retirement System and to
 529 participate in the State Community College Optional Retirement
 530 Program is filed with the program administrator and received by
 531 the division.

532 a. Any community college employee whose program
 533 eligibility results from initial employment shall be enrolled in
 534 the State Community College Optional Retirement Program
 535 retroactive to the first day of eligible employment. The
 536 employer retirement contributions paid through the month of the
 537 employee plan change shall be transferred to the community
 538 college for the employee's optional program account, and,
 539 effective the first day of the next month, the employer shall
 540 pay the applicable contributions based upon subparagraph 1.

541 b. Any community college employee whose program
 542 eligibility results from a change in status due to the
 543 subsequent designation of the employee's position as one of

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544 those specified in subparagraph 4. or due to the employee's
 545 appointment, promotion, transfer, or reclassification to a
 546 position specified in subparagraph 4. shall be enrolled in the
 547 program upon the first day of the first full calendar month that
 548 such change in status becomes effective. The employer retirement
 549 contributions paid from the effective date through the month of
 550 the employee plan change shall be transferred to the community
 551 college for the employee's optional program account, and,
 552 effective the first day of the next month, the employer shall
 553 pay the applicable contributions based upon subparagraph 1.

554 7. Effective July 1, 2003, any participant of the State
 555 Community College Optional Retirement Program who has service
 556 credit in the defined benefit plan of the Florida Retirement
 557 System for the period between his or her first eligibility to
 558 transfer from the defined benefit plan to the optional
 559 retirement program and the actual date of transfer may, during
 560 his or her ~~their~~ employment, elect to transfer to the optional
 561 retirement program a sum representing the present value of the
 562 accumulated benefit obligation under the defined benefit
 563 retirement program for such period of service credit. Upon such
 564 transfer, all such service credit previously earned under the
 565 defined benefit program of the Florida Retirement System during
 566 this period shall be nullified for purposes of entitlement to a
 567 future benefit under the defined benefit program of the Florida
 568 Retirement System.

569
 570 Reviser's note.--Amended to improve clarity and
 571 correct sentence construction.

572

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573 Section 10. Paragraph (h) of subsection (3) of section
574 163.01, Florida Statutes, is amended to read:

575 163.01 Florida Interlocal Cooperation Act of 1969.--

576 (3) As used in this section:

577 (h) "Local government liability pool" means a reciprocal
578 insurer as defined in s. 629.021 or any self-insurance program
579 created pursuant to s. 768.28(16) ~~768.28(15)~~, formed and
580 controlled by counties or municipalities of this state to
581 provide liability insurance coverage for counties,
582 municipalities, or other public agencies of this state, which
583 pool may contract with other parties for the purpose of
584 providing claims administration, processing, accounting, and
585 other administrative facilities.

586
587 Reviser's note.--Amended to conform to the
588 redesignation of s. 768.28(15) as s. 768.28(16) by s.
589 67, ch. 2003-416, Laws of Florida.

590
591 Section 11. Subsection (10) of section 163.3167, Florida
592 Statutes, is amended to read:

593 163.3167 Scope of act.--

594 (10) Nothing in this part shall supersede any provision of
595 ss. 341.8201-341.842 ~~341.321-341.386~~.

596
597 Reviser's note.--Amended to conform to the repeal of
598 ss. 341.321-341.386, the Florida High-Speed Rail
599 Transportation Act, by s. 55, ch. 2002-20, Laws of
600 Florida, and the creation of ss. 341.8201-341.842, the
601 Florida High-Speed Rail Authority Act, by ch. 2002-20.

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Section 12. Subsection (3) of section 163.524, Florida Statutes, is amended to read:

163.524 Neighborhood Preservation and Enhancement Program; participation; creation of Neighborhood Preservation and Enhancement Districts; creation of Neighborhood Councils and Neighborhood Enhancement Plans.--

(3) After the boundaries and size of the Neighborhood Preservation and Enhancement District have been defined, the local government shall pass an ordinance authorizing the creation of the Neighborhood Preservation and Enhancement District. The ordinance shall contain a finding that the boundaries of the Neighborhood Preservation and Enhancement District meet the provisions of s. 163.340(7) or (8)(a)-(n) ~~163.340(7) or (8)(a)~~ or do not contain properties that are protected by deed restrictions. Such ordinance may be amended or repealed in the same manner as other local ordinances.

Reviser's note.--Amended to conform to the redesignation of subunits of s. 163.340 by s. 2, ch. 2002-294, Laws of Florida.

Section 13. Paragraph (a) of subsection (1) of section 192.0105, Florida Statutes, is amended to read:

192.0105 Taxpayer rights.--There is created a Florida Taxpayer's Bill of Rights for property taxes and assessments to guarantee that the rights, privacy, and property of the taxpayers of this state are adequately safeguarded and protected during tax levy, assessment, collection, and enforcement

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631 processes administered under the revenue laws of this state. The
 632 Taxpayer's Bill of Rights compiles, in one document, brief but
 633 comprehensive statements that summarize the rights and
 634 obligations of the property appraisers, tax collectors, clerks
 635 of the court, local governing boards, the Department of Revenue,
 636 and taxpayers. Additional rights afforded to payors of taxes and
 637 assessments imposed under the revenue laws of this state are
 638 provided in s. 213.015. The rights afforded taxpayers to assure
 639 that their privacy and property are safeguarded and protected
 640 during tax levy, assessment, and collection are available only
 641 insofar as they are implemented in other parts of the Florida
 642 Statutes or rules of the Department of Revenue. The rights so
 643 guaranteed to state taxpayers in the Florida Statutes and the
 644 departmental rules include:

645 (1) THE RIGHT TO KNOW.--

646 (a) The right to be mailed notice of proposed property
 647 taxes and proposed or adopted non-ad valorem assessments (see
 648 ss. 194.011(1), 200.065(2)(b) and (d) and (13)(a), and 200.069).
 649 The notice must also inform the taxpayer that the final tax bill
 650 may contain additional non-ad valorem assessments (see s.
 651 200.069(10) ~~200.069(11)~~).

652
 653 Reviser's note.--Amended to conform to the
 654 redesignation of subsections of s. 200.069 by s. 7,
 655 ch. 2002-18, Laws of Florida.

656
 657 Section 14. Paragraph (c) of subsection (2) of section
 658 206.02, Florida Statutes, is amended to read:

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659 206.02 Application for license; temporary license;
 660 terminal suppliers, importers, exporters, blenders, biodiesel
 661 manufacturers, and wholesalers.--

662 (2) To procure a terminal supplier license, a person shall
 663 file with the department an application under oath, and in such
 664 form as the department may prescribe, setting forth:

665 (c) The name and complete residence address of the owner
 666 or the names and addresses of the partners, if such person is a
 667 partnership, or of the principal officers, if such person is a
 668 corporation or association; and, if such person is a corporation
 669 organized under the laws of another state, territory, or
 670 country, he or she shall also indicate the state, territory, or
 671 country ~~county~~ where the corporation is organized and the date
 672 the corporation was registered with the Department of State as a
 673 foreign corporation authorized to transact business in the
 674 state.

675
 676 The application shall require a \$30 license tax. Each license
 677 shall be renewed annually through application, including an
 678 annual \$30 license tax.

679

680 Reviser's note.--Amended to provide consistent
 681 terminology within the paragraph.

682

683 Section 15. Paragraph (b) of subsection (1) and subsection
 684 (3) of section 206.9825, Florida Statutes, are amended to read:

685 206.9825 Aviation fuel tax.--

686 (1)

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687 (b) Any licensed wholesaler or terminal supplier that
 688 delivers aviation fuel to an air carrier offering
 689 transcontinental jet service and that, after January 1, 1996,
 690 increases the air carrier's Florida workforce by more than 1000
 691 percent and by 250 or more full-time equivalent employee
 692 positions, may receive a credit or refund as the ultimate vendor
 693 of the aviation fuel for the 6.9 cents excise tax previously
 694 paid, provided that the air carrier has no facility for fueling
 695 highway vehicles from the tank in which the aviation fuel is
 696 stored. In calculating the new or additional Florida full-time
 697 equivalent employee positions, any full-time equivalent employee
 698 positions of parent or subsidiary corporations which existed
 699 before January 1, 1996, shall not be counted toward reaching the
 700 Florida employment increase thresholds. The refund allowed
 701 under this paragraph is in furtherance of the goals and policies
 702 of the State Comprehensive Plan set forth in s. 187.201(16)(a),
 703 (b)1., 2., (17)(a), (b)1., 4., (19)(a), (b)5., (21)(a), (b)1.,
 704 2., 4., 7., 9., and 12. 187.201(17)(a), (b)1., 2., (18)(a),
 705 (b)1., 4., (20)(a), (b)5., (22)(a), (b)1., 2., 4., 7., 9., and
 706 12.

707 (3) An excise tax of 6.9 cents per gallon is imposed on
 708 each gallon of aviation gasoline in the manner prescribed by
 709 paragraph (2)(a) ~~(3)(a)~~. However, the exemptions allowed by
 710 paragraph (2)(b) ~~(3)(b)~~ do not apply to aviation gasoline.

711
 712 Reviser's note.--Paragraph (1)(b) is amended to
 713 conform to the repeal of former s. 187.201(1) by s.
 714 1056, ch. 2002-387, Laws of Florida. Subsection (3) is

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715 amended to conform to the repeal of former subsection
 716 (2) by s. 3, ch. 2003-2, Laws of Florida.

717
 718 Section 16. Paragraph (c) of subsection (2) of section
 719 220.187, Florida Statutes, is amended to read:

720 220.187 Credits for contributions to nonprofit
 721 scholarship-funding organizations.--

722 (2) DEFINITIONS.--As used in this section, the term:

723 (c) "Eligible nonpublic school" means a nonpublic school
 724 located in Florida that offers an education to students in any
 725 grades K-12 and that meets the requirements in subsection
 726 (6)~~(5)~~.

727
 728 Reviser's note.--Amended to conform to the
 729 redesignation of subunits of s. 220.187 by s. 9, ch.
 730 2003-391, Laws of Florida.

731
 732 Section 17. Section 220.191, Florida Statutes, is
 733 reenacted to read:

734 220.191 Capital investment tax credit.--

735 (1) DEFINITIONS.--For purposes of this section:

736 (a) "Commencement of operations" means the beginning of
 737 active operations by a qualifying business of the principal
 738 function for which a qualifying project was constructed.

739 (b) "Cumulative capital investment" means the total
 740 capital investment in land, buildings, and equipment made in
 741 connection with a qualifying project during the period from the
 742 beginning of construction of the project to the commencement of
 743 operations.

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744 (c) "Eligible capital costs" means all expenses incurred
 745 by a qualifying business in connection with the acquisition,
 746 construction, installation, and equipping of a qualifying
 747 project during the period from the beginning of construction of
 748 the project to the commencement of operations, including, but
 749 not limited to:

750 1. The costs of acquiring, constructing, installing,
 751 equipping, and financing a qualifying project, including all
 752 obligations incurred for labor and obligations to contractors,
 753 subcontractors, builders, and materialmen.

754 2. The costs of acquiring land or rights to land and any
 755 cost incidental thereto, including recording fees.

756 3. The costs of architectural and engineering services,
 757 including test borings, surveys, estimates, plans and
 758 specifications, preliminary investigations, environmental
 759 mitigation, and supervision of construction, as well as the
 760 performance of all duties required by or consequent to the
 761 acquisition, construction, installation, and equipping of a
 762 qualifying project.

763 4. The costs associated with the installation of fixtures
 764 and equipment; surveys, including archaeological and
 765 environmental surveys; site tests and inspections; subsurface
 766 site work and excavation; removal of structures, roadways, and
 767 other surface obstructions; filling, grading, paving, and
 768 provisions for drainage, storm water retention, and installation
 769 of utilities, including water, sewer, sewage treatment, gas,
 770 electricity, communications, and similar facilities; and offsite
 771 construction of utility extensions to the boundaries of the
 772 property.

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773
774 Eligible capital costs shall not include the cost of any
775 property previously owned or leased by the qualifying business.

776 (d) "Income generated by or arising out of the qualifying
777 project" means the qualifying project's annual taxable income as
778 determined by generally accepted accounting principles and under
779 s. 220.13.

780 (e) "Jobs" means full-time equivalent positions, as that
781 term is consistent with terms used by the Agency for Workforce
782 Innovation and the United States Department of Labor for
783 purposes of unemployment tax administration and employment
784 estimation, resulting directly from a project in this state. The
785 term does not include temporary construction jobs involved in
786 the construction of the project facility.

787 (f) "Office" means the Office of Tourism, Trade, and
788 Economic Development.

789 (g) "Qualifying business" means a business which
790 establishes a qualifying project in this state and which is
791 certified by the office to receive tax credits pursuant to this
792 section.

793 (h) "Qualifying project" means:

794 1. A new or expanding facility in this state which creates
795 at least 100 new jobs in this state and is in one of the high-
796 impact sectors identified by Enterprise Florida, Inc., and
797 certified by the office pursuant to s. 288.108(6), including,
798 but not limited to, aviation, aerospace, automotive, and silicon
799 technology industries; or

800 2. A new financial services facility in this state, which
801 creates at least 2,000 new jobs in this state, pays an average

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802 annual wage of at least \$50,000, and makes a cumulative capital
803 investment of at least \$30 million. This subparagraph is
804 repealed June 30, 2004.

805 (2) An annual credit against the tax imposed by this
806 chapter shall be granted to any qualifying business in an amount
807 equal to 5 percent of the eligible capital costs generated by a
808 qualifying project, for a period not to exceed 20 years
809 beginning with the commencement of operations of the project.
810 The tax credit shall be granted against only the corporate
811 income tax liability or the premium tax liability generated by
812 or arising out of the qualifying project, and the sum of all tax
813 credits provided pursuant to this section shall not exceed 100
814 percent of the eligible capital costs of the project. In no
815 event may any credit granted under this section be carried
816 forward or backward by any qualifying business with respect to a
817 subsequent or prior year. The annual tax credit granted under
818 this section shall not exceed the following percentages of the
819 annual corporate income tax liability or the premium tax
820 liability generated by or arising out of a qualifying project:

821 (a) One hundred percent for a qualifying project which
822 results in a cumulative capital investment of at least \$100
823 million.

824 (b) Seventy-five percent for a qualifying project which
825 results in a cumulative capital investment of at least \$50
826 million but less than \$100 million.

827 (c) Fifty percent for a qualifying project which results
828 in a cumulative capital investment of at least \$25 million but
829 less than \$50 million.

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831 A qualifying project which results in a cumulative capital
832 investment of less than \$25 million is not eligible for the
833 capital investment tax credit. An insurance company claiming a
834 credit against premium tax liability under this program shall
835 not be required to pay any additional retaliatory tax levied
836 pursuant to s. 624.5091 as a result of claiming such credit.
837 Because credits under this section are available to an insurance
838 company, s. 624.5091 does not limit such credit in any manner.

839 (3) Prior to receiving tax credits pursuant to this
840 section, a qualifying business must achieve and maintain the
841 minimum employment goals beginning with the commencement of
842 operations at a qualifying project and continuing each year
843 thereafter during which tax credits are available pursuant to
844 this section.

845 (4) The office, upon a recommendation by Enterprise
846 Florida, Inc., shall first certify a business as eligible to
847 receive tax credits pursuant to this section prior to the
848 commencement of operations of a qualifying project, and such
849 certification shall be transmitted to the Department of Revenue.
850 Upon receipt of the certification, the Department of Revenue
851 shall enter into a written agreement with the qualifying
852 business specifying, at a minimum, the method by which income
853 generated by or arising out of the qualifying project will be
854 determined.

855 (5) The office, in consultation with Enterprise Florida,
856 Inc., is authorized to develop the necessary guidelines and
857 application materials for the certification process described in
858 subsection (4).

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859 (6) It shall be the responsibility of the qualifying
 860 business to affirmatively demonstrate to the satisfaction of the
 861 Department of Revenue that such business meets the job creation
 862 and capital investment requirements of this section.

863 (7) The Department of Revenue may specify by rule the
 864 methods by which a project's pro forma annual taxable income is
 865 determined.

866
 867 Reviser's note.--Section 1, ch. 2003-270, Laws of
 868 Florida, purported to amend s. 220.191, but did not
 869 publish paragraphs (1)(a)-(g) and subsections (2)-(7).
 870 Absent affirmative evidence that the Legislature
 871 intended to repeal the material, the section is
 872 reenacted to confirm that the omission was not
 873 intended.

874
 875 Section 18. Subsection (10) of section 259.032, Florida
 876 Statutes, is reenacted to read:

877 259.032 Conservation and Recreation Lands Trust Fund;
 878 purpose.--

879 (10)(a) State, regional, or local governmental agencies or
 880 private entities designated to manage lands under this section
 881 shall develop and adopt, with the approval of the board of
 882 trustees, an individual management plan for each project
 883 designed to conserve and protect such lands and their associated
 884 natural resources. Private sector involvement in management plan
 885 development may be used to expedite the planning process.

886 (b) Individual management plans required by s. 253.034(5),
 887 for parcels over 160 acres, shall be developed with input from

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888 an advisory group. Members of this advisory group shall include,
 889 at a minimum, representatives of the lead land managing agency,
 890 comanaging entities, local private property owners, the
 891 appropriate soil and water conservation district, a local
 892 conservation organization, and a local elected official. The
 893 advisory group shall conduct at least one public hearing within
 894 the county in which the parcel or project is located. For those
 895 parcels or projects that are within more than one county, at
 896 least one areawide public hearing shall be acceptable and the
 897 lead managing agency shall invite a local elected official from
 898 each county. The areawide public hearing shall be held in the
 899 county in which the core parcels are located. Notice of such
 900 public hearing shall be posted on the parcel or project
 901 designated for management, advertised in a paper of general
 902 circulation, and announced at a scheduled meeting of the local
 903 governing body before the actual public hearing. The management
 904 prospectus required pursuant to paragraph (9)(d) shall be
 905 available to the public for a period of 30 days prior to the
 906 public hearing.

907 (c) Once a plan is adopted, the managing agency or entity
 908 shall update the plan at least every 10 years in a form and
 909 manner prescribed by rule of the board of trustees. Such
 910 updates, for parcels over 160 acres, shall be developed with
 911 input from an advisory group. Such plans may include transfers
 912 of leasehold interests to appropriate conservation organizations
 913 or governmental entities designated by the Land Acquisition and
 914 Management Advisory Council or its successor, for uses
 915 consistent with the purposes of the organizations and the
 916 protection, preservation, conservation, restoration, and proper

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917 management of the lands and their resources. Volunteer
 918 management assistance is encouraged, including, but not limited
 919 to, assistance by youths participating in programs sponsored by
 920 state or local agencies, by volunteers sponsored by
 921 environmental or civic organizations, and by individuals
 922 participating in programs for committed delinquents and adults.

923 (d) For each project for which lands are acquired after
 924 July 1, 1995, an individual management plan shall be adopted and
 925 in place no later than 1 year after the essential parcel or
 926 parcels identified in the annual Conservation and Recreation
 927 Lands report prepared pursuant to s. 259.035(2)(a) have been
 928 acquired. Beginning in fiscal year 1998-1999, the Department of
 929 Environmental Protection shall distribute only 75 percent of the
 930 acquisition funds to which a budget entity or water management
 931 district would otherwise be entitled from the Preservation 2000
 932 Trust Fund to any budget entity or any water management district
 933 that has more than one-third of its management plans overdue.

934 (e) Individual management plans shall conform to the
 935 appropriate policies and guidelines of the state land management
 936 plan and shall include, but not be limited to:

937 1. A statement of the purpose for which the lands were
 938 acquired, the projected use or uses as defined in s. 253.034,
 939 and the statutory authority for such use or uses.

940 2. Key management activities necessary to preserve and
 941 protect natural resources and restore habitat, and for
 942 controlling the spread of nonnative plants and animals, and for
 943 prescribed fire and other appropriate resource management
 944 activities.

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945 3. A specific description of how the managing agency plans
 946 to identify, locate, protect, and preserve, or otherwise use
 947 fragile, nonrenewable natural and cultural resources.

948 4. A priority schedule for conducting management
 949 activities, based on the purposes for which the lands were
 950 acquired.

951 5. A cost estimate for conducting priority management
 952 activities, to include recommendations for cost-effective
 953 methods of accomplishing those activities.

954 6. A cost estimate for conducting other management
 955 activities which would enhance the natural resource value or
 956 public recreation value for which the lands were acquired. The
 957 cost estimate shall include recommendations for cost-effective
 958 methods of accomplishing those activities.

959 7. A determination of the public uses and public access
 960 that would be consistent with the purposes for which the lands
 961 were acquired.

962 (f) The Division of State Lands shall submit a copy of
 963 each individual management plan for parcels which exceed 160
 964 acres in size to each member of the Land Acquisition and
 965 Management Advisory Council or its successor, which shall:

966 1. Within 60 days after receiving a plan from the
 967 division, review each plan for compliance with the requirements
 968 of this subsection and with the requirements of the rules
 969 established by the board pursuant to this subsection.

970 2. Consider the propriety of the recommendations of the
 971 managing agency with regard to the future use or protection of
 972 the property.

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973 3. After its review, submit the plan, along with its
 974 recommendations and comments, to the board of trustees, with
 975 recommendations as to whether to approve the plan as submitted,
 976 approve the plan with modifications, or reject the plan.

977 (g) The board of trustees shall consider the individual
 978 management plan submitted by each state agency and the
 979 recommendations of the Land Acquisition and Management Advisory
 980 Council, or its successor, and the Division of State Lands and
 981 shall approve the plan with or without modification or reject
 982 such plan. The use or possession of any lands owned by the board
 983 of trustees which is not in accordance with an approved
 984 individual management plan is subject to termination by the
 985 board of trustees.

986
 987 By July 1 of each year, each governmental agency and each
 988 private entity designated to manage lands shall report to the
 989 Secretary of Environmental Protection on the progress of
 990 funding, staffing, and resource management of every project for
 991 which the agency or entity is responsible.

992
 993 Reviser's note.--Section 6, ch. 2003-394, Laws of
 994 Florida, amended paragraph (10)(c) without publishing
 995 the flush left paragraph at the end of the subsection.
 996 Absent affirmative evidence of legislative intent to
 997 repeal the flush left material at the end of
 998 subsection (10), subsection (10) is reenacted to
 999 confirm that the omission was not intended.

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1001 Section 19. Paragraph (a) of subsection (1) of section
 1002 265.285, Florida Statutes, is amended to read:
 1003 265.285 Florida Arts Council; membership, duties.--
 1004 (1)(a) The Florida Arts Council is created in the
 1005 department as an advisory body, as defined in s. 20.03(7), to
 1006 consist of 15 members. Seven members shall be appointed by the
 1007 Governor, four members shall be appointed by the President of
 1008 the Senate, and four members shall be appointed by the Speaker
 1009 of the House of Representatives. The appointments, to be made in
 1010 consultation with the Secretary of State, shall recognize the
 1011 need for geographical representation. Council members appointed
 1012 by the Governor shall be appointed for 4-year terms. Council
 1013 members appointed by the President of the Senate and the Speaker
 1014 of the House of Representatives shall be appointed for 2-year
 1015 terms. Council members serving on July 1, 2002, may serve the
 1016 remainder of their respective terms. New appointments to the
 1017 council shall not be made until the retirement, resignation,
 1018 removal, or expiration of the terms of the initial members
 1019 results in fewer than 15 members remaining. As vacancies occur,
 1020 the first appointment to the council shall be made by the
 1021 Governor. The President of the Senate, the Speaker of the House
 1022 of Representatives, and the Governor, respectively, shall then
 1023 alternate appointments until the council ~~commission~~ is composed
 1024 as required herein. No member of the council who serves two 4-
 1025 year terms or two 2-year terms will be eligible for
 1026 reappointment during a 1-year period following the expiration of
 1027 the member's second term. A member whose term has expired shall
 1028 continue to serve on the council until such time as a
 1029 replacement is appointed. Any vacancy on the council shall be

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1030 filled for the remainder of the unexpired term in the same
 1031 manner as for the original appointment. Members should have a
 1032 substantial history of community service in the performing or
 1033 visual arts, which includes, but is not limited to, theatre,
 1034 dance, folk arts, music, architecture, photography, and
 1035 literature. In addition, it is desirable that members have
 1036 successfully served on boards of cultural institutions such as
 1037 museums and performing arts centers or are recognized as patrons
 1038 of the arts.

1039
 1040 Reviser's note.--Amended to conform to the references
 1041 to the arts council elsewhere in the section.

1042
 1043 Section 20. Paragraph (f) of subsection (5) of section
 1044 287.057, Florida Statutes, is amended to read:

1045 287.057 Procurement of commodities or contractual
 1046 services.--

1047 (5) When the purchase price of commodities or contractual
 1048 services exceeds the threshold amount provided in s. 287.017 for
 1049 CATEGORY TWO, no purchase of commodities or contractual services
 1050 may be made without receiving competitive sealed bids,
 1051 competitive sealed proposals, or competitive sealed replies
 1052 unless:

1053 (f) The following contractual services and commodities are
 1054 not subject to the competitive-solicitation requirements of this
 1055 section:

- 1056 1. Artistic services.
- 1057 2. Academic program reviews.
- 1058 3. Lectures by individuals.

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- 1059 4. Auditing services.
- 1060 5. Legal services, including attorney, paralegal, expert
- 1061 witness, appraisal, or mediator services.
- 1062 6. Health services involving examination, diagnosis,
- 1063 treatment, prevention, medical consultation, or administration.
- 1064 7. Services provided to persons with mental or physical
- 1065 disabilities by not-for-profit corporations which have obtained
- 1066 exemptions under the provisions of s. 501(c)(3) of the United
- 1067 States Internal Revenue Code or when such services are governed
- 1068 by the provisions of Office of Management and Budget Circular A-
- 1069 122. However, in acquiring such services, the agency shall
- 1070 consider the ability of the vendor, past performance,
- 1071 willingness to meet time requirements, and price.
- 1072 8. Medicaid services delivered to an eligible Medicaid
- 1073 recipient by a health care provider who has not previously
- 1074 applied for and received a Medicaid provider number from the
- 1075 Agency for Health Care Administration. However, this exception
- 1076 shall be valid for a period not to exceed 90 days after the date
- 1077 of delivery to the Medicaid recipient and shall not be renewed
- 1078 by the agency.
- 1079 9. Family placement services.
- 1080 10. Prevention services related to mental health,
- 1081 including drug abuse prevention programs, child abuse prevention
- 1082 programs, and shelters for runaways, operated by not-for-profit
- 1083 corporations. However, in acquiring such services, the agency
- 1084 shall consider the ability of the vendor, past performance,
- 1085 willingness to meet time requirements, and price.
- 1086 11. Training and education services provided to injured
- 1087 employees pursuant to s. 440.491(6) ~~440.49(1)~~.

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1088 12. Contracts entered into pursuant to s. 337.11.
 1089 13. Services or commodities provided by governmental
 1090 agencies.

1091
 1092 Reviser's note.--Amended to conform to the repeal of
 1093 s. 440.49(1), relating to rehabilitation, by s. 43,
 1094 ch. 93-415, Laws of Florida, and the enactment of
 1095 similar language in s. 440.491(6) by s. 44, ch. 93-
 1096 415.

1097
 1098 Section 21. Paragraph (f) of subsection (5) of section
 1099 288.1045, Florida Statutes, is amended to read:

1100 288.1045 Qualified defense contractor tax refund
 1101 program.--

1102 (5) ANNUAL CLAIM FOR REFUND FROM A QUALIFIED DEFENSE
 1103 CONTRACTOR.--

1104 (f) Upon approval of the tax refund pursuant to paragraphs
 1105 (c) and (d), the Chief Financial Officer shall issue a warrant
 1106 for the amount included in the written order. In the event of
 1107 any appeal of the written order, the Chief Financial Officer
 1108 ~~Comptroller~~ may not issue a warrant for a refund to the
 1109 qualified applicant until the conclusion of all appeals of the
 1110 written order.

1111
 1112 Reviser's note.--Amended to conform to the transfer of
 1113 the duties of the Comptroller to the Chief Financial
 1114 Officer by Revision No. 8, adopted in 1998, amending
 1115 s. 4, Art. IV of the State Constitution.

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1117 Section 22. Subsection (1) of section 288.31, Florida
 1118 Statutes, is amended to read:

1119 288.31 Armories; financing construction authorized.--

1120 (1) The Division of Bond Finance of the State Board of
 1121 Administration shall have the power to borrow money and incur
 1122 obligations by way of bonds, notes, or revenue certificates and
 1123 issue such obligations for the purpose of financing, either in
 1124 whole or in part, the construction of armories in such counties
 1125 and municipalities as designated by the State Armory Board. The
 1126 authority hereby conferred shall empower the said division to
 1127 issue such certificates or bonds for the financing of the share
 1128 or portion of the cost to be borne by a county or municipality
 1129 when required by the provisions of a grant of funds from the
 1130 state or the Federal Government or any other source, or to
 1131 authorize the borrowing and issuing of obligations for financing
 1132 such an armory in its entirety. Bonds, notes, or certificates
 1133 issued hereunder shall be issued in conformity to all the
 1134 provisions of chapter 215, and the division shall be empowered
 1135 to fix the rentals or charges to be collected for the purpose of
 1136 the retirement or purchase of said obligations. The division and
 1137 the county or municipality shall be empowered to enter into such
 1138 lease, or leases, as may be necessary to ensure the providing of
 1139 sufficient funds to retire such obligations and when the said
 1140 obligations shall have been fully paid, the armory shall be
 1141 conveyed to the state. Leases with the county or municipality
 1142 under the terms of this section shall provide for the control of
 1143 the building and its use to be vested in the military commander
 1144 representing the Armory Board in accordance with the provisions
 1145 of s. 250.40 ~~250.41~~.

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Reviser's note.--Amended to conform to the repeal of s. 250.41 by s. 55, ch. 2003-68, Laws of Florida, and the addition of similar material to s. 250.40 by s. 38, ch. 2003-68.

Section 23. Section 296.10, Florida Statutes, is reenacted to read:

296.10 Residents; contribution to support.--

(1)(a) Each resident of the home who receives a pension, compensation, or gratuity from the United States Government, or income from any other source of more than \$100 per month, with adjustments in accordance with paragraph (b), shall contribute to his or her maintenance and support while a resident of the home in accordance with a schedule of payment determined by the administrator and approved by the director. The total amount of such contributions must be to the fullest extent possible, but may not exceed the actual cost of operating and maintaining the home.

(b) Whenever there is an increase in benefit amounts payable under Title II of the Social Security Act, 42 U.S.C. ss. 401 et seq., as a result of a determination made under s. 215(i) of such act, 42 U.S.C. s. 415(i), the administrator shall increase the amount that each resident shall be allowed to retain. The increased amount will be determined by the percentage used to increase the benefits under the Social Security Act, 42 U.S.C. ss. 401 et seq. This first such increase to residents' personal use funds will take place on January 1,

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1174 2004, and shall be continued each ensuing year that there is an
 1175 increase in benefits under the said act.

1176 (2) Notwithstanding subsection (1), each resident who
 1177 participates in a vocational rehabilitation or work incentive
 1178 program shall contribute to his or her support in an amount that
 1179 is determined by the administrator and approved by the director,
 1180 is computed at 50 percent of the resident's net earnings after
 1181 taxes and after the setoff of the first \$100 per month, and does
 1182 not exceed the cost of care. The resident is required to
 1183 authorize the administrator of the home to secure from the
 1184 employer sufficient information to verify the resident's
 1185 earnings under the program.

1186 (3) The administrator may, if there is room, admit to
 1187 residency in the home veterans who have sufficient means for
 1188 their own support, but are otherwise eligible to become
 1189 residents of the home, on payment of the full cost of their
 1190 support, which cost and method of collection shall be fixed by
 1191 the administrator.

1192
 1193 Reviser's note.--Section 4, ch. 2003-42, Laws of
 1194 Florida, purported to amend s. 296.10 in its entirety,
 1195 but did not publish subsections (2) and (3). Absent
 1196 affirmative evidence of legislative intent to repeal
 1197 subsections (2) and (3), the section is reenacted to
 1198 confirm that the omission was not intended.

1199
 1200 Section 24. Paragraph (e) of subsection (1) of section
 1201 315.031, Florida Statutes, is amended to read:

1202 315.031 Promoting and advertising port facilities.--

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1203 (1) Each unit is authorized and empowered:
 1204 (e) To enter into agreements with the purchaser or
 1205 purchasers of port facilities bonds issued under the provisions
 1206 of this law to establish a special fund to be set aside from the
 1207 proceeds of the revenues collected under the provisions of s.
 1208 315.03(14) ~~315.03(13)~~, during any fiscal year, for the
 1209 promotional activities authorized herein.

1210
 1211 Nothing herein shall be construed to authorize any unit to
 1212 expend funds for meals, hospitality, amusement or any other
 1213 purpose of an entertainment nature.

1214
 1215 Reviser's note.--Amended to conform to the
 1216 redesignation of subunits of s. 315.03 by s. 66, ch.
 1217 2002-20, Laws of Florida.

1218
 1219 Section 25. Paragraph (b) of subsection (5) of section
 1220 316.1937, Florida Statutes, is amended to read:

1221 316.1937 Ignition interlock devices, requiring; unlawful
 1222 acts.--

1223 (5)
 1224 (b) Any person convicted of a violation of subsection (6)
 1225 who does not have a driver's license shall, in addition to any
 1226 other penalty provided by law, pay a fine of not less than \$250
 1227 or more than \$500 per each such violation. In the event that the
 1228 person is unable to pay any such fine, the fine shall become a
 1229 lien against the motor vehicle used in violation of subsection
 1230 (6) and payment shall be made pursuant to s. 316.3025(5)
 1231 ~~316.3025(4)~~.

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Reviser's note.--Amended to conform to the
redesignation of subunits of s. 316.3025 by s. 12, ch.
2003-286, Laws of Florida.

Section 26. Subsection (9) of section 320.02, Florida
Statutes, is amended to read:

320.02 Registration required; application for
registration; forms.--

(9) Before a motor vehicle which has not been manufactured
in accordance with the federal Clean Air Act and the federal
Motor Vehicle Safety Act can be sold to a consumer and titled
and registered in this state, the motor vehicle must be
certified by the United States Bureau of Customs and Border
Protection ~~Customs Service~~ or the United States Department of
Transportation and the United States Environmental Protection
Agency to be in compliance with these federal standards. A
vehicle which is registered pursuant to this subsection shall
not be titled as a new motor vehicle.

Reviser's note.--Amended to conform to the
redesignation of the United States Customs Service
pursuant to its transfer to the Department of Homeland
Security by s. 403, Pub. L. No. 107-296.

Section 27. Paragraph (a) of subsection (1) and paragraphs
(b) and (c) of subsection (2) of section 322.051, Florida
Statutes, are amended to read:

322.051 Identification cards.--

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1261 (1) Any person who is 12 years of age or older, or any
 1262 person who has a disability, regardless of age, who applies for
 1263 a disabled parking permit under s. 320.0848, may be issued an
 1264 identification card by the department upon completion of an
 1265 application and payment of an application fee.

1266 (a) Each such application shall include the following
 1267 information regarding the applicant:

1268 1. Full name (first, middle or maiden, and last), gender,
 1269 social security card number, county of residence and mailing
 1270 address, country of birth, and a brief description.

1271 2. Proof of birth date satisfactory to the department.

1272 3. Proof of identity satisfactory to the department. Such
 1273 proof must include one of the following documents issued to the
 1274 applicant:

1275 a. A driver's license record or identification card record
 1276 from another jurisdiction that required the applicant to submit
 1277 a document for identification which is substantially similar to
 1278 a document required under sub-subparagraph b., sub-subparagraph
 1279 c., sub-subparagraph d., sub-subparagraph e., or sub-
 1280 subparagraph f.;

1281 b. A certified copy of a United States birth certificate;

1282 c. A valid United States passport;

1283 d. An alien registration receipt card (green card);

1284 e. An employment authorization card issued by the United
 1285 States Department of Homeland Security ~~Justice~~; or

1286 f. Proof of nonimmigrant classification provided by the
 1287 United States Department of Homeland Security ~~Justice~~, for an
 1288 original identification card. In order to prove such

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1289 nonimmigrant classification, applicants may produce but are not
 1290 limited to the following documents:

1291 (I) A notice of hearing from an immigration court
 1292 scheduling a hearing on any proceeding.

1293 (II) A notice from the Board of Immigration Appeals
 1294 acknowledging pendency of an appeal.

1295 (III) Notice of the approval of an application for
 1296 adjustment of status issued by the United States Bureau of
 1297 Citizenship and Immigration Services ~~Immigration and~~
 1298 ~~Naturalization Service~~.

1299 (IV) Any official documentation confirming the filing of a
 1300 petition for asylum status or any other relief issued by the
 1301 United States Bureau of Citizenship and Immigration Services
 1302 ~~Immigration and Naturalization Service~~.

1303 (V) Notice of action transferring any pending matter from
 1304 another jurisdiction to Florida, issued by the United States
 1305 Bureau of Citizenship and Immigration Services ~~Immigration and~~
 1306 ~~Naturalization Service~~.

1307 (VI) Order of an immigration judge or immigration officer
 1308 granting any relief that authorizes the alien to live and work
 1309 in the United States including, but not limited to asylum.

1310
 1311 Presentation of any of the foregoing documents shall entitle the
 1312 applicant to a driver's license or temporary permit for a period
 1313 not to exceed the expiration date of the document presented or 2
 1314 years, whichever first occurs.

1315 (2)

1316 (b) Notwithstanding any other provision of this chapter,
 1317 if an applicant establishes his or her identity for an

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1318 identification card using a document authorized under sub-
 1319 subparagraph (1)(a)3.d. ~~(a)3.d.~~, the identification card shall
 1320 expire on the fourth birthday of the applicant following the
 1321 date of original issue or upon first renewal or duplicate issued
 1322 after implementation of this section. After an initial showing
 1323 of such documentation, he or she is exempted from having to
 1324 renew or obtain a duplicate in person.

1325 (c) Notwithstanding any other provisions of this chapter,
 1326 if an applicant establishes his or her identity for an
 1327 identification card using an identification document authorized
 1328 under sub-subparagraphs (1)(a)3.e.-f. ~~(a)3.e.-f.~~, the
 1329 identification card shall expire 2 years after the date of
 1330 issuance or upon the expiration date cited on the United States
 1331 Department of Homeland Security ~~Justice~~ documents, whichever
 1332 date first occurs, and may not be renewed or obtain a duplicate
 1333 except in person.

1334
 1335 Reviser's note.--Paragraphs (1)(a) and (2)(c) are
 1336 amended to conform to the redesignation of the
 1337 Immigration and Naturalization Service pursuant to its
 1338 transfer from the Department of Justice to the
 1339 Department of Homeland Security by s. 451, Pub. L. No.
 1340 107-296. Paragraphs (2)(b) and (c) are amended to
 1341 reference contextually consistent material; the
 1342 referenced sub-subparagraphs do not exist.

1343
 1344 Section 28. Paragraph (c) of subsection (2) of section
 1345 322.08, Florida Statutes, is amended to read:

1346 322.08 Application for license.--

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1347 (2) Each such application shall include the following
 1348 information regarding the applicant:

1349 (c) Proof of identity satisfactory to the department. Such
 1350 proof must include one of the following documents issued to the
 1351 applicant:

1352 1. A driver's license record or identification card record
 1353 from another jurisdiction that required the applicant to submit
 1354 a document for identification which is substantially similar to
 1355 a document required under subparagraph 2., subparagraph 3.,
 1356 subparagraph 4., subparagraph 5., or subparagraph 6.;

1357 2. A certified copy of a United States birth certificate;

1358 3. A valid United States passport;

1359 4. An alien registration receipt card (green card);

1360 5. An employment authorization card issued by the United
 1361 States Department of Homeland Security ~~Justice~~; or

1362 6. Proof of nonimmigrant classification provided by the
 1363 United States Department of Homeland Security ~~Justice~~.

1364
 1365 Reviser's note.--Amended to conform to the transfer of
 1366 the Immigration and Naturalization Service of the
 1367 Department of Justice to the Department of Homeland
 1368 Security by s. 451, Pub. L. No. 107-296.

1369
 1370 Section 29. Paragraph (b) of subsection (1) of section
 1371 322.09, Florida Statutes, is amended to read:

1372 322.09 Application of minors; responsibility for
 1373 negligence or misconduct of minor.--

1374 (1)

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1375 (b) There shall be submitted with each application a
 1376 certified copy of a United States birth certificate, a valid
 1377 United States passport, an alien registration receipt card
 1378 (green card), an employment authorization card issued by the
 1379 United States Department of Homeland Security ~~Justice~~, or proof
 1380 of nonimmigrant classification provided by the United States
 1381 Department of Homeland Security ~~Justice~~, for an original
 1382 license.

1383
 1384 Reviser's note.--Amended to conform to the transfer of
 1385 the Immigration and Naturalization Service of the
 1386 Department of Justice to the Department of Homeland
 1387 Security by s. 451, Pub. L. No. 107-296.

1388
 1389 Section 30. Paragraph (d) of subsection (2) and paragraph
 1390 (c) of subsection (4) of section 322.18, Florida Statutes, are
 1391 amended to read:

1392 322.18 Original applications, licenses, and renewals;
 1393 expiration of licenses; delinquent licenses.--

1394 (2) Each applicant who is entitled to the issuance of a
 1395 driver's license, as provided in this section, shall be issued a
 1396 driver's license, as follows:

1397 (d) Notwithstanding any other provision of this chapter,
 1398 if applicant establishes his or her identity for a driver's
 1399 license using a document authorized in s. 322.08(2)(c)5. or 6.,
 1400 the driver's license shall expire 4 years after the date of
 1401 issuance or upon the expiration date cited on the United States
 1402 Department of Homeland Security ~~Justice~~ documents, whichever
 1403 date first occurs.

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1404 (4)
 1405 (c) Notwithstanding any other provision of this chapter,
 1406 if a licensee establishes his or her identity for a driver's
 1407 license using an identification document authorized under s.
 1408 322.08(2)(c)5. or 6., the licensee may not renew the driver's
 1409 license except in person and upon submission of an
 1410 identification document authorized under s. 322.08(2)(c)4.-6. A
 1411 driver's license renewed under this paragraph expires 4 years
 1412 after the date of issuance or upon the expiration date cited on
 1413 the United States Department of Homeland Security ~~Justice~~
 1414 documents, whichever date first occurs.

1415
 1416 Reviser's note.--Amended to conform to the transfer of
 1417 the Immigration and Naturalization Service of the
 1418 Department of Justice to the Department of Homeland
 1419 Security by s. 451, Pub. L. No. 107-296.

1420
 1421 Section 31. Paragraph (a) of subsection (5) of section
 1422 332.004, Florida Statutes, is amended to read:

1423 332.004 Definitions of terms used in ss. 332.003-
 1424 332.007.--As used in ss. 332.003-332.007, the term:

1425 (5) "Airport or aviation discretionary capacity
 1426 improvement projects" or "discretionary capacity improvement
 1427 projects" means capacity improvements which are consistent, to
 1428 the maximum extent feasible, with the approved local government
 1429 comprehensive plans of the units of local government in which
 1430 the airport is located, and which enhance intercontinental
 1431 capacity at airports which:

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1432 (a) Are international airports with United States Bureau
 1433 of Customs and Border Protection ~~Customs Service~~;

1434
 1435 Reviser's note.--Amended to conform to the
 1436 redesignation of the United States Customs Service
 1437 pursuant to its transfer to the Department of Homeland
 1438 Security by s. 403, Pub. L. No. 107-296.

1439
 1440 Section 32. Subsection (5) of section 341.301, Florida
 1441 Statutes, is amended to read:

1442 341.301 Definitions; ss. 341.302 and 341.303.--As used in
 1443 ss. 341.302 and 341.303, the term:

1444 (5) "Railroad" or "rail system" means any common carrier
 1445 fixed-guideway transportation system such as the conventional
 1446 steel rail-supported, steel-wheeled system. The term does not
 1447 include a high-speed rail line developed by the Department of
 1448 Transportation pursuant to ss. 341.8201-341.842 ~~341.321-341.386~~.

1449
 1450 Reviser's note.--Amended to conform to the repeal of
 1451 ss. 341.321-341.386, the Florida High-Speed Rail
 1452 Transportation Act, by s. 55, ch. 2002-20, Laws of
 1453 Florida, and the creation of ss. 341.8201-341.842, the
 1454 Florida High-Speed Rail Authority Act, by ss. 28-50,
 1455 ch. 2002-20.

1456
 1457 Section 33. Subsection (1) of section 369.255, Florida
 1458 Statutes, is amended to read:

1459 369.255 Green utility ordinances for funding greenspace
 1460 management and exotic plant control.--

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1461 (1) LEGISLATIVE FINDING.--The Legislature finds that the
 1462 proper management of greenspace areas, including, without
 1463 limitation, the urban forest, greenways, private and public
 1464 forest preserves, wetlands, and aquatic zones, is essential to
 1465 the state's environment and economy and to the health and safety
 1466 of its residents and visitors. The Legislature also finds that
 1467 the limitation and control of nonindigenous plants and tree
 1468 replacement and maintenance are vital to achieving the natural
 1469 systems and recreational lands goals and policies of the state
 1470 pursuant to s. 187.201(9) ~~187.201(10)~~, the State Comprehensive
 1471 Plan. It is the intent of this section to enable local
 1472 governments to establish a mechanism to provide dedicated
 1473 funding for the aforementioned activities, when deemed necessary
 1474 by a county or municipality.

1475
 1476 Reviser's note.--Amended to conform to the
 1477 redesignation of subunits of s. 187.201 necessitated
 1478 by the repeal of s. 187.201(1) by s. 1056, ch. 2002-
 1479 387, Laws of Florida.

1480
 1481 Section 34. Subsections (17) and (21) of section 370.01,
 1482 Florida Statutes, are amended to read:

1483 370.01 Definitions.--In construing these statutes, where
 1484 the context does not clearly indicate otherwise, the word,
 1485 phrase, or term:

1486 (17) "Nonresident alien" shall mean those individuals from
 1487 other nations who can provide documentation from the Bureau of
 1488 Citizenship and Immigration Services ~~Immigration and~~
 1489 ~~Naturalization Service~~ evidencing permanent residency status in

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1490 the United States. For the purposes of this chapter, a
 1491 "nonresident alien" shall be considered a "nonresident."

1492 (21) "Resident alien" shall mean those persons who have
 1493 continuously resided in this state for at least 1 year and 6
 1494 months in the county and can provide documentation from the
 1495 Bureau of Citizenship and Immigration Services ~~Immigration and~~
 1496 ~~Naturalization Service~~ evidencing permanent residency status in
 1497 the United States. For the purposes of this chapter, a "resident
 1498 alien" shall be considered a "resident."

1499
 1500 Reviser's note.--Amended to conform to the
 1501 redesignation of the Immigration and Naturalization
 1502 Service pursuant to its transfer to the Department of
 1503 Homeland Security by s. 451, Pub. L. No. 107-296.

1504
 1505 Section 35. Subsection (16) of section 372.001, Florida
 1506 Statutes, is amended to read:

1507 372.001 Definitions.--In construing these statutes, when
 1508 applied to saltwater and freshwater fish, shellfish, crustacea,
 1509 sponges, wild birds, and wild animals, where the context
 1510 permits, the word, phrase, or term:

1511 (16) "Saltwater fish" means any saltwater species of
 1512 finfish of the classes Agnatha, Chondrichthyes, or Osteichthyes
 1513 and marine invertebrates ~~that~~ of the classes Gastropoda,
 1514 Bivalvia, or Crustacea, or of the phylum Echinodermata, but does
 1515 not include nonliving shells or echinoderms.

1516
 1517 Reviser's note.--Amended to improve clarity.

1518

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1519 Section 36. Paragraph (b) of subsection (1) of section
 1520 373.0421, Florida Statutes, is amended to read:

1521 373.0421 Establishment and implementation of minimum flows
 1522 and levels.--

1523 (1) ESTABLISHMENT.--

1524 (b) Exclusions.--

1525 1. The Legislature recognizes that certain water bodies no
 1526 longer serve their historical hydrologic functions. The
 1527 Legislature also recognizes that recovery of these water bodies
 1528 to historical hydrologic conditions may not be economically or
 1529 technically feasible, and that such recovery effort could cause
 1530 adverse environmental or hydrologic impacts. Accordingly, the
 1531 department or governing board may determine that setting a
 1532 minimum flow or level for such a water body based on its
 1533 historical condition is not appropriate.

1534 2. The department or the governing board is not required
 1535 to establish minimum flows or levels pursuant to s. 373.042 for
 1536 surface water bodies less than 25 acres in area, unless the
 1537 water body or bodies, individually or cumulatively, have
 1538 significant economic, environmental, or hydrologic value.

1539 3. The department or the governing board shall not set
 1540 minimum flows or levels pursuant to s. 373.042 for surface water
 1541 bodies constructed prior to the requirement for a permit, or
 1542 pursuant to an exemption, a permit, or a reclamation plan which
 1543 regulates the size, depth, or function of the surface water body
 1544 under the provisions of this chapter, chapter 378, or chapter
 1545 403, unless the constructed surface water body is of significant
 1546 hydrologic value or is an essential element of the water
 1547 resources of the area.

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1548
 1549 The exclusions of this paragraph shall not apply to the
 1550 Everglades Protection Area, as defined in s. 373.4592(2)(i)
 1551 ~~373.4592(2)(h)~~.

1552
 1553 Reviser's note.--Amended to conform to the
 1554 redesignation of subunits of s. 373.4592 by s. 1, ch.
 1555 2003-12, Laws of Florida.

1556
 1557 Section 37. Section 373.45922, Florida Statutes, is
 1558 amended to read:

1559 373.45922 South Florida Water Management District; permit
 1560 for completion of Everglades Construction Project;
 1561 report.--Within 60 days after receipt of any permit issued
 1562 pursuant to s. 404 of the Clean Water Act, 33 U.S.C. s. 1344,
 1563 for the completion of the Everglades Construction Project, as
 1564 defined by s. 373.4592(2)(g) ~~373.4592(2)(f)~~, the South Florida
 1565 Water Management District shall submit a report to the Governor,
 1566 the President of the Senate, and the Speaker of the House of
 1567 Representatives that details the differences between the permit
 1568 and the Everglades Program as defined by s. 373.4592(2)(h)
 1569 ~~373.4592(2)(g)~~ and identifies any changes to the schedule or
 1570 funding for the Everglades Program that result from the permit.
 1571 The South Florida Water Management District shall include in the
 1572 report a complete chronological record of any negotiations
 1573 related to conditions included in the permit. Such record shall
 1574 be documented by inclusion of all relevant correspondence in the
 1575 report. If any condition of the permit affects the schedule or
 1576 costs of the Everglades Construction Project, the South Florida

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1577 Water Management District shall include in the report a detailed
 1578 explanation of why the condition was imposed and a detailed
 1579 analysis of whether the condition would promote or hinder the
 1580 progress of the project.

1581
 1582 Reviser's note.--Amended to conform to the
 1583 redesignation of subunits of s. 373.4592 by s. 1, ch.
 1584 2003-12, Laws of Florida.

1585
 1586 Section 38. Subsection (3) of section 381.06014, Florida
 1587 Statutes, is amended to read:

1588 381.06014 Blood establishments.--

1589 (3) Any blood establishment determined to be operating in
 1590 the state in a manner not consistent with the provisions of
 1591 Title 21 parts 211 and 600-640, Code of Federal Regulations, and
 1592 in a manner that constitutes a danger to the health or well-
 1593 being of donors or recipients as evidenced by the federal Food
 1594 and Drug Administration's inspection reports and the revocation
 1595 of the blood establishment's license or registration shall be in
 1596 violation of this chapter ~~part~~ and shall immediately cease all
 1597 operations in the state.

1598
 1599 Reviser's note.--Amended to conform to the arrangement
 1600 of chapter 381, which is not divided into parts.

1601
 1602 Section 39. Subsection (2) of section 391.029, Florida
 1603 Statutes, is amended to read:

1604 391.029 Program eligibility.--

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1605 (2) The following individuals are financially eligible for
 1606 the program:

1607 (a) A high-risk pregnant female who is eligible for
 1608 Medicaid.

1609 (b) A child with special health care needs from birth to
 1610 age 21 years who is eligible for Medicaid.

1611 (c) A child with special health care needs from birth to
 1612 age 19 years who is eligible for a program under Title XXI of
 1613 the Social Security Act.

1614 (d) A child with special health care needs from birth to
 1615 age 21 years whose projected annual cost of care adjusts the
 1616 family income to Medicaid financial criteria. In cases where
 1617 the family income is adjusted based on a projected annual cost
 1618 of care, the family shall participate financially in the cost of
 1619 care based on criteria established by the department.

1620 (e) A child with special health care needs as defined in
 1621 Title V of the Social Security Act relating to children with
 1622 special health care needs.

1623 (f) An infant who receives an award of compensation under
 1624 s. 766.31(1). The Florida Birth-Related Neurological Injury
 1625 Compensation Association shall reimburse the Children's Medical
 1626 Services Network the state's share of funding, which must
 1627 thereafter be used to obtain matching federal funds under Title
 1628 XXI of the Social Security Act.

1629
 1630 ~~The department may continue to serve certain children with~~
 1631 ~~special health care needs who are 21 years of age or older and~~
 1632 ~~who were receiving services from the program prior to April 1,~~

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1633 ~~1998. Such children may be served by the department until July~~
 1634 ~~1, 2000.~~

1635
 1636 Reviser's note.--Amended to delete a provision that
 1637 has served its purpose.

1638
 1639 Section 40. Section 393.0657, Florida Statutes, is amended
 1640 to read:

1641 393.0657 Persons not required to be refingerprinted or
 1642 rescreened.--Any provision of law to the contrary
 1643 notwithstanding, human resource personnel who have been
 1644 fingerprinted or screened pursuant to chapters 393, 394, 397,
 1645 402, and 409, and teachers who have been fingerprinted pursuant
 1646 to chapter 1012, who have not been unemployed for more than 90
 1647 days thereafter, and who under the penalty of perjury attest to
 1648 the completion of such fingerprinting or screening and to
 1649 compliance with the provisions of this section and the standards
 1650 for good moral character as contained in such provisions as ss.
 1651 110.1127(3), 393.0655(1), 394.457(6), 397.451, 402.305(2), and
 1652 409.175(6) ~~409.175(5)~~, shall not be required to be
 1653 refingerprinted or rescreened in order to comply with any direct
 1654 service provider screening or fingerprinting requirements.

1655
 1656 Reviser's note.--Amended to conform to the
 1657 redesignation of s. 409.175(5) as s. 409.175(6) by s.
 1658 6, ch. 2002-219, Laws of Florida.

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1660 Section 41. Subsection (9) of section 394.741, Florida
 1661 Statutes, is repealed, and subsection (6) of that section is
 1662 amended to read:

1663 394.741 Accreditation requirements for providers of
 1664 behavioral health care services.--

1665 (6) The department or agency, by accepting the survey or
 1666 inspection of an accrediting organization, does not forfeit its
 1667 rights to monitor for the purpose of ensuring that services for
 1668 which the department has paid were provided. The department may
 1669 investigate complaints or suspected problems and ~~to~~ monitor the
 1670 provider's compliance with negotiated terms and conditions,
 1671 including provisions relating to consent decrees, which are
 1672 unique to a specific contract and are not statements of general
 1673 applicability. The department may monitor compliance with
 1674 federal and state statutes, federal regulations, or state
 1675 administrative rules, if such monitoring does not duplicate the
 1676 review of accreditation standards or independent audits pursuant
 1677 to subsections (3) and (8).

1678
 1679 Reviser's note.--Subsection (6) is amended to improve
 1680 clarity. Subsection (9) is repealed to delete obsolete
 1681 material requiring two reports due January 1, 2003.

1682
 1683 Section 42. Paragraphs (a), (b), and (e) of subsection (4)
 1684 of section 394.9082, Florida Statutes, are amended to read:

1685 394.9082 Behavioral health service delivery strategies.--

1686 (4) CONTRACT FOR SERVICES.--

1687 (a) The Department of Children and Family Services and the
 1688 Agency for Health Care Administration may contract for the

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1689 provision or management of behavioral health services with a
 1690 managing entity in at least two geographic areas. Both the
 1691 Department of Children and Family Services and the Agency for
 1692 Health Care Administration must contract with the same managing
 1693 entity in any distinct geographic area where the strategy
 1694 operates. This managing entity shall be accountable at a minimum
 1695 for the delivery of behavioral health services specified and
 1696 funded by the department and the agency. The geographic area
 1697 must be of sufficient size in population and have enough public
 1698 funds for behavioral health services to allow for flexibility
 1699 and maximum efficiency. Notwithstanding the provisions of s.
 1700 409.912(4)(b)1. ~~409.912(3)(b)1. and 2.~~, at least one service
 1701 delivery strategy must be in one of the service districts in the
 1702 catchment area of G. Pierce Wood Memorial Hospital.

1703 (b) Under one of the service delivery strategies, the
 1704 Department of Children and Family Services may contract with a
 1705 prepaid mental health plan that operates under s. 409.912 to be
 1706 the managing entity. Under this strategy, the Department of
 1707 Children and Family Services is not required to competitively
 1708 procure those services and, notwithstanding other provisions of
 1709 law, may employ prospective payment methodologies that the
 1710 department finds are necessary to improve client care or
 1711 institute more efficient practices. The Department of Children
 1712 and Family Services may employ in its contract any provision of
 1713 the current prepaid behavioral health care plan authorized under
 1714 s. 409.912(4)(a) and (b) ~~409.912(3)(a) and (b)~~, or any other
 1715 provision necessary to improve quality, access, continuity, and
 1716 price. Any contracts under this strategy in Area 6 of the Agency
 1717 for Health Care Administration or in the prototype region under

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1718 s. 20.19(7) of the Department of Children and Family Services
 1719 may be entered with the existing substance abuse treatment
 1720 provider network if an administrative services organization is
 1721 part of its network. In Area 6 of the Agency for Health Care
 1722 Administration or in the prototype region of the Department of
 1723 Children and Family Services, the Department of Children and
 1724 Family Services and the Agency for Health Care Administration
 1725 may employ alternative service delivery and financing
 1726 methodologies, which may include prospective payment for certain
 1727 population groups. The population groups that are to be
 1728 provided these substance abuse services would include at a
 1729 minimum: individuals and families receiving family safety
 1730 services; Medicaid-eligible children, adolescents, and adults
 1731 who are substance-abuse-impaired; or current recipients and
 1732 persons at risk of needing cash assistance under Florida's
 1733 welfare reform initiatives.

1734 (e) The cost of the managing entity contract shall be
 1735 funded through a combination of funds from the Department of
 1736 Children and Family Services and the Agency for Health Care
 1737 Administration. To operate the managing entity, the Department
 1738 of Children and Family Services and the Agency for Health Care
 1739 Administration may not expend more than 10 percent of the annual
 1740 appropriations for mental health and substance abuse treatment
 1741 services prorated to the geographic areas and must include all
 1742 behavioral health Medicaid funds, including psychiatric
 1743 inpatient funds. This restriction does not apply to a prepaid
 1744 behavioral health plan that is authorized under s. 409.912(4)(a)
 1745 and (b) 409.912(3)(a) and (b).

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1747 Reviser's note.--Paragraph (4)(a) is amended to
 1748 conform to the redesignation of s. 409.912(3)(b)1. as
 1749 s. 409.912(4)(b)1. and the deletion of s.
 1750 409.912(3)(b)2. by s. 9, ch. 2003-279, Laws of
 1751 Florida. Paragraphs (4)(b) and (e) are amended to
 1752 conform to the redesignation of s. 409.912(3)(a) and
 1753 (b) as s. 409.912(4)(a) and (b) by s. 9, ch. 2003-279.
 1754

1755 Section 43. Subsection (2) of section 394.917, Florida
 1756 Statutes, is amended to read:

1757 394.917 Determination; commitment procedure; mistrials;
 1758 housing; counsel and costs in indigent appellate cases.--

1759 (2) If the court or jury determines that the person is a
 1760 sexually violent predator, upon the expiration of the
 1761 incarcerative portion of all criminal sentences and disposition
 1762 of any detainers other than detainers for deportation by the
 1763 United States Bureau of Citizenship and Immigration Services
 1764 ~~Immigration and Naturalization Service~~, the person shall be
 1765 committed to the custody of the Department of Children and
 1766 Family Services for control, care, and treatment until such time
 1767 as the person's mental abnormality or personality disorder has
 1768 so changed that it is safe for the person to be at large. At all
 1769 times, persons who are detained or committed under this part
 1770 shall be kept in a secure facility segregated from patients of
 1771 the department who are not detained or committed under this
 1772 part.
 1773

1774 Reviser's note.--Amended to conform to the
 1775 redesignation of the Immigration and Naturalization

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1776 Service pursuant to its transfer to the Department of
 1777 Homeland Security by s. 451, Pub. L. No. 107-296.

1778
 1779 Section 44. Subsection (3) of section 400.0075, Florida
 1780 Statutes, is amended to read:

1781 400.0075 Complaint resolution procedures.--

1782 (3) The state ombudsman council shall provide, as part of
 1783 its annual report required pursuant to s. 400.0067(2)(f)
 1784 ~~400.0067(2)(g)~~, information relating to the disposition of all
 1785 complaints to the Department of Elderly Affairs.

1786
 1787 Reviser's note.--Amended to conform to the
 1788 redesignation of s. 400.0067(2)(g) as s.
 1789 400.0067(2)(f) by s. 22, ch. 2002-223, Laws of
 1790 Florida.

1791
 1792 Section 45. Section 402.3057, Florida Statutes, is amended
 1793 to read:

1794 402.3057 Persons not required to be refingerprinted or
 1795 rescreened.--Any provision of law to the contrary
 1796 notwithstanding, human resource personnel who have been
 1797 fingerprinted or screened pursuant to chapters 393, 394, 397,
 1798 402, and 409, and teachers and noninstructional personnel who
 1799 have been fingerprinted pursuant to chapter 1012, who have not
 1800 been unemployed for more than 90 days thereafter, and who under
 1801 the penalty of perjury attest to the completion of such
 1802 fingerprinting or screening and to compliance with the
 1803 provisions of this section and the standards for good moral
 1804 character as contained in such provisions as ss. 110.1127(3),

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1805 393.0655(1), 394.457(6), 397.451, 402.305(2), and 409.175(6)
 1806 ~~409.175(5)~~, shall not be required to be refingerprinted or
 1807 rescreened in order to comply with any caretaker screening or
 1808 fingerprinting requirements.

1809
 1810 Reviser's note.--Amended to conform to the
 1811 redesignation of s. 409.175(5) as s. 409.175(6) by s.
 1812 6, ch. 2002-219, Laws of Florida.

1813
 1814 Section 46. Paragraph (a) of subsection (2) of section
 1815 403.7192, Florida Statutes, is amended to read:

1816 403.7192 Batteries; requirements for consumer,
 1817 manufacturers, and sellers; penalties.--

1818 (2)(a) ~~A person may not distribute, sell, or offer for~~
 1819 ~~sale in this state an alkaline-manganese or zinc-carbon battery~~
 1820 ~~that contains more than 0.025 percent mercury by weight.~~ A
 1821 person may not distribute, sell, or offer for sale in this state
 1822 an alkaline-manganese or zinc-carbon battery that contains any
 1823 intentionally introduced mercury and more than 0.0004 percent
 1824 mercury by weight.

1825
 1826 Reviser's note.--Amended to delete language that has
 1827 served its purpose. The deleted language only applied
 1828 between July 1, 1993, and January 1, 1996, as enacted
 1829 by s. 29, ch. 93-207, Laws of Florida.

1830
 1831 Section 47. Paragraph (b) of subsection (1) of section
 1832 404.20, Florida Statutes, is amended to read:

1833 404.20 Transportation of radioactive materials.--

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1834 (1) The department shall adopt reasonable rules governing
 1835 the transportation of radioactive materials which, in the
 1836 judgment of the department, will promote the public health,
 1837 safety, or welfare and protect the environment.

1838 (b) Such rules shall be compatible with, but no less
 1839 restrictive than, those established by the United States Nuclear
 1840 Regulatory Commission, the United States Federal Aviation
 1841 Administration ~~Agency~~, the United States Department of
 1842 Transportation, the United States Coast Guard, or the United
 1843 States Postal Service.

1844
 1845 Reviser's note.--Amended to conform to the correct
 1846 title of the United States Federal Aviation
 1847 Administration.

1848
 1849 Section 48. Paragraph (a) of subsection (3) of section
 1850 409.017, Florida Statutes, is amended to read:

1851 409.017 Local Funding Revenue Maximization Act;
 1852 legislative intent; revenue maximization program.--

1853 (3) REVENUE MAXIMIZATION PROGRAM.--

1854 (a) For purposes of this section, the term "agency" means
 1855 any state agency or department that is involved in providing
 1856 health, social, or human services, including, but not limited
 1857 to, the Agency for Health Care Administration, the Agency for
 1858 Workforce Innovation, the Department of Children and Family
 1859 Services, the Department of Elderly Affairs, the Department of
 1860 Juvenile Justice, and the State ~~Florida~~ Board of Education.

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1862 Reviser's note.--Amended to conform to the correct
 1863 title of the State Board of Education as established
 1864 by s. 1001.01.

1865
 1866 Section 49. Paragraphs (g), (h), and (j) of subsection (1)
 1867 of section 409.1671, Florida Statutes, are amended to read:

1868 409.1671 Foster care and related services;
 1869 privatization.--

1870 (1)

1871 (g) In any county in which a service contract has not been
 1872 executed by December 31, 2004, the department shall ensure
 1873 access to a model comprehensive residential services program as
 1874 described in s. 409.1677 which, without imposing undue
 1875 financial, geographic, or other barriers, ensures reasonable and
 1876 appropriate participation by the family in the child's program.

1877 1. In order to ensure that the program is operational by
 1878 December 31, 2004, the department must, by December 31, 2003,
 1879 begin the process of establishing access to a program in any
 1880 county in which the department has not either entered into a
 1881 transition contract or approved a community plan, as described
 1882 in paragraph (d), which ensures full privatization by the
 1883 statutory deadline.

1884 2. The program must be procured through a competitive
 1885 process.

1886 3. The Legislature does not intend for the provisions of
 1887 this paragraph to substitute for the requirement that full
 1888 conversion to community-based care be accomplished.

1889 (h) Other than an entity to which s. 768.28 applies, any
 1890 eligible lead community-based provider, as defined in paragraph

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1891 (e) ~~(e)~~, or its employees or officers, except as otherwise
 1892 provided in paragraph (i) ~~(g)~~, must, as a part of its contract,
 1893 obtain a minimum of \$1 million per claim/\$3 million per incident
 1894 in general liability insurance coverage. The eligible lead
 1895 community-based provider must also require that staff who
 1896 transport client children and families in their personal
 1897 automobiles in order to carry out their job responsibilities
 1898 obtain minimum bodily injury liability insurance in the amount
 1899 of \$100,000 per claim, \$300,000 per incident, on their personal
 1900 automobiles. In any tort action brought against such an eligible
 1901 lead community-based provider or employee, net economic damages
 1902 shall be limited to \$1 million per liability claim and \$100,000
 1903 per automobile claim, including, but not limited to, past and
 1904 future medical expenses, wage loss, and loss of earning
 1905 capacity, offset by any collateral source payment paid or
 1906 payable. In any tort action brought against such an eligible
 1907 lead community-based provider, noneconomic damages shall be
 1908 limited to \$200,000 per claim. A claims bill may be brought on
 1909 behalf of a claimant pursuant to s. 768.28 for any amount
 1910 exceeding the limits specified in this paragraph. Any offset of
 1911 collateral source payments made as of the date of the settlement
 1912 or judgment shall be in accordance with s. 768.76. The lead
 1913 community-based provider shall not be liable in tort for the
 1914 acts or omissions of its subcontractors or the officers, agents,
 1915 or employees of its subcontractors.

1916 (j) Any subcontractor of an eligible lead community-based
 1917 provider, as defined in paragraph (e) ~~(e)~~, which is a direct
 1918 provider of foster care and related services to children and
 1919 families, and its employees or officers, except as otherwise

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1920 provided in paragraph (i) ~~(g)~~, must, as a part of its contract,
 1921 obtain a minimum of \$1 million per claim/\$3 million per incident
 1922 in general liability insurance coverage. The subcontractor of an
 1923 eligible lead community-based provider must also require that
 1924 staff who transport client children and families in their
 1925 personal automobiles in order to carry out their job
 1926 responsibilities obtain minimum bodily injury liability
 1927 insurance in the amount of \$100,000 per claim, \$300,000 per
 1928 incident, on their personal automobiles. In any tort action
 1929 brought against such subcontractor or employee, net economic
 1930 damages shall be limited to \$1 million per liability claim and
 1931 \$100,000 per automobile claim, including, but not limited to,
 1932 past and future medical expenses, wage loss, and loss of earning
 1933 capacity, offset by any collateral source payment paid or
 1934 payable. In any tort action brought against such subcontractor,
 1935 noneconomic damages shall be limited to \$200,000 per claim. A
 1936 claims bill may be brought on behalf of a claimant pursuant to
 1937 s. 768.28 for any amount exceeding the limits specified in this
 1938 paragraph. Any offset of collateral source payments made as of
 1939 the date of the settlement or judgment shall be in accordance
 1940 with s. 768.76.

1941
 1942 Reviser's note.--Amended to conform to the
 1943 redesignation of subunits of s. 409.1671 by s. 7, ch.
 1944 2003-146, Laws of Florida.

1945
 1946 Section 50. Section 409.1757, Florida Statutes, is amended
 1947 to read:

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1948 409.1757 Persons not required to be refingerprinted or
 1949 rescreened.--Any provision of law to the contrary
 1950 notwithstanding, human resource personnel who have been
 1951 fingerprinted or screened pursuant to chapters 393, 394, 397,
 1952 402, and this chapter, and teachers who have been fingerprinted
 1953 pursuant to chapter 1012, who have not been unemployed for more
 1954 than 90 days thereafter, and who under the penalty of perjury
 1955 attest to the completion of such fingerprinting or screening and
 1956 to compliance with the provisions of this section and the
 1957 standards for good moral character as contained in such
 1958 provisions as ss. 110.1127(3), 393.0655(1), 394.457(6), 397.451,
 1959 402.305(2), and 409.175(6) ~~409.175(5)~~, shall not be required to
 1960 be refingerprinted or rescreened in order to comply with any
 1961 caretaker screening or fingerprinting requirements.

1962
 1963 Reviser's note.--Amended to conform to the
 1964 redesignation of s. 409.175(5) as s. 409.175(6) by s.
 1965 6, ch. 2002-219, Laws of Florida.

1966
 1967 Section 51. Subsection (6) of section 409.904, Florida
 1968 Statutes, is repealed.

1969
 1970 Reviser's note.--Subsection (6), which relates to
 1971 eligibility for certain Medicaid payments by specified
 1972 children born before October 1, 1983, who have not yet
 1973 attained the age of 19, is obsolete.

1974
 1975 Section 52. Paragraph (a) of subsection (4) of section
 1976 409.9065, Florida Statutes, is amended to read:

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1977 | 409.9065 Pharmaceutical expense assistance.--

1978 | (4) ADMINISTRATION.--The pharmaceutical expense assistance
 1979 | program shall be administered by the agency, in collaboration
 1980 | with the Department of Elderly Affairs and the Department of
 1981 | Children and Family Services.

1982 | (a) The agency shall, by rule, establish for the
 1983 | pharmaceutical expense assistance program eligibility
 1984 | requirements; limits on participation; benefit limitations,
 1985 | including copayments; a requirement for generic drug
 1986 | substitution; and other program parameters comparable to those
 1987 | of the Medicaid program. Individuals eligible to participate in
 1988 | this program are not subject to the limit of four brand name
 1989 | drugs per month per recipient as specified in s. 409.912(40)(a)
 1990 | ~~409.912(38)(a)~~. There shall be no monetary limit on prescription
 1991 | drugs purchased with discounts of less than 51 percent unless
 1992 | the agency determines there is a risk of a funding shortfall in
 1993 | the program. If the agency determines there is a risk of a
 1994 | funding shortfall, the agency may establish monetary limits on
 1995 | prescription drugs which shall not be less than \$160 worth of
 1996 | prescription drugs per month.

1997 |
 1998 | Reviser's note.--Amended to conform to the
 1999 | redesignation of s. 409.912(38)(a) as s.
 2000 | 409.912(40)(a) by s. 9, ch. 2003-279, Laws of Florida.

2001 |
 2002 | Section 53. Section 409.908, Florida Statutes, is amended
 2003 | to read:

2004 | 409.908 Reimbursement of Medicaid providers.--Subject to
 2005 | specific appropriations, the agency shall reimburse Medicaid

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2006 providers, in accordance with state and federal law, according
 2007 to methodologies set forth in the rules of the agency and in
 2008 policy manuals and handbooks incorporated by reference therein.

2009 These methodologies may include fee schedules, reimbursement
 2010 methods based on cost reporting, negotiated fees, competitive
 2011 bidding pursuant to s. 287.057, and other mechanisms the agency
 2012 considers efficient and effective for purchasing services or
 2013 goods on behalf of recipients. If a provider is reimbursed based
 2014 on cost reporting and submits a cost report late and that cost
 2015 report would have been used to set a lower reimbursement rate
 2016 for a rate semester, then the provider's rate for that semester
 2017 shall be retroactively calculated using the new cost report, and
 2018 full payment at the recalculated rate shall be effected ~~affected~~
 2019 retroactively. Medicare-granted extensions for filing cost
 2020 reports, if applicable, shall also apply to Medicaid cost
 2021 reports. Payment for Medicaid compensable services made on
 2022 behalf of Medicaid eligible persons is subject to the
 2023 availability of moneys and any limitations or directions
 2024 provided for in the General Appropriations Act or chapter 216.
 2025 Further, nothing in this section shall be construed to prevent
 2026 or limit the agency from adjusting fees, reimbursement rates,
 2027 lengths of stay, number of visits, or number of services, or
 2028 making any other adjustments necessary to comply with the
 2029 availability of moneys and any limitations or directions
 2030 provided for in the General Appropriations Act, provided the
 2031 adjustment is consistent with legislative intent.

2032 (1) Reimbursement to hospitals licensed under part I of
 2033 chapter 395 must be made prospectively or on the basis of
 2034 negotiation.

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2035 (a) Reimbursement for inpatient care is limited as
 2036 provided for in s. 409.905(5), except for:

2037 1. The raising of rate reimbursement caps, excluding rural
 2038 hospitals.

2039 2. Recognition of the costs of graduate medical education.

2040 3. Other methodologies recognized in the General
 2041 Appropriations Act.

2042 4. Hospital inpatient rates shall be reduced by 6 percent
 2043 effective July 1, 2001, and restored effective April 1, 2002.

2044
 2045 During the years funds are transferred from the Department of
 2046 Health, any reimbursement supported by such funds shall be
 2047 subject to certification by the Department of Health that the
 2048 hospital has complied with s. 381.0403. The agency is authorized
 2049 to receive funds from state entities, including, but not limited
 2050 to, the Department of Health, local governments, and other local
 2051 political subdivisions, for the purpose of making special
 2052 exception payments, including federal matching funds, through
 2053 the Medicaid inpatient reimbursement methodologies. Funds
 2054 received from state entities or local governments for this
 2055 purpose shall be separately accounted for and shall not be
 2056 commingled with other state or local funds in any manner. The
 2057 agency may certify all local governmental funds used as state
 2058 match under Title XIX of the Social Security Act, to the extent
 2059 that the identified local health care provider that is otherwise
 2060 entitled to and is contracted to receive such local funds is the
 2061 benefactor under the state's Medicaid program as determined
 2062 under the General Appropriations Act and pursuant to an
 2063 agreement between the Agency for Health Care Administration and

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2064 the local governmental entity. The local governmental entity
 2065 shall use a certification form prescribed by the agency. At a
 2066 minimum, the certification form shall identify the amount being
 2067 certified and describe the relationship between the certifying
 2068 local governmental entity and the local health care provider.
 2069 The agency shall prepare an annual statement of impact which
 2070 documents the specific activities undertaken during the previous
 2071 fiscal year pursuant to this paragraph, to be submitted to the
 2072 Legislature no later than January 1, annually.

2073 (b) Reimbursement for hospital outpatient care is limited
 2074 to \$1,500 per state fiscal year per recipient, except for:

- 2075 1. Such care provided to a Medicaid recipient under age
- 2076 21, in which case the only limitation is medical necessity.
- 2077 2. Renal dialysis services.
- 2078 3. Other exceptions made by the agency.

2079
 2080 The agency is authorized to receive funds from state entities,
 2081 including, but not limited to, the Department of Health, the
 2082 Board of Regents, local governments, and other local political
 2083 subdivisions, for the purpose of making payments, including
 2084 federal matching funds, through the Medicaid outpatient
 2085 reimbursement methodologies. Funds received from state entities
 2086 and local governments for this purpose shall be separately
 2087 accounted for and shall not be commingled with other state or
 2088 local funds in any manner.

2089 (c) Hospitals that provide services to a disproportionate
 2090 share of low-income Medicaid recipients, or that participate in
 2091 the regional perinatal intensive care center program under
 2092 chapter 383, or that participate in the statutory teaching

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2093 hospital disproportionate share program may receive additional
 2094 reimbursement. The total amount of payment for disproportionate
 2095 share hospitals shall be fixed by the General Appropriations
 2096 Act. The computation of these payments must be made in
 2097 compliance with all federal regulations and the methodologies
 2098 described in ss. 409.911, 409.9112, and 409.9113.

2099 (d) The agency is authorized to limit inflationary
 2100 increases for outpatient hospital services as directed by the
 2101 General Appropriations Act.

2102 (2)(a)1. Reimbursement to nursing homes licensed under
 2103 part II of chapter 400 and state-owned-and-operated intermediate
 2104 care facilities for the developmentally disabled licensed under
 2105 chapter 393 must be made prospectively.

2106 2. Unless otherwise limited or directed in the General
 2107 Appropriations Act, reimbursement to hospitals licensed under
 2108 part I of chapter 395 for the provision of swing-bed nursing
 2109 home services must be made on the basis of the average statewide
 2110 nursing home payment, and reimbursement to a hospital licensed
 2111 under part I of chapter 395 for the provision of skilled nursing
 2112 services must be made on the basis of the average nursing home
 2113 payment for those services in the county in which the hospital
 2114 is located. When a hospital is located in a county that does not
 2115 have any community nursing homes, reimbursement must be
 2116 determined by averaging the nursing home payments, in counties
 2117 that surround the county in which the hospital is located.
 2118 Reimbursement to hospitals, including Medicaid payment of
 2119 Medicare copayments, for skilled nursing services shall be
 2120 limited to 30 days, unless a prior authorization has been
 2121 obtained from the agency. Medicaid reimbursement may be extended

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2122 by the agency beyond 30 days, and approval must be based upon
 2123 verification by the patient's physician that the patient
 2124 requires short-term rehabilitative and recuperative services
 2125 only, in which case an extension of no more than 15 days may be
 2126 approved. Reimbursement to a hospital licensed under part I of
 2127 chapter 395 for the temporary provision of skilled nursing
 2128 services to nursing home residents who have been displaced as
 2129 the result of a natural disaster or other emergency may not
 2130 exceed the average county nursing home payment for those
 2131 services in the county in which the hospital is located and is
 2132 limited to the period of time which the agency considers
 2133 necessary for continued placement of the nursing home residents
 2134 in the hospital.

2135 (b) Subject to any limitations or directions provided for
 2136 in the General Appropriations Act, the agency shall establish
 2137 and implement a Florida Title XIX Long-Term Care Reimbursement
 2138 Plan (Medicaid) for nursing home care in order to provide care
 2139 and services in conformance with the applicable state and
 2140 federal laws, rules, regulations, and quality and safety
 2141 standards and to ensure that individuals eligible for medical
 2142 assistance have reasonable geographic access to such care.

2143 1. Changes of ownership or of licensed operator do not
 2144 qualify for increases in reimbursement rates associated with the
 2145 change of ownership or of licensed operator. The agency shall
 2146 amend the Title XIX Long Term Care Reimbursement Plan to provide
 2147 that the initial nursing home reimbursement rates, for the
 2148 operating, patient care, and MAR components, associated with
 2149 related and unrelated party changes of ownership or licensed

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2150 operator filed on or after September 1, 2001, are equivalent to
 2151 the previous owner's reimbursement rate.

2152 2. The agency shall amend the long-term care reimbursement
 2153 plan and cost reporting system to create direct care and
 2154 indirect care subcomponents of the patient care component of the
 2155 per diem rate. These two subcomponents together shall equal the
 2156 patient care component of the per diem rate. Separate cost-based
 2157 ceilings shall be calculated for each patient care subcomponent.
 2158 The direct care subcomponent of the per diem rate shall be
 2159 limited by the cost-based class ceiling, and the indirect care
 2160 subcomponent shall be limited by the lower of the cost-based
 2161 class ceiling, by the target rate class ceiling, or by the
 2162 individual provider target. The agency shall adjust the patient
 2163 care component effective January 1, 2002. The cost to adjust the
 2164 direct care subcomponent shall be net of the total funds
 2165 previously allocated for the case mix add-on. The agency shall
 2166 make the required changes to the nursing home cost reporting
 2167 forms to implement this requirement effective January 1, 2002.

2168 3. The direct care subcomponent shall include salaries and
 2169 benefits of direct care staff providing nursing services
 2170 including registered nurses, licensed practical nurses, and
 2171 certified nursing assistants who deliver care directly to
 2172 residents in the nursing home facility. This excludes nursing
 2173 administration, MDS, and care plan coordinators, staff
 2174 development, and staffing coordinator.

2175 4. All other patient care costs shall be included in the
 2176 indirect care cost subcomponent of the patient care per diem
 2177 rate. There shall be no costs directly or indirectly allocated

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2178 to the direct care subcomponent from a home office or management
 2179 company.

2180 5. On July 1 of each year, the agency shall report to the
 2181 Legislature direct and indirect care costs, including average
 2182 direct and indirect care costs per resident per facility and
 2183 direct care and indirect care salaries and benefits per category
 2184 of staff member per facility.

2185 6. In order to offset the cost of general and professional
 2186 liability insurance, the agency shall amend the plan to allow
 2187 for interim rate adjustments to reflect increases in the cost of
 2188 general or professional liability insurance for nursing homes.
 2189 This provision shall be implemented to the extent existing
 2190 appropriations are available.

2191
 2192 It is the intent of the Legislature that the reimbursement plan
 2193 achieve the goal of providing access to health care for nursing
 2194 home residents who require large amounts of care while
 2195 encouraging diversion services as an alternative to nursing home
 2196 care for residents who can be served within the community. The
 2197 agency shall base the establishment of any maximum rate of
 2198 payment, whether overall or component, on the available moneys
 2199 as provided for in the General Appropriations Act. The agency
 2200 may base the maximum rate of payment on the results of
 2201 scientifically valid analysis and conclusions derived from
 2202 objective statistical data pertinent to the particular maximum
 2203 rate of payment.

2204 (3) Subject to any limitations or directions provided for
 2205 in the General Appropriations Act, the following Medicaid
 2206 services and goods may be reimbursed on a fee-for-service basis.

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2207 For each allowable service or goods furnished in accordance with
 2208 Medicaid rules, policy manuals, handbooks, and state and federal
 2209 law, the payment shall be the amount billed by the provider, the
 2210 provider's usual and customary charge, or the maximum allowable
 2211 fee established by the agency, whichever amount is less, with
 2212 the exception of those services or goods for which the agency
 2213 makes payment using a methodology based on capitation rates,
 2214 average costs, or negotiated fees.

- 2215 (a) Advanced registered nurse practitioner services.
- 2216 (b) Birth center services.
- 2217 (c) Chiropractic services.
- 2218 (d) Community mental health services.
- 2219 (e) Dental services, including oral and maxillofacial
 2220 surgery.
- 2221 (f) Durable medical equipment.
- 2222 (g) Hearing services.
- 2223 (h) Occupational therapy for Medicaid recipients under age
 2224 21.
- 2225 (i) Optometric services.
- 2226 (j) Orthodontic services.
- 2227 (k) Personal care for Medicaid recipients under age 21.
- 2228 (l) Physical therapy for Medicaid recipients under age 21.
- 2229 (m) Physician assistant services.
- 2230 (n) Podiatric services.
- 2231 (o) Portable X-ray services.
- 2232 (p) Private-duty nursing for Medicaid recipients under age
 2233 21.
- 2234 (q) Registered nurse first assistant services.

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2235 (r) Respiratory therapy for Medicaid recipients under age
 2236 21.
 2237 (s) Speech therapy for Medicaid recipients under age 21.
 2238 (t) Visual services.
 2239 (4) Subject to any limitations or directions provided for
 2240 in the General Appropriations Act, alternative health plans,
 2241 health maintenance organizations, and prepaid health plans shall
 2242 be reimbursed a fixed, prepaid amount negotiated, or
 2243 competitively bid pursuant to s. 287.057, by the agency and
 2244 prospectively paid to the provider monthly for each Medicaid
 2245 recipient enrolled. The amount may not exceed the average
 2246 amount the agency determines it would have paid, based on claims
 2247 experience, for recipients in the same or similar category of
 2248 eligibility. The agency shall calculate capitation rates on a
 2249 regional basis and, beginning September 1, 1995, shall include
 2250 age-band differentials in such calculations. Effective July 1,
 2251 2001, the cost of exempting statutory teaching hospitals,
 2252 specialty hospitals, and community hospital education program
 2253 hospitals from reimbursement ceilings and the cost of special
 2254 Medicaid payments shall not be included in premiums paid to
 2255 health maintenance organizations or prepaid health care plans.
 2256 Each rate semester, the agency shall calculate and publish a
 2257 Medicaid hospital rate schedule that does not reflect either
 2258 special Medicaid payments or the elimination of rate
 2259 reimbursement ceilings, to be used by hospitals and Medicaid
 2260 health maintenance organizations, in order to determine the
 2261 Medicaid rate referred to in ss. 409.912(19) ~~409.912(17)~~,
 2262 409.9128(5), and 641.513(6).

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2263 (5) An ambulatory surgical center shall be reimbursed the
 2264 lesser of the amount billed by the provider or the Medicare-
 2265 established allowable amount for the facility.

2266 (6) A provider of early and periodic screening, diagnosis,
 2267 and treatment services to Medicaid recipients who are children
 2268 under age 21 shall be reimbursed using an all-inclusive rate
 2269 stipulated in a fee schedule established by the agency. A
 2270 provider of the visual, dental, and hearing components of such
 2271 services shall be reimbursed the lesser of the amount billed by
 2272 the provider or the Medicaid maximum allowable fee established
 2273 by the agency.

2274 (7) A provider of family planning services shall be
 2275 reimbursed the lesser of the amount billed by the provider or an
 2276 all-inclusive amount per type of visit for physicians and
 2277 advanced registered nurse practitioners, as established by the
 2278 agency in a fee schedule.

2279 (8) A provider of home-based or community-based services
 2280 rendered pursuant to a federally approved waiver shall be
 2281 reimbursed based on an established or negotiated rate for each
 2282 service. These rates shall be established according to an
 2283 analysis of the expenditure history and prospective budget
 2284 developed by each contract provider participating in the waiver
 2285 program, or under any other methodology adopted by the agency
 2286 and approved by the Federal Government in accordance with the
 2287 waiver. Effective July 1, 1996, privately owned and operated
 2288 community-based residential facilities which meet agency
 2289 requirements and which formerly received Medicaid reimbursement
 2290 for the optional intermediate care facility for the mentally
 2291 retarded service may participate in the developmental services

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2292 waiver as part of a home-and-community-based continuum of care
 2293 for Medicaid recipients who receive waiver services.

2294 (9) A provider of home health care services or of medical
 2295 supplies and appliances shall be reimbursed on the basis of
 2296 competitive bidding or for the lesser of the amount billed by
 2297 the provider or the agency's established maximum allowable
 2298 amount, except that, in the case of the rental of durable
 2299 medical equipment, the total rental payments may not exceed the
 2300 purchase price of the equipment over its expected useful life or
 2301 the agency's established maximum allowable amount, whichever
 2302 amount is less.

2303 (10) A hospice shall be reimbursed through a prospective
 2304 system for each Medicaid hospice patient at Medicaid rates using
 2305 the methodology established for hospice reimbursement pursuant
 2306 to Title XVIII of the federal Social Security Act.

2307 (11) A provider of independent laboratory services shall
 2308 be reimbursed on the basis of competitive bidding or for the
 2309 least of the amount billed by the provider, the provider's usual
 2310 and customary charge, or the Medicaid maximum allowable fee
 2311 established by the agency.

2312 (12)(a) A physician shall be reimbursed the lesser of the
 2313 amount billed by the provider or the Medicaid maximum allowable
 2314 fee established by the agency.

2315 (b) The agency shall adopt a fee schedule, subject to any
 2316 limitations or directions provided for in the General
 2317 Appropriations Act, based on a resource-based relative value
 2318 scale for pricing Medicaid physician services. Under this fee
 2319 schedule, physicians shall be paid a dollar amount for each
 2320 service based on the average resources required to provide the

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2321 service, including, but not limited to, estimates of average
 2322 physician time and effort, practice expense, and the costs of
 2323 professional liability insurance. The fee schedule shall
 2324 provide increased reimbursement for preventive and primary care
 2325 services and lowered reimbursement for specialty services by
 2326 using at least two conversion factors, one for cognitive
 2327 services and another for procedural services. The fee schedule
 2328 shall not increase total Medicaid physician expenditures unless
 2329 moneys are available, and shall be phased in over a 2-year
 2330 period beginning on July 1, 1994. The Agency for Health Care
 2331 Administration shall seek the advice of a 16-member advisory
 2332 panel in formulating and adopting the fee schedule. The panel
 2333 shall consist of Medicaid physicians licensed under chapters 458
 2334 and 459 and shall be composed of 50 percent primary care
 2335 physicians and 50 percent specialty care physicians.

2336 (c) Notwithstanding paragraph (b), reimbursement fees to
 2337 physicians for providing total obstetrical services to Medicaid
 2338 recipients, which include prenatal, delivery, and postpartum
 2339 care, shall be at least \$1,500 per delivery for a pregnant woman
 2340 with low medical risk and at least \$2,000 per delivery for a
 2341 pregnant woman with high medical risk. However, reimbursement to
 2342 physicians working in Regional Perinatal Intensive Care Centers
 2343 designated pursuant to chapter 383, for services to certain
 2344 pregnant Medicaid recipients with a high medical risk, may be
 2345 made according to obstetrical care and neonatal care groupings
 2346 and rates established by the agency. Nurse midwives licensed
 2347 under part I of chapter 464 or midwives licensed under chapter
 2348 467 shall be reimbursed at no less than 80 percent of the low
 2349 medical risk fee. The agency shall by rule determine, for the

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2350 purpose of this paragraph, what constitutes a high or low
 2351 medical risk pregnant woman and shall not pay more based solely
 2352 on the fact that a caesarean section was performed, rather than
 2353 a vaginal delivery. The agency shall by rule determine a
 2354 prorated payment for obstetrical services in cases where only
 2355 part of the total prenatal, delivery, or postpartum care was
 2356 performed. The Department of Health shall adopt rules for
 2357 appropriate insurance coverage for midwives licensed under
 2358 chapter 467. Prior to the issuance and renewal of an active
 2359 license, or reactivation of an inactive license for midwives
 2360 licensed under chapter 467, such licensees shall submit proof of
 2361 coverage with each application.

2362 ~~(d) For fiscal years 2001-2002 and 2002-2003 only and if~~
 2363 ~~necessary to meet the requirements for grants and donations for~~
 2364 ~~the special Medicaid payments authorized in the 2001-2002 and~~
 2365 ~~2002-2003 General Appropriations Acts, the agency may make~~
 2366 ~~special Medicaid payments to qualified Medicaid providers~~
 2367 ~~designated by the agency, notwithstanding any provision of this~~
 2368 ~~subsection to the contrary, and may use intergovernmental~~
 2369 ~~transfers from state entities or other governmental entities to~~
 2370 ~~serve as the state share of such payments.~~

2371 (13) Medicare premiums for persons eligible for both
 2372 Medicare and Medicaid coverage shall be paid at the rates
 2373 established by Title XVIII of the Social Security Act. For
 2374 Medicare services rendered to Medicaid-eligible persons,
 2375 Medicaid shall pay Medicare deductibles and coinsurance as
 2376 follows:

2377 (a) Medicaid shall make no payment toward deductibles and
 2378 coinsurance for any service that is not covered by Medicaid.

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2379 (b) Medicaid's financial obligation for deductibles and
2380 coinsurance payments shall be based on Medicare allowable fees,
2381 not on a provider's billed charges.

2382 (c) Medicaid will pay no portion of Medicare deductibles
2383 and coinsurance when payment that Medicare has made for the
2384 service equals or exceeds what Medicaid would have paid if it
2385 had been the sole payor. The combined payment of Medicare and
2386 Medicaid shall not exceed the amount Medicaid would have paid
2387 had it been the sole payor. The Legislature finds that there has
2388 been confusion regarding the reimbursement for services rendered
2389 to dually eligible Medicare beneficiaries. Accordingly, the
2390 Legislature clarifies that it has always been the intent of the
2391 Legislature before and after 1991 that, in reimbursing in
2392 accordance with fees established by Title XVIII for premiums,
2393 deductibles, and coinsurance for Medicare services rendered by
2394 physicians to Medicaid eligible persons, physicians be
2395 reimbursed at the lesser of the amount billed by the physician
2396 or the Medicaid maximum allowable fee established by the Agency
2397 for Health Care Administration, as is permitted by federal law.
2398 It has never been the intent of the Legislature with regard to
2399 such services rendered by physicians that Medicaid be required
2400 to provide any payment for deductibles, coinsurance, or
2401 copayments for Medicare cost sharing, or any expenses incurred
2402 relating thereto, in excess of the payment amount provided for
2403 under the State Medicaid plan for such service. This payment
2404 methodology is applicable even in those situations in which the
2405 payment for Medicare cost sharing for a qualified Medicare
2406 beneficiary with respect to an item or service is reduced or
2407 eliminated. This expression of the Legislature is in

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2408 clarification of existing law and shall apply to payment for,
 2409 and with respect to provider agreements with respect to, items
 2410 or services furnished on or after the effective date of this
 2411 act. This paragraph applies to payment by Medicaid for items and
 2412 services furnished before the effective date of this act if such
 2413 payment is the subject of a lawsuit that is based on the
 2414 provisions of this section, and that is pending as of, or is
 2415 initiated after, the effective date of this act.

2416 (d) Notwithstanding paragraphs (a)-(c):

2417 1. Medicaid payments for Nursing Home Medicare part A
 2418 coinsurance shall be the lesser of the Medicare coinsurance
 2419 amount or the Medicaid nursing home per diem rate.

2420 2. Medicaid shall pay all deductibles and coinsurance for
 2421 Medicare-eligible recipients receiving freestanding end stage
 2422 renal dialysis center services.

2423 3. Medicaid payments for general hospital inpatient
 2424 services shall be limited to the Medicare deductible per spell
 2425 of illness. Medicaid shall make no payment toward coinsurance
 2426 for Medicare general hospital inpatient services.

2427 4. Medicaid shall pay all deductibles and coinsurance for
 2428 Medicare emergency transportation services provided by
 2429 ambulances licensed pursuant to chapter 401.

2430 (14) A provider of prescribed drugs shall be reimbursed
 2431 the least of the amount billed by the provider, the provider's
 2432 usual and customary charge, or the Medicaid maximum allowable
 2433 fee established by the agency, plus a dispensing fee. The agency
 2434 is directed to implement a variable dispensing fee for payments
 2435 for prescribed medicines while ensuring continued access for
 2436 Medicaid recipients. The variable dispensing fee may be based

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2437 upon, but not limited to, either or both the volume of
 2438 prescriptions dispensed by a specific pharmacy provider, the
 2439 volume of prescriptions dispensed to an individual recipient,
 2440 and dispensing of preferred-drug-list products. The agency may
 2441 increase the pharmacy dispensing fee authorized by statute and
 2442 in the annual General Appropriations Act by \$0.50 for the
 2443 dispensing of a Medicaid preferred-drug-list product and reduce
 2444 the pharmacy dispensing fee by \$0.50 for the dispensing of a
 2445 Medicaid product that is not included on the preferred-drug
 2446 list. The agency may establish a supplemental pharmaceutical
 2447 dispensing fee to be paid to providers returning unused unit-
 2448 dose packaged medications to stock and crediting the Medicaid
 2449 program for the ingredient cost of those medications if the
 2450 ingredient costs to be credited exceed the value of the
 2451 supplemental dispensing fee. The agency is authorized to limit
 2452 reimbursement for prescribed medicine in order to comply with
 2453 any limitations or directions provided for in the General
 2454 Appropriations Act, which may include implementing a prospective
 2455 or concurrent utilization review program.

2456 (15) A provider of primary care case management services
 2457 rendered pursuant to a federally approved waiver shall be
 2458 reimbursed by payment of a fixed, prepaid monthly sum for each
 2459 Medicaid recipient enrolled with the provider.

2460 (16) A provider of rural health clinic services and
 2461 federally qualified health center services shall be reimbursed a
 2462 rate per visit based on total reasonable costs of the clinic, as
 2463 determined by the agency in accordance with federal regulations.

2464 (17) A provider of targeted case management services shall
 2465 be reimbursed pursuant to an established fee, except where the

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2466 Federal Government requires a public provider be reimbursed on
 2467 the basis of average actual costs.

2468 (18) Unless otherwise provided for in the General
 2469 Appropriations Act, a provider of transportation services shall
 2470 be reimbursed the lesser of the amount billed by the provider or
 2471 the Medicaid maximum allowable fee established by the agency,
 2472 except when the agency has entered into a direct contract with
 2473 the provider, or with a community transportation coordinator,
 2474 for the provision of an all-inclusive service, or when services
 2475 are provided pursuant to an agreement negotiated between the
 2476 agency and the provider. The agency, as provided for in s.
 2477 427.0135, shall purchase transportation services through the
 2478 community coordinated transportation system, if available,
 2479 unless the agency determines a more cost-effective method for
 2480 Medicaid clients. Nothing in this subsection shall be construed
 2481 to limit or preclude the agency from contracting for services
 2482 using a prepaid capitation rate or from establishing maximum fee
 2483 schedules, individualized reimbursement policies by provider
 2484 type, negotiated fees, prior authorization, competitive bidding,
 2485 increased use of mass transit, or any other mechanism that the
 2486 agency considers efficient and effective for the purchase of
 2487 services on behalf of Medicaid clients, including implementing a
 2488 transportation eligibility process. The agency shall not be
 2489 required to contract with any community transportation
 2490 coordinator or transportation operator that has been determined
 2491 by the agency, the Department of Legal Affairs Medicaid Fraud
 2492 Control Unit, or any other state or federal agency to have
 2493 engaged in any abusive or fraudulent billing activities. The
 2494 agency is authorized to competitively procure transportation

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2495 services or make other changes necessary to secure approval of
 2496 federal waivers needed to permit federal financing of Medicaid
 2497 transportation services at the service matching rate rather than
 2498 the administrative matching rate.

2499 (19) County health department services may be reimbursed a
 2500 rate per visit based on total reasonable costs of the clinic, as
 2501 determined by the agency in accordance with federal regulations
 2502 under the authority of 42 C.F.R. s. 431.615.

2503 (20) A renal dialysis facility that provides dialysis
 2504 services under s. 409.906(9) must be reimbursed the lesser of
 2505 the amount billed by the provider, the provider's usual and
 2506 customary charge, or the maximum allowable fee established by
 2507 the agency, whichever amount is less.

2508 (21) The agency shall reimburse school districts which
 2509 certify the state match pursuant to ss. 409.9071 and 1011.70 for
 2510 the federal portion of the school district's allowable costs to
 2511 deliver the services, based on the reimbursement schedule. The
 2512 school district shall determine the costs for delivering
 2513 services as authorized in ss. 409.9071 and 1011.70 for which the
 2514 state match will be certified. Reimbursement of school-based
 2515 providers is contingent on such providers being enrolled as
 2516 Medicaid providers and meeting the qualifications contained in
 2517 42 C.F.R. s. 440.110, unless otherwise waived by the federal
 2518 Health Care Financing Administration. Speech therapy providers
 2519 who are certified through the Department of Education pursuant
 2520 to rule 6A-4.0176, Florida Administrative Code, are eligible for
 2521 reimbursement for services that are provided on school premises.
 2522 Any employee of the school district who has been fingerprinted
 2523 and has received a criminal background check in accordance with

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2524 Department of Education rules and guidelines shall be exempt
 2525 from any agency requirements relating to criminal background
 2526 checks.

2527 (22) The agency shall request and implement Medicaid
 2528 waivers from the federal Health Care Financing Administration to
 2529 advance and treat a portion of the Medicaid nursing home per
 2530 diem as capital for creating and operating a risk-retention
 2531 group for self-insurance purposes, consistent with federal and
 2532 state laws and rules.

2533
 2534 Reviser's note.--The introductory paragraph to the
 2535 section is amended to improve clarity and conform to
 2536 context. Subsection (4) is amended to conform to the
 2537 redesignation of s. 409.912(17) as s. 409.912(19) by
 2538 s. 9, ch. 2003-279, Laws of Florida. Subsection (12),
 2539 which relates to special Medicaid payments for fiscal
 2540 years 2001-2002 and 2002-2003, is repealed to delete
 2541 an obsolete provision.

2542
 2543 Section 54. Subsections (1) and (2) of section 409.91196,
 2544 Florida Statutes, are amended to read:

2545 409.91196 Supplemental rebate agreements; confidentiality
 2546 of records and meetings.--

2547 (1) Trade secrets, rebate amount, percent of rebate,
 2548 manufacturer's pricing, and supplemental rebates which are
 2549 contained in records of the Agency for Health Care
 2550 Administration and its agents with respect to supplemental
 2551 rebate negotiations and which are prepared pursuant to a
 2552 supplemental rebate agreement under s. 409.912(40)(a)7.

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2553 ~~409.912(38)(a)7.~~ are confidential and exempt from s. 119.07 and
 2554 s. 24(a), Art. I of the State Constitution.

2555 (2) Those portions of meetings of the Medicaid
 2556 Pharmaceutical and Therapeutics Committee at which trade
 2557 secrets, rebate amount, percent of rebate, manufacturer's
 2558 pricing, and supplemental rebates are disclosed for discussion
 2559 or negotiation of a supplemental rebate agreement under s.
 2560 409.912(40)(a)7. ~~409.912(38)(a)7.~~ are exempt from s. 286.011 and
 2561 s. 24(b), Art. I of the State Constitution.

2562
 2563 Reviser's note.--Amended to conform to the
 2564 redesignation of s. 409.912(38)(a)7. as s.
 2565 409.912(40)(a)7. by s. 9, ch. 2003-279, Laws of
 2566 Florida.

2567
 2568 Section 55. Subsection (38) of section 409.912, Florida
 2569 Statutes, is repealed, and paragraph (c) of subsection (4),
 2570 paragraph (c) of subsection (21), and subsection (29) of that
 2571 section are amended to read:

2572 409.912 Cost-effective purchasing of health care.--The
 2573 agency shall purchase goods and services for Medicaid recipients
 2574 in the most cost-effective manner consistent with the delivery
 2575 of quality medical care. The agency shall maximize the use of
 2576 prepaid per capita and prepaid aggregate fixed-sum basis
 2577 services when appropriate and other alternative service delivery
 2578 and reimbursement methodologies, including competitive bidding
 2579 pursuant to s. 287.057, designed to facilitate the cost-
 2580 effective purchase of a case-managed continuum of care. The
 2581 agency shall also require providers to minimize the exposure of

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2582 recipients to the need for acute inpatient, custodial, and other
 2583 institutional care and the inappropriate or unnecessary use of
 2584 high-cost services. The agency may establish prior authorization
 2585 requirements for certain populations of Medicaid beneficiaries,
 2586 certain drug classes, or particular drugs to prevent fraud,
 2587 abuse, overuse, and possible dangerous drug interactions. The
 2588 Pharmaceutical and Therapeutics Committee shall make
 2589 recommendations to the agency on drugs for which prior
 2590 authorization is required. The agency shall inform the
 2591 Pharmaceutical and Therapeutics Committee of its decisions
 2592 regarding drugs subject to prior authorization.

2593 (4) The agency may contract with:

2594 (c) A federally qualified health center or an entity owned
 2595 by one or more federally qualified health centers or an entity
 2596 owned by other migrant and community health centers receiving
 2597 non-Medicaid financial support from the Federal Government to
 2598 provide health care services on a prepaid or fixed-sum basis to
 2599 recipients. Such prepaid health care services entity must be
 2600 licensed under parts I and III of chapter 641, but shall be
 2601 prohibited from serving Medicaid recipients on a prepaid basis,
 2602 until such licensure has been obtained. However, such an entity
 2603 is exempt from s. 641.225 if the entity meets the requirements
 2604 specified in subsections (17) and (18) ~~(15) and (16)~~.

2605 (21) Any entity contracting with the agency pursuant to
 2606 this section to provide health care services to Medicaid
 2607 recipients is prohibited from engaging in any of the following
 2608 practices or activities:

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2609 (c) Granting or offering of any monetary or other valuable
 2610 consideration for enrollment, except as authorized by subsection
 2611 (24) ~~(22)~~.

2612 (29) The agency shall perform enrollments and
 2613 disenrollments for Medicaid recipients who are eligible for
 2614 MediPass or managed care plans. Notwithstanding the prohibition
 2615 contained in paragraph (21)(f) ~~(19)(f)~~, managed care plans may
 2616 perform preenrollments of Medicaid recipients under the
 2617 supervision of the agency or its agents. For the purposes of
 2618 this section, "preenrollment" means the provision of marketing
 2619 and educational materials to a Medicaid recipient and assistance
 2620 in completing the application forms, but shall not include
 2621 actual enrollment into a managed care plan. An application for
 2622 enrollment shall not be deemed complete until the agency or its
 2623 agent verifies that the recipient made an informed, voluntary
 2624 choice. The agency, in cooperation with the Department of
 2625 Children and Family Services, may test new marketing initiatives
 2626 to inform Medicaid recipients about their managed care options
 2627 at selected sites. The agency shall report to the Legislature on
 2628 the effectiveness of such initiatives. The agency may contract
 2629 with a third party to perform managed care plan and MediPass
 2630 enrollment and disenrollment services for Medicaid recipients
 2631 and is authorized to adopt rules to implement such services. The
 2632 agency may adjust the capitation rate only to cover the costs of
 2633 a third-party enrollment and disenrollment contract, and for
 2634 agency supervision and management of the managed care plan
 2635 enrollment and disenrollment contract.

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2637 Reviser's note.--Paragraph (4)(c), paragraph (21)(c),
 2638 and subsection (29) are amended to conform to the
 2639 redesignation of subunits of s. 409.912 by s. 9, ch.
 2640 2003-279, Laws of Florida. Subsection (38) is repealed
 2641 to delete material relating to a 3-year managed care
 2642 pilot program that has been completed.

2643
 2644 Section 56. Paragraph (f) of subsection (2) of section
 2645 409.9122, Florida Statutes, is amended to read:

2646 409.9122 Mandatory Medicaid managed care enrollment;
 2647 programs and procedures.--

2648 (2)

2649 (f) When a Medicaid recipient does not choose a managed
 2650 care plan or MediPass provider, the agency shall assign the
 2651 Medicaid recipient to a managed care plan or MediPass provider.
 2652 Medicaid recipients who are subject to mandatory assignment but
 2653 who fail to make a choice shall be assigned to managed care
 2654 plans until an enrollment of 40 percent in MediPass and 60
 2655 percent in managed care plans is achieved. Once this enrollment
 2656 is achieved, the assignments shall be divided in order to
 2657 maintain an enrollment in MediPass and managed care plans which
 2658 is in a 40 percent and 60 percent proportion, respectively.
 2659 Thereafter, assignment of Medicaid recipients who fail to make a
 2660 choice shall be based proportionally on the preferences of
 2661 recipients who have made a choice in the previous period. Such
 2662 proportions shall be revised at least quarterly to reflect an
 2663 update of the preferences of Medicaid recipients. The agency
 2664 shall disproportionately assign Medicaid-eligible recipients who
 2665 are required to but have failed to make a choice of managed care

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2666 plan or MediPass, including children, and who are to be assigned
 2667 to the MediPass program to children's networks as described in
 2668 s. 409.912(4)(g) ~~409.912(3)(g)~~, Children's Medical Services
 2669 network as defined in s. 391.021, exclusive provider
 2670 organizations, provider service networks, minority physician
 2671 networks, and pediatric emergency department diversion programs
 2672 authorized by this chapter or the General Appropriations Act, in
 2673 such manner as the agency deems appropriate, until the agency
 2674 has determined that the networks and programs have sufficient
 2675 numbers to be economically operated. For purposes of this
 2676 paragraph, when referring to assignment, the term "managed care
 2677 plans" includes health maintenance organizations, exclusive
 2678 provider organizations, provider service networks, minority
 2679 physician networks, Children's Medical Services network, and
 2680 pediatric emergency department diversion programs authorized by
 2681 this chapter or the General Appropriations Act. When making
 2682 assignments, the agency shall take into account the following
 2683 criteria:

2684 1. A managed care plan has sufficient network capacity to
 2685 meet the need of members.

2686 2. The managed care plan or MediPass has previously
 2687 enrolled the recipient as a member, or one of the managed care
 2688 plan's primary care providers or MediPass providers has
 2689 previously provided health care to the recipient.

2690 3. The agency has knowledge that the member has previously
 2691 expressed a preference for a particular managed care plan or
 2692 MediPass provider as indicated by Medicaid fee-for-service
 2693 claims data, but has failed to make a choice.

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2694 4. The managed care plan's or MediPass primary care
 2695 providers are geographically accessible to the recipient's
 2696 residence.

2697
 2698 Reviser's note.--Amended to conform to the
 2699 redesignation of s. 409.912(3)(g) as s. 409.912(4)(g)
 2700 by s. 9, ch. 2003-279, Laws of Florida.

2701
 2702 Section 57. Paragraph (c) of subsection (3) of section
 2703 414.095, Florida Statutes, is amended to read:

2704 414.095 Determining eligibility for temporary cash
 2705 assistance.--

2706 (3) ELIGIBILITY FOR NONCITIZENS.--A "qualified noncitizen"
 2707 is an individual who is admitted to the United States as a
 2708 refugee under s. 207 of the Immigration and Nationality Act or
 2709 who is granted asylum under s. 208 of the Immigration and
 2710 Nationality Act; a noncitizen whose deportation is withheld
 2711 under s. 243(h) or s. 241(b)(3) of the Immigration and
 2712 Nationality Act; a noncitizen who is paroled into the United
 2713 States under s. 212(d)(5) of the Immigration and Nationality
 2714 Act, for at least 1 year; a noncitizen who is granted
 2715 conditional entry pursuant to s. 203(a)(7) of the Immigration
 2716 and Nationality Act as in effect prior to April 1, 1980; a Cuban
 2717 or Haitian entrant; or a noncitizen who has been admitted as a
 2718 permanent resident. In addition, a "qualified noncitizen"
 2719 includes an individual who, or an individual whose child or
 2720 parent, has been battered or subject to extreme cruelty in the
 2721 United States by a spouse, a parent, or other household member
 2722 under certain circumstances, and has applied for or received

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2723 protection under the federal Violence Against Women Act of 1994,
 2724 Pub. L. No. 103-322, if the need for benefits is related to the
 2725 abuse and the batterer no longer lives in the household. A
 2726 "nonqualified noncitizen" is a nonimmigrant noncitizen,
 2727 including a tourist, business visitor, foreign student, exchange
 2728 visitor, temporary worker, or diplomat. In addition, a
 2729 "nonqualified noncitizen" includes an individual paroled into
 2730 the United States for less than 1 year. A qualified noncitizen
 2731 who is otherwise eligible may receive temporary cash assistance
 2732 to the extent permitted by federal law. The income or resources
 2733 of a sponsor and the sponsor's spouse shall be included in
 2734 determining eligibility to the maximum extent permitted by
 2735 federal law.

2736 (c) The department shall participate in the Systematic
 2737 Alien Verification for Entitlements Program (SAVE) established
 2738 by the United States Bureau of Citizenship and Immigration
 2739 Services ~~Immigration and Naturalization Service~~ in order to
 2740 verify the validity of documents provided by noncitizens and to
 2741 verify a noncitizen's eligibility.

2742
 2743 Reviser's note.--Amended to conform to the
 2744 redesignation of the Immigration and Naturalization
 2745 Service pursuant to its transfer to the Department of
 2746 Homeland Security by s. 451, Pub. L. No. 107-296.

2747
 2748 Section 58. Section 414.70, Florida Statutes, is repealed.

2749
 2750 Reviser's note.--This section created a drug-screening
 2751 and drug-testing program that expired June 30, 2001.

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Section 59. Paragraph (d) of subsection (15) of section 440.02, Florida Statutes, is amended to read:

440.02 Definitions.--When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(15)

(d) "Employee" does not include:

1. An independent contractor who is not engaged in the construction industry.

a. In order to meet the definition of independent contractor, at least four of the following criteria must be met:

(I) The independent contractor maintains a separate business with his or her own work facility, truck, equipment, materials, or similar accommodations;

(II) The independent contractor holds or has applied for a federal employer identification number, unless the independent contractor is a sole proprietor who is not required to obtain a federal employer identification number under state or federal regulations;

(III) The independent contractor receives compensation for services rendered or work performed and such compensation is paid to a business rather than to an individual;

(IV) The independent contractor holds one or more bank accounts in the name of the business entity for purposes of paying business expenses or other expenses related to services rendered or work performed for compensation;

(V) The independent contractor performs work or is able to perform work for any entity in addition to or besides the

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2781 employer at his or her own election without the necessity of
 2782 completing an employment application or process; or

2783 (VI) The independent contractor receives compensation for
 2784 work or services rendered on a competitive-bid basis or
 2785 completion of a task or a set of tasks as defined by a
 2786 contractual agreement, unless such contractual agreement
 2787 expressly states that an employment relationship exists.

2788 b. If four of the criteria listed in sub-subparagraph a.
 2789 do not exist, an individual may still be presumed to be an
 2790 independent contractor and not an employee based on full
 2791 consideration of the nature of the individual situation with
 2792 regard to satisfying any of the following conditions:

2793 (I) The independent contractor performs or agrees to
 2794 perform specific services or work for a specific amount of money
 2795 and controls the means of performing the services or work.

2796 (II) The independent contractor incurs the principal
 2797 expenses related to the service or work that he or she performs
 2798 or agrees to perform.

2799 (III) The independent contractor is responsible for the
 2800 satisfactory completion of the work or services that he or she
 2801 performs or agrees to perform.

2802 (IV) The independent contractor receives compensation for
 2803 work or services performed for a commission or on a per-job
 2804 basis and not on any other basis.

2805 (V) The independent contractor may realize a profit or
 2806 suffer a loss in connection with performing work or services.

2807 (VI) The independent contractor has continuing or
 2808 recurring business liabilities or obligations.

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2809 (VII) The success or failure of the independent
 2810 contractor's business depends on the relationship of business
 2811 receipts to expenditures.

2812 c. Notwithstanding anything to the contrary in this
 2813 subparagraph, an individual claiming to be an independent
 2814 contractor has the burden of proving that he or she is an
 2815 independent contractor for purposes of this chapter.

2816 2. A real estate licensee, if that person agrees, in
 2817 writing, to perform for remuneration solely by way of
 2818 commission.

2819 3. Bands, orchestras, and musical and theatrical
 2820 performers, including disk jockeys, performing in licensed
 2821 premises as defined in chapter 562, if a written contract
 2822 evidencing an independent contractor relationship is entered
 2823 into before the commencement of such entertainment.

2824 4. An owner-operator of a motor vehicle who transports
 2825 property under a written contract with a motor carrier which
 2826 evidences a relationship by which the owner-operator assumes the
 2827 responsibility of an employer for the performance of the
 2828 contract, if the owner-operator is required to furnish the
 2829 necessary motor vehicle equipment and all costs incidental to
 2830 the performance of the contract, including, but not limited to,
 2831 fuel, taxes, licenses, repairs, and hired help; and the owner-
 2832 operator is paid a commission for transportation service and is
 2833 not paid by the hour or on some other time-measured basis.

2834 5. A person whose employment is both casual and not in the
 2835 course of the trade, business, profession, or occupation of the
 2836 employer.

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2837 6. A volunteer, except a volunteer worker for the state or
 2838 a county, municipality, or other governmental entity. A person
 2839 who does not receive monetary remuneration for services is
 2840 presumed to be a volunteer unless there is substantial evidence
 2841 that a valuable consideration was intended by both employer and
 2842 employee. For purposes of this chapter, the term "volunteer"
 2843 includes, but is not limited to:

2844 a. Persons who serve in private nonprofit agencies and who
 2845 receive no compensation other than expenses in an amount less
 2846 than or equivalent to the standard mileage and per diem expenses
 2847 provided to salaried employees in the same agency or, if such
 2848 agency does not have salaried employees who receive mileage and
 2849 per diem, then such volunteers who receive no compensation other
 2850 than expenses in an amount less than or equivalent to the
 2851 customary mileage and per diem paid to salaried workers in the
 2852 community as determined by the department; and

2853 b. Volunteers participating in federal programs
 2854 established under Pub. L. No. 93-113.

2855 7. Unless otherwise prohibited by this chapter, any
 2856 officer of a corporation who elects to be exempt from this
 2857 chapter. Such officer is not an employee for any reason under
 2858 this chapter until the notice of revocation of election filed
 2859 pursuant to s. 440.05 is effective.

2860 8. An officer of a corporation that is engaged in the
 2861 construction industry who elects to be exempt from the
 2862 provisions of this chapter, as otherwise permitted by this
 2863 chapter. Such officer is not an employee for any reason until
 2864 the notice of revocation of election filed pursuant to s. 440.05
 2865 is effective.

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2866 9. An exercise rider who does not work for a single horse
 2867 farm or breeder, and who is compensated for riding on a case-by-
 2868 case basis, provided a written contract is entered into prior to
 2869 the commencement of such activity which evidences that an
 2870 employee/employer relationship does not exist.

2871 10. A taxicab, limousine, or other passenger vehicle-for-
 2872 hire driver who operates said vehicles pursuant to a written
 2873 agreement with a company which provides any dispatch, marketing,
 2874 insurance, communications, or other services under which the
 2875 driver and any fees or charges paid by the driver to the company
 2876 for such services are not conditioned upon, or expressed as a
 2877 proportion of, fare revenues.

2878 11. A person who performs services as a sports official
 2879 for an entity sponsoring an interscholastic sports event or for
 2880 a public entity or private, nonprofit organization that sponsors
 2881 an amateur sports event. For purposes of this subparagraph, such
 2882 a person is an independent contractor. For purposes of this
 2883 subparagraph, the term "sports official" means any person who is
 2884 a neutral participant in a sports event, including, but not
 2885 limited to, umpires, referees, judges, linespersons,
 2886 scorekeepers, or timekeepers. This subparagraph does not apply
 2887 to any person employed by a district school board who serves as
 2888 a sports official as required by the employing school board or
 2889 who serves as a sports official as part of his or her
 2890 responsibilities during normal school hours.

2891 12. Medicaid-enrolled clients under chapter 393 who are
 2892 excluded from the definition of employment under s.
 2893 443.1216(4)(d) ~~443.036(21)(d)5.~~ and served by Adult Day Training
 2894 Services under the Home and Community-Based Medicaid Waiver

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2895 program in a sheltered workshop setting licensed by the United
 2896 States Department of Labor for the purpose of training and
 2897 earning less than the federal hourly minimum wage.

2898
 2899 Reviser's note.--Amended to conform to the repeal of
 2900 s. 443.036(21)(d)5. by s. 17, ch. 2003-36, Laws of
 2901 Florida. Substantially similar material appears in s.
 2902 443.1216(4)(d) created by s. 30, ch. 2003-36.

2903
 2904 Section 60. Paragraph (p) of subsection (5) of section
 2905 440.102, Florida Statutes, is amended to read:

2906 440.102 Drug-free workplace program requirements.--The
 2907 following provisions apply to a drug-free workplace program
 2908 implemented pursuant to law or to rules adopted by the Agency
 2909 for Health Care Administration:

2910 (5) PROCEDURES AND EMPLOYEE PROTECTION.--All specimen
 2911 collection and testing for drugs under this section shall be
 2912 performed in accordance with the following procedures:

2913 (p) All authorized remedial treatment, care, and
 2914 attendance provided by a health care provider to an injured
 2915 employee before medical and indemnity benefits are denied under
 2916 this section must be paid for by the carrier or self-insurer.
 2917 However, the carrier or self-insurer must have given reasonable
 2918 notice to all affected health care providers that payment for
 2919 treatment, care, and attendance provided to the employee after a
 2920 future date certain will be denied. A health care provider, as
 2921 defined in s. 440.13(1)(h) ~~440.13(1)(i)~~, that refuses, without
 2922 good cause, to continue treatment, care, and attendance before
 2923 the provider receives notice of benefit denial commits a

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2924 misdemeanor of the second degree, punishable as provided in s.
 2925 775.082 or s. 775.083.

2926
 2927 Reviser's note.--Amended to conform to the
 2928 redesignation of s. 440.13(1)(i) as s. 440.13(1)(h) by
 2929 s. 15, ch. 2003-412, Laws of Florida.

2930
 2931 Section 61. Subsection (4) of section 440.14, Florida
 2932 Statutes, is amended to read:

2933 440.14 Determination of pay.--

2934 (4) Upon termination of the employee or upon termination
 2935 of the payment of fringe benefits of any employee who is
 2936 collecting indemnity benefits pursuant to s. 440.15(2) or (3),
 2937 the employer shall within 7 days of such termination file a
 2938 corrected 13-week wage statement reflecting the wages paid and
 2939 the fringe benefits that had been paid to the injured employee,
 2940 as provided in s. 440.02(28) ~~440.02(27)~~.

2941
 2942 Reviser's note.--Amended to conform to the
 2943 redesignation of s. 440.02(27) as s. 440.02(28) by s.
 2944 11, ch. 2002-194, Laws of Florida.

2945
 2946 Section 62. Paragraph (b) of subsection (3) of section
 2947 440.15, Florida Statutes, is amended to read:

2948 440.15 Compensation for disability.--Compensation for
 2949 disability shall be paid to the employee, subject to the limits
 2950 provided in s. 440.12(2), as follows:

2951 (3) PERMANENT IMPAIRMENT BENEFITS.--

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2952 (b) The three-member panel, in cooperation with the
2953 department, shall establish and use a uniform permanent
2954 impairment rating schedule. This schedule must be based on
2955 medically or scientifically demonstrable findings as well as the
2956 systems and criteria set forth in the American Medical
2957 Association's Guides to the Evaluation of Permanent Impairment;
2958 the Snellen Charts, published by the American Medical
2959 Association Committee for Eye Injuries; and the Minnesota
2960 Department of Labor and Industry Disability Schedules. The
2961 schedule must be based upon objective findings. The schedule
2962 shall be more comprehensive than the AMA Guides to the
2963 Evaluation of Permanent Impairment and shall expand the areas
2964 already addressed and address additional areas not currently
2965 contained in the guides. On August 1, 1979, and pending the
2966 adoption, by rule, of a permanent schedule, Guides to the
2967 Evaluation of Permanent Impairment, copyright 1977, 1971, 1988,
2968 by the American Medical Association, shall be the temporary
2969 schedule and shall be used for the purposes hereof. For injuries
2970 after July 1, 1990, pending the adoption by rule of a uniform
2971 disability rating agency schedule, the Minnesota Department of
2972 Labor and Industry Disability Schedule shall be used unless that
2973 schedule does not address an injury. In such case, the Guides to
2974 the Evaluation of Permanent Impairment by the American Medical
2975 Association shall be used. Determination of permanent impairment
2976 under this schedule must be made by a physician licensed under
2977 chapter 458, a doctor of osteopathic medicine licensed under
2978 chapters 458 and 459, a chiropractic physician licensed under
2979 chapter 460, a podiatric physician licensed under chapter 461,
2980 an optometrist licensed under chapter 463, or a dentist licensed

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2981 under chapter 466, as appropriate considering the nature of the
 2982 injury. No other persons are authorized to render opinions
 2983 regarding the existence of or the extent of permanent
 2984 impairment.

2985

2986 Reviser's note.--Amended to improve clarity and
 2987 facilitate correct interpretation.

2988

2989 Section 63. Paragraph (b) of subsection (3) and paragraph
 2990 (h) of subsection (4) of section 440.25, Florida Statutes, are
 2991 amended to read:

2992 440.25 Procedures for mediation and hearings.--

2993 (3) Such mediation conference shall be conducted
 2994 informally and does not require the use of formal rules of
 2995 evidence or procedure. Any information from the files, reports,
 2996 case summaries, mediator's notes, or other communications or
 2997 materials, oral or written, relating to a mediation conference
 2998 under this section obtained by any person performing mediation
 2999 duties is privileged and confidential and may not be disclosed
 3000 without the written consent of all parties to the conference.
 3001 Any research or evaluation effort directed at assessing the
 3002 mediation program activities or performance must protect the
 3003 confidentiality of such information. Each party to a mediation
 3004 conference has a privilege during and after the conference to
 3005 refuse to disclose and to prevent another from disclosing
 3006 communications made during the conference whether or not the
 3007 contested issues are successfully resolved. This subsection and
 3008 paragraphs (4)(a) and (b) shall not be construed to prevent or
 3009 inhibit the discovery or admissibility of any information that

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3010 is otherwise subject to discovery or that is admissible under
 3011 applicable law or rule of procedure, except that any conduct or
 3012 statements made during a mediation conference or in negotiations
 3013 concerning the conference are inadmissible in any proceeding
 3014 under this chapter.

3015 (b) With respect to any private mediation, if the parties
 3016 agree or if mediators are not available under paragraph (a),
 3017 pursuant to notice from the judge of compensation claims, to
 3018 conduct the required mediation within the period specified in
 3019 this section, the parties shall hold a mediation conference at
 3020 the carrier's expense within the 130-day period set for
 3021 mediation. The mediation conference shall be conducted by a
 3022 mediator certified under s. 44.106. If the parties do not agree
 3023 upon a mediator within 10 days after the date of the order, the
 3024 claimant shall notify the judge in writing and the judge shall
 3025 appoint a mediator under this paragraph ~~subparagraph~~ within 7
 3026 days. In the event both parties agree, the results of the
 3027 mediation conference shall be binding and neither party shall
 3028 have a right to appeal the results. In the event either party
 3029 refuses to agree to the results of the mediation conference, the
 3030 results of the mediation conference as well as the testimony,
 3031 witnesses, and evidence presented at the conference shall not be
 3032 admissible at any subsequent proceeding on the claim. The
 3033 mediator shall not be called in to testify or give deposition to
 3034 resolve any claim for any hearing before the judge of
 3035 compensation claims. The employer may be represented by an
 3036 attorney at the mediation conference if the employee is also
 3037 represented by an attorney at the mediation conference.

3038 (4)

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3039 (h) To further expedite dispute resolution and to enhance
 3040 the self-executing features of the system, those petitions filed
 3041 in accordance with s. 440.192 that involve a claim for benefits
 3042 of \$5,000 or less shall, in the absence of compelling evidence
 3043 to the contrary, be presumed to be appropriate for expedited
 3044 resolution under this paragraph; and any other claim filed in
 3045 accordance with s. 440.192, upon the written agreement of both
 3046 parties and application by either party, may similarly be
 3047 resolved under this paragraph. A claim in a petition of ~~or~~
 3048 \$5,000 or less for medical benefits only or a petition for
 3049 reimbursement for mileage for medical purposes shall, in the
 3050 absence of compelling evidence to the contrary, be resolved
 3051 through the expedited dispute resolution process provided in
 3052 this paragraph. For purposes of expedited resolution pursuant to
 3053 this paragraph, the Deputy Chief Judge shall make provision by
 3054 rule or order for expedited and limited discovery and expedited
 3055 docketing in such cases. At least 15 days prior to hearing, the
 3056 parties shall exchange and file with the judge of compensation
 3057 claims a pretrial outline of all issues, defenses, and witnesses
 3058 on a form adopted by the Deputy Chief Judge; provided, in no
 3059 event shall such hearing be held without 15 days' written notice
 3060 to all parties. No pretrial hearing shall be held and no
 3061 mediation scheduled unless requested by a party. The judge of
 3062 compensation claims shall limit all argument and presentation of
 3063 evidence at the hearing to a maximum of 30 minutes, and such
 3064 hearings shall not exceed 30 minutes in length. Neither party
 3065 shall be required to be represented by counsel. The employer or
 3066 carrier may be represented by an adjuster or other qualified
 3067 representative. The employer or carrier and any witness may

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3068 appear at such hearing by telephone. The rules of evidence shall
 3069 be liberally construed in favor of allowing introduction of
 3070 evidence.

3071
 3072 Reviser's note.--Paragraph (3)(b) is amended to
 3073 conform to the redesignation of subparagraph 2. as
 3074 paragraph (b) by s. 25, ch. 2003-412, Laws of Florida.
 3075 Paragraph (4)(h) is amended to facilitate correct
 3076 interpretation.

3077
 3078 Section 64. Subsection (3) of section 440.33, Florida
 3079 Statutes, is amended to read:

3080 440.33 Powers of judges of compensation claims.--
 3081 (3) Before adjudicating a claim for permanent total
 3082 disability benefits, the judge of compensation claims may
 3083 request an evaluation pursuant to s. 440.491(6) ~~440.49(1)(a)~~ for
 3084 the purpose of assisting the judge of compensation claims in the
 3085 determination of whether there is a reasonable probability that,
 3086 with appropriate training or education, the employee may be
 3087 rehabilitated to the extent that such employee can achieve
 3088 suitable gainful employment and whether it is in the best
 3089 interest of the employee to undertake such training or
 3090 education.

3091
 3092 Reviser's note.--Amended to conform to the repeal of
 3093 s. 440.49(1), relating to rehabilitation, by s. 43,
 3094 ch. 93-415, Laws of Florida, and the enactment of
 3095 similar language in s. 440.491(6) by s. 44, ch. 93-
 3096 415.

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Section 65. Paragraph (a) of subsection (1) of section 440.385, Florida Statutes, is amended to read:

440.385 Florida Self-Insurers Guaranty Association, Incorporated.--

(1) CREATION OF ASSOCIATION.--

(a) There is created a nonprofit corporation to be known as the "Florida Self-Insurers Guaranty Association, Incorporated," hereinafter referred to as "the association." Upon incorporation of the association, all individual self-insurers as defined in ss. 440.02(24)(a) ~~440.02(23)(a)~~ and 440.38(1)(b), other than individual self-insurers which are public utilities or governmental entities, shall be members of the association as a condition of their authority to individually self-insure in this state. The association shall perform its functions under a plan of operation as established and approved under subsection (5) and shall exercise its powers and duties through a board of directors as established under subsection (2). The association shall have those powers granted or permitted corporations not for profit, as provided in chapter 617. The activities of the association shall be subject to review by the department. The department shall have oversight responsibility as set forth in this section. The association is specifically authorized to enter into agreements with this state to perform specified services.

Reviser's note.--Amended to conform to the redesignation of s. 440.02(23)(a) as s. 440.02(24)(a) by s. 11, ch. 2002-194, Laws of Florida.

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Section 66. Paragraph (b) of subsection (1) and paragraph (c) of subsection (2) of section 440.45, Florida Statutes, are amended to read:

440.45 Office of the Judges of Compensation Claims.--

(1)

(b) ~~The current term of the Chief Judge of Compensation Claims shall expire October 1, 2001.~~ Effective October 1, 2001, the position of Deputy Chief Judge of Compensation Claims is created.

(2)

(c) Each judge of compensation claims shall be appointed for a term of 4 years, but during the term of office may be removed by the Governor for cause. Prior to the expiration of a judge's term of office, the statewide nominating commission shall review the judge's conduct and determine whether the judge's performance is satisfactory. Effective July 1, 2002, in determining whether a judge's performance is satisfactory, the commission shall consider the extent to which the judge has met the requirements of this chapter, including, but not limited to, the requirements of ss. 440.25(1) and (4)(a)-(e) ~~440.25(1) and (4)(a)-(f)~~, 440.34(2), and 440.442. If the judge's performance is deemed satisfactory, the commission shall report its finding to the Governor no later than 6 months prior to the expiration of the judge's term of office. The Governor shall review the commission's report and may reappoint the judge for an additional 4-year term. If the Governor does not reappoint the judge, the Governor shall inform the commission. The judge shall remain in office until the Governor has appointed a successor

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3155 judge in accordance with paragraphs (a) and (b). If a vacancy
 3156 occurs during a judge's unexpired term, the statewide nominating
 3157 commission does not find the judge's performance is
 3158 satisfactory, or the Governor does not reappoint the judge, the
 3159 Governor shall appoint a successor judge for a term of 4 years
 3160 in accordance with paragraph (b).

3161
 3162 Reviser's note.--Paragraph (1)(b) is amended to delete
 3163 an obsolete provision relating to the term of the
 3164 Chief Judge of Compensation Claims. Paragraph (2)(c)
 3165 is amended to conform to the repeal of s. 440.25(4)(f)
 3166 by s. 25, ch. 2003-412, Laws of Florida.

3167
 3168 Section 67. Paragraph (a) of subsection (6) of section
 3169 440.491, Florida Statutes, is amended to read:
 3170 440.491 Reemployment of injured workers; rehabilitation.--
 3171 (6) TRAINING AND EDUCATION.--
 3172 (a) Upon referral of an injured employee by the carrier,
 3173 or upon the request of an injured employee, the department shall
 3174 conduct a training and education screening to determine whether
 3175 it should refer the employee for a vocational evaluation and, if
 3176 appropriate, approve training and education or other vocational
 3177 services for the employee. The department may not approve formal
 3178 training and education programs unless it determines, after
 3179 consideration of the reemployment assessment, pertinent
 3180 reemployment status reviews or reports, and such other relevant
 3181 factors as it prescribes by rule, that the reemployment plan is
 3182 likely to result in return to suitable gainful employment. The
 3183 department is authorized to expend moneys from the Workers'

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3184 Compensation Administration Trust Fund, established by s.
 3185 440.50, to secure appropriate training and education at a
 3186 community college as designated in s. 1000.21(3) ~~established~~
 3187 ~~under part III of chapter 240~~ or at a vocational-technical
 3188 school established under s. 1001.44 ~~230.63~~, or to secure other
 3189 vocational services when necessary to satisfy the recommendation
 3190 of a vocational evaluator. As used in this paragraph,
 3191 "appropriate training and education" includes securing a general
 3192 education diploma (GED), if necessary. The department shall
 3193 establish training and education standards pertaining to
 3194 employee eligibility, course curricula and duration, and
 3195 associated costs.

3196
 3197 Reviser's note.--Amended to conform to the repeal of
 3198 part III of chapter 240 by s. 1058, ch. 2002-387, Laws
 3199 of Florida, and the enactment of similar material at
 3200 part III of chapter 1001, and the repeal of s. 230.63
 3201 by s. 1058, ch. 2002-387, and the creation of similar
 3202 material at s. 1001.44.

3203
 3204 Section 68. Section 440.515, Florida Statutes, is amended
 3205 to read:

3206 440.515 Reports from self-insurers; confidentiality.--The
 3207 department shall maintain the reports filed in accordance with
 3208 former s. 440.51(6)(b) as confidential and exempt from the
 3209 provisions of s. 119.07(1), and such reports shall be released
 3210 only for bona fide research or educational purposes or after
 3211 receipt of consent from the employer.

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3213 Reviser's note.--Amended to conform to the repeal of
 3214 s. 440.51(6)(b) by s. 5, ch. 2002-262, Laws of
 3215 Florida.

3216
 3217 Section 69. Subsection (3) of section 440.60, Florida
 3218 Statutes, is amended to read:

3219 440.60 Application of laws.--

3220 (3) All acts or proceedings performed by or on behalf of
 3221 the former Division of Workers' Compensation of the Department
 3222 of Labor and Employment Security or the employer, or in which
 3223 the division or the employer was a party under s. 440.15(1) and
 3224 (3) between October 1, 1974, and July 10, 1987, are ratified and
 3225 validated in all respects if such acts or proceedings would have
 3226 been valid if chapter 87-330, Laws of Florida, had been in
 3227 effect at the time such acts or proceedings were performed.

3228
 3229 Reviser's note.--Amended to conform to the fact that
 3230 the Division of Workers' Compensation of the
 3231 Department of Labor and Employment Security no longer
 3232 exists.

3233
 3234 Section 70. Subsection (2) of section 443.1215, Florida
 3235 Statutes, is amended to read:

3236 443.1215 Employers.--

3237 (2)(a) In determining whether an employing unit for which
 3238 service, other than domestic service, is also performed is an
 3239 employer under paragraph (1)(a) ~~(a)~~, paragraph (1)(b) ~~(b)~~,
 3240 paragraph (1)(c) ~~(c)~~, or subparagraph (1)(d)1. ~~(d)1.~~, the wages

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3241 earned or the employment of an employee performing domestic
 3242 service may not be taken into account.

3243 (b) In determining whether an employing unit for which
 3244 service, other than agricultural labor, is also performed is an
 3245 employer under paragraph (1)(a) ~~(a)~~, paragraph (1)(b) ~~(b)~~,
 3246 paragraph (1)(c) ~~(c)~~, or subparagraph (1)(d)2. ~~(d)1.~~, the wages
 3247 earned or the employment of an employee performing service in
 3248 agricultural labor may not be taken into account. If an
 3249 employing unit is determined to be an employer of agricultural
 3250 labor, the employing unit is considered an employer for purposes
 3251 of subsection (1).

3252

3253 Reviser's note.--Amended to clarify that the cited
 3254 paragraphs are within subsection (1), not subsection
 3255 (2). Paragraph (2)(b) is also amended to correct an
 3256 incorrect reference to "subparagraph (d)1." that was
 3257 correct in the previous version of this material (in
 3258 s. 443.036, 2002 Florida Statutes) and to conform to
 3259 context.

3260

3261 Section 71. Section 455.2125, Florida Statutes, is amended
 3262 to read:

3263 455.2125 Consultation with postsecondary education boards
 3264 prior to adoption of changes to training requirements.--Any
 3265 state agency or board that has jurisdiction over the regulation
 3266 of a profession or occupation shall consult with the Commission
 3267 for Independent Education ~~State Board of Independent Colleges~~
 3268 ~~and Universities, the State Board of Nonpublic Career Education,~~
 3269 the Board of Regents, and the State Board of Community Colleges

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3270 prior to adopting any changes to training requirements relating
 3271 to entry into the profession or occupation. This consultation
 3272 must allow the educational board to provide advice regarding the
 3273 impact of the proposed changes in terms of the length of time
 3274 necessary to complete the training program and the fiscal impact
 3275 of the changes. The educational board must be consulted only
 3276 when an institution offering the training program falls under
 3277 its jurisdiction.

3278
 3279 Reviser's note.--Amended to improve clarity and
 3280 facilitate correct interpretation. Section 246.031,
 3281 which created the State Board of Independent Colleges
 3282 and Universities, was repealed by s. 1058, ch. 2002-
 3283 387, Laws of Florida. The Commission for Independent
 3284 Education, established in s. 1005.21, regulates
 3285 independent postsecondary institutions under s.
 3286 1005.22. Section 246.205, which established the State
 3287 Board of Nonpublic Career Education, was repealed by
 3288 s. 1058, ch. 2002-387.

3289
 3290 Section 72. Section 456.028, Florida Statutes, is amended
 3291 to read:

3292 456.028 Consultation with postsecondary education boards
 3293 prior to adoption of changes to training requirements.--Any
 3294 state agency or board that has jurisdiction over the regulation
 3295 of a profession or occupation shall consult with the Commission
 3296 for Independent Education ~~State Board of Independent Colleges~~
 3297 ~~and Universities, the State Board of Nonpublic Career Education,~~
 3298 the Board of Regents, and the State Board of Community Colleges

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3299 prior to adopting any changes to training requirements relating
 3300 to entry into the profession or occupation. This consultation
 3301 must allow the educational board to provide advice regarding the
 3302 impact of the proposed changes in terms of the length of time
 3303 necessary to complete the training program and the fiscal impact
 3304 of the changes. The educational board must be consulted only
 3305 when an institution offering the training program falls under
 3306 its jurisdiction.

3307
 3308 Reviser's note.--Amended to improve clarity and
 3309 facilitate correct interpretation. Section 246.031,
 3310 which created the State Board of Independent Colleges
 3311 and Universities, was repealed by s. 1058, ch. 2002-
 3312 387, Laws of Florida. The Commission for Independent
 3313 Education, established in s. 1005.21, regulates
 3314 independent postsecondary institutions under s.
 3315 1005.22. Section 246.205, which established the State
 3316 Board of Nonpublic Career Education, was repealed by
 3317 s. 1058, ch. 2002-387.

3318
 3319 Section 73. Paragraph (a) of subsection (2) of section
 3320 456.048, Florida Statutes, is amended to read:

3321 456.048 Financial responsibility requirements for certain
 3322 health care practitioners.--

3323 (2) The board or department may grant exemptions upon
 3324 application by practitioners meeting any of the following
 3325 criteria:

3326 (a) Any person licensed under chapter 457, chapter 460,
 3327 chapter 461, s. 464.012, chapter 466, or chapter 467 who

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3328 practices exclusively as an officer, employee, or agent of the
 3329 Federal Government or of the state or its agencies or its
 3330 subdivisions. For the purposes of this subsection, an agent of
 3331 the state, its agencies, or its subdivisions is a person who is
 3332 eligible for coverage under any self-insurance or insurance
 3333 program authorized by the provisions of s. 768.28(16) ~~768.28(15)~~
 3334 or who is a volunteer under s. 110.501(1).

3335
 3336 Reviser's note.--Amended to conform to the
 3337 redesignation of s. 768.28(15) as s. 768.28(16) by s.
 3338 67, ch. 2003-416, Laws of Florida.

3339
 3340 Section 74. Subsection (1) of section 456.051, Florida
 3341 Statutes, is amended to read:

3342 456.051 Reports of professional liability actions;
 3343 bankruptcies; Department of Health's responsibility to
 3344 provide.--

3345 (1) The report of a claim or action for damages for
 3346 personal injury which is required to be provided to the
 3347 Department of Health under s. 456.049 or s. 627.912 is public
 3348 information except for the name of the claimant or injured
 3349 person, which remains confidential as provided in s. ss-
 3350 ~~456.049(2)(d) and~~ 627.912(2)(e). The Department of Health shall,
 3351 upon request, make such report available to any person. The
 3352 department shall make such report available as a part of the
 3353 practitioner's profile within 30 calendar days after receipt.

3354

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3355 Reviser's note.--Amended to conform to the repeal of
 3356 s. 456.049(2)(d) by s. 16, ch. 2003-416, Laws of
 3357 Florida.

3358
 3359 Section 75. Paragraphs (a) and (f) of subsection (5) of
 3360 section 458.320, Florida Statutes, are amended to read:

3361 458.320 Financial responsibility.--

3362 (5) The requirements of subsections (1), (2), and (3) do
 3363 not apply to:

3364 (a) Any person licensed under this chapter who practices
 3365 medicine exclusively as an officer, employee, or agent of the
 3366 Federal Government or of the state or its agencies or its
 3367 subdivisions. For the purposes of this subsection, an agent of
 3368 the state, its agencies, or its subdivisions is a person who is
 3369 eligible for coverage under any self-insurance or insurance
 3370 program authorized by the provisions of s. 768.28(16)
 3371 ~~768.28(15)~~.

3372 (f) Any person holding an active license under this
 3373 chapter who meets all of the following criteria:

3374 1. The licensee has held an active license to practice in
 3375 this state or another state or some combination thereof for more
 3376 than 15 years.

3377 2. The licensee has either retired from the practice of
 3378 medicine or maintains a part-time practice of no more than 1,000
 3379 patient contact hours per year.

3380 3. The licensee has had no more than two claims for
 3381 medical malpractice resulting in an indemnity exceeding \$25,000
 3382 within the previous 5-year period.

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3383 4. The licensee has not been convicted of, or pled guilty
 3384 or nolo contendere to, any criminal violation specified in this
 3385 chapter or the medical practice act of any other state.

3386 5. The licensee has not been subject within the last 10
 3387 years of practice to license revocation or suspension for any
 3388 period of time; probation for a period of 3 years or longer; or
 3389 a fine of \$500 or more for a violation of this chapter or the
 3390 medical practice act of another jurisdiction. The regulatory
 3391 agency's acceptance of a physician's relinquishment of a
 3392 license, stipulation, consent order, or other settlement,
 3393 offered in response to or in anticipation of the filing of
 3394 administrative charges against the physician's license,
 3395 constitutes action against the physician's license for the
 3396 purposes of this paragraph.

3397 6. The licensee has submitted a form supplying necessary
 3398 information as required by the department and an affidavit
 3399 affirming compliance with this paragraph.

3400 7. The licensee must submit biennially to the department
 3401 certification stating compliance with the provisions of this
 3402 paragraph. The licensee must, upon request, demonstrate to the
 3403 department information verifying compliance with this paragraph.

3404
 3405 A licensee who meets the requirements of this paragraph must
 3406 post notice in the form of a sign prominently displayed in the
 3407 reception area and clearly noticeable by all patients or provide
 3408 a written statement to any person to whom medical services are
 3409 being provided. The sign or statement must read as follows ~~that~~:
 3410 "Under Florida law, physicians are generally required to carry
 3411 medical malpractice insurance or otherwise demonstrate financial

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3412 responsibility to cover potential claims for medical
 3413 malpractice. However, certain part-time physicians who meet
 3414 state requirements are exempt from the financial responsibility
 3415 law. YOUR DOCTOR MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO
 3416 CARRY MEDICAL MALPRACTICE INSURANCE. This notice is provided
 3417 pursuant to Florida law."

3418
 3419 Reviser's note.--Paragraph (5)(a) is amended to
 3420 conform to the redesignation of s. 768.28(15) as s.
 3421 768.28(16) by s. 67, ch. 2003-416, Laws of Florida.
 3422 Paragraph (5)(f) is amended to improve clarity and
 3423 facilitate correct interpretation.

3424
 3425 Section 76. Paragraph (b) of subsection (7) of section
 3426 458.347, Florida Statutes, is amended to read:

3427 458.347 Physician assistants.--

3428 (7) PHYSICIAN ASSISTANT LICENSURE.--

3429 (b)1. Notwithstanding subparagraph (a)2. and sub-
 3430 subparagraph (a)3.a., the department shall examine each
 3431 applicant who the Board of Medicine certifies:

3432 a. Has completed the application form and remitted a
 3433 nonrefundable application fee not to exceed \$500 and an
 3434 examination fee not to exceed \$300, plus the actual cost to the
 3435 department to provide the examination. The examination fee is
 3436 refundable if the applicant is found to be ineligible to take
 3437 the examination. The department shall not require the applicant
 3438 to pass a separate practical component of the examination. For
 3439 examinations given after July 1, 1998, competencies measured
 3440 through practical examinations shall be incorporated into the

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3441 written examination through a multiple-choice format. The
 3442 department shall translate the examination into the native
 3443 language of any applicant who requests and agrees to pay all
 3444 costs of such translation, provided that the translation request
 3445 is filed with the board office no later than 9 months before the
 3446 scheduled examination and the applicant remits translation fees
 3447 as specified by the department no later than 6 months before the
 3448 scheduled examination, and provided that the applicant
 3449 demonstrates to the department the ability to communicate orally
 3450 in basic English. If the applicant is unable to pay translation
 3451 costs, the applicant may take the next available examination in
 3452 English if the applicant submits a request in writing by the
 3453 application deadline and if the applicant is otherwise eligible
 3454 under this section. To demonstrate the ability to communicate
 3455 orally in basic English, a passing score or grade is required,
 3456 as determined by the department or organization that developed
 3457 it, on the test for spoken English (TSE) by the Educational
 3458 Testing Service (ETS), the test of English as a foreign language
 3459 (TOEFL) by ETS, a high school or college level English course,
 3460 or the English examination for citizenship, Bureau of
 3461 Citizenship and Immigration Services ~~Immigration and~~
 3462 ~~Naturalization Service~~. A notarized copy of an Educational
 3463 Commission for Foreign Medical Graduates (ECFMG) certificate may
 3464 also be used to demonstrate the ability to communicate in basic
 3465 English; and

3466 b.(I) Is an unlicensed physician who graduated from a
 3467 foreign medical school listed with the World Health Organization
 3468 who has not previously taken and failed the examination of the
 3469 National Commission on Certification of Physician Assistants and

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3470 | who has been certified by the Board of Medicine as having met
 3471 | the requirements for licensure as a medical doctor by
 3472 | examination as set forth in s. 458.311(1), (3), (4), and (5),
 3473 | with the exception that the applicant is not required to have
 3474 | completed an approved residency of at least 1 year and the
 3475 | applicant is not required to have passed the licensing
 3476 | examination specified under s. 458.311 or hold a valid, active
 3477 | certificate issued by the Educational Commission for Foreign
 3478 | Medical Graduates; was eligible and made initial application for
 3479 | certification as a physician assistant in this state between
 3480 | July 1, 1990, and June 30, 1991; and was a resident of this
 3481 | state on July 1, 1990, or was licensed or certified in any state
 3482 | in the United States as a physician assistant on July 1, 1990;
 3483 | or

3484 | (II) Completed all coursework requirements of the Master
 3485 | of Medical Science Physician Assistant Program offered through
 3486 | the Florida College of Physician's Assistants prior to its
 3487 | closure in August of 1996. Prior to taking the examination, such
 3488 | applicant must successfully complete any clinical rotations that
 3489 | were not completed under such program prior to its termination
 3490 | and any additional clinical rotations with an appropriate
 3491 | physician assistant preceptor, not to exceed 6 months, that are
 3492 | determined necessary by the council. The boards shall determine,
 3493 | based on recommendations from the council, the facilities under
 3494 | which such incomplete or additional clinical rotations may be
 3495 | completed and shall also determine what constitutes successful
 3496 | completion thereof, provided such requirements are comparable to
 3497 | those established by accredited physician assistant programs.
 3498 | This sub-sub-subparagraph is repealed July 1, 2001.

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3499 2. The department may grant temporary licensure to an
 3500 applicant who meets the requirements of subparagraph 1. Between
 3501 meetings of the council, the department may grant temporary
 3502 licensure to practice based on the completion of all temporary
 3503 licensure requirements. All such administratively issued
 3504 licenses shall be reviewed and acted on at the next regular
 3505 meeting of the council. A temporary license expires 30 days
 3506 after receipt and notice of scores to the licenseholder from the
 3507 first available examination specified in subparagraph 1.
 3508 following licensure by the department. An applicant who fails
 3509 the proficiency examination is no longer temporarily licensed,
 3510 but may apply for a one-time extension of temporary licensure
 3511 after reapplying for the next available examination. Extended
 3512 licensure shall expire upon failure of the licenseholder to sit
 3513 for the next available examination or upon receipt and notice of
 3514 scores to the licenseholder from such examination.

3515 3. Notwithstanding any other provision of law, the
 3516 examination specified pursuant to subparagraph 1. shall be
 3517 administered by the department only five times. Applicants
 3518 certified by the board for examination shall receive at least 6
 3519 months' notice of eligibility prior to the administration of the
 3520 initial examination. Subsequent examinations shall be
 3521 administered at 1-year intervals following the reporting of the
 3522 scores of the first and subsequent examinations. For the
 3523 purposes of this paragraph, the department may develop, contract
 3524 for the development of, purchase, or approve an examination that
 3525 adequately measures an applicant's ability to practice with
 3526 reasonable skill and safety. The minimum passing score on the
 3527 examination shall be established by the department, with the

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3528 advice of the board. Those applicants failing to pass that
 3529 examination or any subsequent examination shall receive notice
 3530 of the administration of the next examination with the notice of
 3531 scores following such examination. Any applicant who passes the
 3532 examination and meets the requirements of this section shall be
 3533 licensed as a physician assistant with all rights defined
 3534 thereby.

3535
 3536 Reviser's note.--Amended to conform to the
 3537 redesignation of the Immigration and Naturalization
 3538 Service pursuant to its transfer to the Department of
 3539 Homeland Security by s. 451, Pub. L. No. 107-296.

3540
 3541 Section 77. Paragraph (a) of subsection (5) of section
 3542 459.0085, Florida Statutes, is amended to read:

3543 459.0085 Financial responsibility.--

3544 (5) The requirements of subsections (1), (2), and (3) do
 3545 not apply to:

3546 (a) Any person licensed under this chapter who practices
 3547 medicine exclusively as an officer, employee, or agent of the
 3548 Federal Government or of the state or its agencies or its
 3549 subdivisions. For the purposes of this subsection, an agent of
 3550 the state, its agencies, or its subdivisions is a person who is
 3551 eligible for coverage under any self-insurance or insurance
 3552 program authorized by the provisions of s. 768.28(16)
 3553 ~~768.28(15)~~.

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3555 Reviser's note.--Amended to conform to the
 3556 redesignation of s. 768.28(15) as s. 768.28(16) by s.
 3557 67, ch. 2003-416, Laws of Florida.

3558
 3559 Section 78. Paragraph (j) of subsection (1) of section
 3560 475.01, Florida Statutes, is amended to read:

3561 475.01 Definitions.--

3562 (1) As used in this part:

3563 (j) "Sales associate" means a person who performs any act
 3564 specified in the definition of "broker," but who performs such
 3565 act under the direction, control, or management of another
 3566 person. A sales associate ~~salesperson~~ renders a professional
 3567 service and is a professional within the meaning of s.
 3568 95.11(4)(a).

3569
 3570 Reviser's note.--Amended to conform to s. 22, ch.
 3571 2003-164, Laws of Florida, which redesignated
 3572 salespersons as sales associates.

3573
 3574 Section 79. Paragraph (c) of subsection (2), paragraph (c)
 3575 of subsection (3), and paragraph (c) of subsection (4) of
 3576 section 475.278, Florida Statutes, are amended to read:

3577 475.278 Authorized brokerage relationships; presumption of
 3578 transaction brokerage; required disclosures.--

3579 (2) TRANSACTION BROKER RELATIONSHIP.--

3580 (c) Contents of disclosure.--The required notice given
 3581 under paragraph (b) must include the following information in
 3582 the following form:

3583 IMPORTANT NOTICE

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FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES PROVIDE THIS NOTICE TO POTENTIAL SELLERS AND BUYERS OF REAL ESTATE.

You should not assume that any real estate broker or sales associate ~~salesperson~~ represents you unless you agree to engage a real estate licensee in an authorized brokerage relationship, either as a single agent or as a transaction broker. You are advised not to disclose any information you want to be held in confidence until you make a decision on representation.

TRANSACTION BROKER NOTICE

FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES OPERATING AS TRANSACTION BROKERS DISCLOSE TO BUYERS AND SELLERS THEIR ROLE AND DUTIES IN PROVIDING A LIMITED FORM OF REPRESENTATION.

As a transaction broker, . . . (insert name of Real Estate Firm and its Associates) . . . , provides to you a limited form of representation that includes the following duties:

1. Dealing honestly and fairly;
2. Accounting for all funds;
3. Using skill, care, and diligence in the transaction;
4. Disclosing all known facts that materially affect the value of residential real property and are not readily observable to the buyer;
5. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing;

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3613 6. Limited confidentiality, unless waived in writing by a
 3614 party. This limited confidentiality will prevent disclosure that
 3615 the seller will accept a price less than the asking or listed
 3616 price, that the buyer will pay a price greater than the price
 3617 submitted in a written offer, of the motivation of any party for
 3618 selling or buying property, that a seller or buyer will agree to
 3619 financing terms other than those offered, or of any other
 3620 information requested by a party to remain confidential; and

3621 7. Any additional duties that are entered into by this or
 3622 by separate written agreement.

3623
 3624 Limited representation means that a buyer or seller is not
 3625 responsible for the acts of the licensee. Additionally, parties
 3626 are giving up their rights to the undivided loyalty of the
 3627 licensee. This aspect of limited representation allows a
 3628 licensee to facilitate a real estate transaction by assisting
 3629 both the buyer and the seller, but a licensee will not work to
 3630 represent one party to the detriment of the other party when
 3631 acting as a transaction broker to both parties.

3632

3633

Date

Signature

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3636

Signature

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This paragraph expires July 1, 2008.

(3) SINGLE AGENT RELATIONSHIP.--

(c) Contents of disclosure.--

1. Single agent duties disclosure.--The notice required under subparagraph (b)1. must include the following information in the following form:

IMPORTANT NOTICE

FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES PROVIDE THIS NOTICE TO POTENTIAL SELLERS AND BUYERS OF REAL ESTATE.

You should not assume that any real estate broker or sales associate ~~salesperson~~ represents you unless you agree to engage a real estate licensee in an authorized brokerage relationship, either as a single agent or as a transaction broker. You are advised not to disclose any information you want to be held in confidence until you make a decision on representation.

SINGLE AGENT NOTICE

FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES OPERATING AS SINGLE AGENTS DISCLOSE TO BUYERS AND SELLERS THEIR DUTIES.

As a single agent, . . . (insert name of Real Estate Entity and its Associates) . . . owe to you the following duties:

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- 3664 1. Dealing honestly and fairly;
- 3665 2. Loyalty;
- 3666 3. Confidentiality;
- 3667 4. Obedience;
- 3668 5. Full disclosure;
- 3669 6. Accounting for all funds;
- 3670 7. Skill, care, and diligence in the transaction;
- 3671 8. Presenting all offers and counteroffers in a timely
- 3672 manner, unless a party has previously directed the licensee
- 3673 otherwise in writing; and
- 3674 9. Disclosing all known facts that materially affect the
- 3675 value of residential real property and are not readily
- 3676 observable.

3677

Date	Signature

3678

3679

3680

- 3681 2. Transition disclosure.--To gain the principal's written
- 3682 consent to a change in relationship, a licensee must use the
- 3683 following disclosure:

3684

CONSENT TO TRANSITION TO TRANSACTION BROKER

3685

3686 FLORIDA LAW ALLOWS REAL ESTATE LICENSEES WHO REPRESENT A BUYER

3687 OR SELLER AS A SINGLE AGENT TO CHANGE FROM A SINGLE AGENT

3688 RELATIONSHIP TO A TRANSACTION BROKERAGE RELATIONSHIP IN ORDER

3689 FOR THE LICENSEE TO ASSIST BOTH PARTIES IN A REAL ESTATE

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3690 TRANSACTION BY PROVIDING A LIMITED FORM OF REPRESENTATION TO
 3691 BOTH THE BUYER AND THE SELLER. THIS CHANGE IN RELATIONSHIP
 3692 CANNOT OCCUR WITHOUT YOUR PRIOR WRITTEN CONSENT.

3693
 3694 As a transaction broker, . . . (insert name of Real Estate Firm
 3695 and its Associates) . . . , provides to you a limited form of
 3696 representation that includes the following duties:

- 3697 1. Dealing honestly and fairly;
- 3698 2. Accounting for all funds;
- 3699 3. Using skill, care, and diligence in the transaction;
- 3700 4. Disclosing all known facts that materially affect the
 3701 value of residential real property and are not readily
 3702 observable to the buyer;
- 3703 5. Presenting all offers and counteroffers in a timely
 3704 manner, unless a party has previously directed the licensee
 3705 otherwise in writing;
- 3706 6. Limited confidentiality, unless waived in writing by a
 3707 party. This limited confidentiality will prevent disclosure that
 3708 the seller will accept a price less than the asking or listed
 3709 price, that the buyer will pay a price greater than the price
 3710 submitted in a written offer, of the motivation of any party for
 3711 selling or buying property, that a seller or buyer will agree to
 3712 financing terms other than those offered, or of any other
 3713 information requested by a party to remain confidential; and
- 3714 7. Any additional duties that are entered into by this or
 3715 by separate written agreement.

3716
 3717 Limited representation means that a buyer or seller is not
 3718 responsible for the acts of the licensee. Additionally, parties

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3719 are giving up their rights to the undivided loyalty of the
 3720 licensee. This aspect of limited representation allows a
 3721 licensee to facilitate a real estate transaction by assisting
 3722 both the buyer and the seller, but a licensee will not work to
 3723 represent one party to the detriment of the other party when
 3724 acting as a transaction broker to both parties.

3725
 3726 _____I agree that my agent may assume the role and
 3727 duties of a transaction broker. [must be initialed or signed]

3728 (4) NO BROKERAGE RELATIONSHIP.--

3729 (c) Contents of disclosure.--The notice required under
 3730 paragraph (b) must include the following information in the
 3731 following form:

3732 IMPORTANT NOTICE

3733
 3734 FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES PROVIDE THIS
 3735 NOTICE TO POTENTIAL SELLERS AND BUYERS OF REAL ESTATE.

3736
 3737 You should not assume that any real estate broker or sales
 3738 associate ~~salesperson~~ represents you unless you agree to engage
 3739 a real estate licensee in an authorized brokerage relationship,
 3740 either as a single agent or as a transaction broker. You are
 3741 advised not to disclose any information you want to be held in
 3742 confidence until you decide on representation.

3743 NO BROKERAGE RELATIONSHIP NOTICE

3744
 3745 FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES WHO HAVE NO
 3746 BROKERAGE RELATIONSHIP WITH A POTENTIAL SELLER OR BUYER DISCLOSE
 3747 THEIR DUTIES TO SELLERS AND BUYERS.

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As a real estate licensee who has no brokerage relationship with you, . . . (insert name of Real Estate Entity and its Associates) . . . owe to you the following duties:

1. Dealing honestly and fairly;
2. Disclosing all known facts that materially affect the value of residential real property which are not readily observable to the buyer.
3. Accounting for all funds entrusted to the licensee.

. . . (Date) (Signature) . . .

Reviser's note.--Amended to conform to s. 22, ch. 2003-164, Laws of Florida, which redesignated salespersons as sales associates.

Section 80. Paragraph (f) of subsection (1) and subsection (2) of section 475.611, Florida Statutes, are amended to read:

475.611 Definitions.--

(1) As used in this part, the term:

(f) "Appraiser" means any person who is a registered trainee ~~assistant~~ real estate appraiser, licensed real estate appraiser, or a certified real estate appraiser. An appraiser renders a professional service and is a professional within the meaning of s. 95.11(4)(a).

(2) Wherever the word "operate" or "operating" appears in this part with respect to a registered trainee ~~assistant~~ appraiser, licensed appraiser, or certified appraiser; in any

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3777 order, rule, or regulation of the board; in any pleading,
 3778 indictment, or information under this part; in any court action
 3779 or proceeding; or in any order or judgment of a court, it shall
 3780 be deemed to mean the commission of one or more acts described
 3781 in this part as constituting or defining a registered trainee
 3782 appraiser, licensed appraiser, or certified appraiser, not
 3783 including, however, any of the exceptions stated therein. A
 3784 single act is sufficient to bring a person within the meaning of
 3785 this subsection, and each act, if prohibited herein, constitutes
 3786 a separate offense.

3787
 3788 Reviser's note.--Amended to conform to the
 3789 redesignation of registered assistant appraisers as
 3790 registered trainee appraisers by s. 3, ch. 2003-164,
 3791 Laws of Florida.

3792
 3793 Section 81. Subsection (1) of section 475.6221, Florida
 3794 Statutes, is amended to read:

3795 475.6221 Employment of registered trainee real estate
 3796 appraisers.--

3797 (1) A registered trainee real estate appraiser must
 3798 perform appraisal services under the direct supervision of a
 3799 licensed or certified appraiser who is designated as the primary
 3800 supervisory appraiser. The primary supervisory appraiser may
 3801 also designate additional licensed or certified appraisers as
 3802 secondary supervisory appraisers. A secondary supervisory
 3803 appraiser must be affiliated with the same firm or business as
 3804 the primary supervisory appraiser and the primary or secondary
 3805 supervisory appraiser must have the same business address as the

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3806 registered trainee ~~assistant~~ real estate appraiser. The primary
 3807 supervisory appraiser must notify the Division of Real Estate of
 3808 the name and address of any primary and secondary supervisory
 3809 appraiser for whom the registered trainee will perform appraisal
 3810 services, and must also notify the division within 10 days after
 3811 terminating such relationship. Termination of the relationship
 3812 with a primary supervisory appraiser automatically terminates
 3813 the relationship with the secondary supervisory appraiser.

3814

3815 Reviser's note.--Amended to conform to the
 3816 redesignation of registered assistant appraisers as
 3817 registered trainee appraisers by s. 3, ch. 2003-164,
 3818 Laws of Florida.

3819

3820 Section 82. Subsection (2) of section 487.046, Florida
 3821 Statutes, is amended to read:

3822 487.046 Application; licensure.--

3823 (2) If the department finds the applicant qualified in the
 3824 classification for which the applicant has applied, and if the
 3825 applicant applying for a license to engage in aerial application
 3826 of pesticides has met all of the requirements of the Federal
 3827 Aviation Administration Agency and the Department of
 3828 Transportation of this state to operate the equipment described
 3829 in the application and has shown proof of liability insurance or
 3830 posted a surety bond in an amount to be set forth by rule of the
 3831 department, the department shall issue a certified applicator's
 3832 license, limited to the classifications for which the applicant
 3833 is qualified. The license shall expire as required by rules
 3834 promulgated under this chapter, unless it has been revoked or

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3835 suspended by the department prior to expiration, for cause as
 3836 provided in this chapter. The license or authorization card
 3837 issued by the department verifying licensure shall be kept on
 3838 the person of the licensee while performing work as a licensed
 3839 applicator.

3840
 3841 Reviser's note.--Amended to conform to the correct
 3842 title of the United State Federal Aviation
 3843 Administration.

3844
 3845 Section 83. Paragraph (f) of subsection (1) of section
 3846 493.6106, Florida Statutes, is amended to read:
 3847 493.6106 License requirements; posting.--
 3848 (1) Each individual licensed by the department must:
 3849 (f) Be a citizen or legal resident alien of the United
 3850 States or have been granted authorization to seek employment in
 3851 this country by the United States Bureau of Citizenship and
 3852 Immigration Services ~~Immigration and Naturalization Service~~.

3853
 3854 Reviser's note.--Amended to conform to the
 3855 redesignation of the Immigration and Naturalization
 3856 Service pursuant to its transfer to the Department of
 3857 Homeland Security by s. 451, Pub. L. No. 107-296.

3858
 3859 Section 84. Section 499.007, Florida Statutes, is
 3860 reenacted to read:
 3861 499.007 Misbranded drug or device.--A drug or device is
 3862 misbranded:
 3863 (1) If its labeling is in any way false or misleading.

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3864 (2) Unless, if in package form, it bears a label
 3865 containing:

3866 (a) The name and place of business of the manufacturer,
 3867 repackager, or distributor of the finished dosage form of the
 3868 drug. For the purpose of this paragraph, the finished dosage
 3869 form of a medicinal drug is that form of the drug which is, or
 3870 is intended to be, dispensed or administered to the patient and
 3871 requires no further manufacturing or processing other than
 3872 packaging, reconstitution, and labeling; and

3873 (b) An accurate statement of the quantity of the contents
 3874 in terms of weight, measure, or numerical count; however, under
 3875 this section, reasonable variations are permitted, and the
 3876 department shall establish by rule exemptions for small
 3877 packages.

3878 (3) If any word, statement, or other information required
 3879 by or under ss. 499.001-499.081 to appear on the label or
 3880 labeling is not prominently placed thereon with such
 3881 conspicuousness as compared with other words, statements,
 3882 designs, or devices in the labeling, and in such terms, as to
 3883 render the word, statement, or other information likely to be
 3884 read and understood under customary conditions of purchase and
 3885 use.

3886 (4) If it is a drug and is not designated solely by a name
 3887 recognized in an official compendium, unless its label bears:

- 3888 (a) The common or usual name of the drug, if any; and
- 3889 (b) In case it is fabricated from two or more ingredients,
 3890 the common or usual name and quantity of each active ingredient.

3891 (5) Unless its labeling bears:

- 3892 (a) Adequate directions for use; and

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3893 (b) Adequate warnings against use in those pathological
 3894 conditions in which its use may be dangerous to health or
 3895 against use by children if its use may be dangerous to health,
 3896 or against unsafe dosage or methods or duration of
 3897 administration or application, in such manner and form as are
 3898 necessary for the protection of users.

3899 (6) If it purports to be a drug the name of which is
 3900 recognized in the official compendium, unless it is packaged and
 3901 labeled as prescribed therein; however, the method of packaging
 3902 may be modified with the consent of the department.

3903 (7) If it has been found by the department to be a drug
 3904 liable to deterioration, unless it is packaged in such form and
 3905 manner, and its label bears a statement of such precautions, as
 3906 the department by rule requires as necessary to protect the
 3907 public health. Such rule may not be established for any drug
 3908 recognized in an official compendium until the department has
 3909 informed the appropriate body charged with the revision of such
 3910 compendium of the need for such packaging or labeling
 3911 requirements and that body has failed within a reasonable time
 3912 to prescribe such requirements.

3913 (8) If it is:

3914 (a) A drug and its container or finished dosage form is so
 3915 made, formed, or filled as to be misleading;

3916 (b) An imitation of another drug; or

3917 (c) Offered for sale under the name of another drug.

3918 (9) If it is dangerous to health when used in the dosage
 3919 or with the frequency or duration prescribed, recommended, or
 3920 suggested in the labeling of the drug.

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3921 (10) If it is, purports to be, or is represented as a drug
 3922 composed wholly or partly of insulin, unless:

3923 (a) It is from a batch with respect to which a certificate
 3924 has been issued pursuant to s. 506 of the federal act; and

3925 (b) The certificate is in effect with respect to the drug.

3926 (11) If it is, purports to be, or is represented as a drug
 3927 composed wholly or partly of any kind of antibiotic requiring
 3928 certification under the federal act unless:

3929 (a) It is from a batch with respect to which a certificate
 3930 has been issued pursuant to s. 507 of the federal act; and

3931 (b) The certificate is in effect with respect to the drug;

3932
 3933 however, this subsection does not apply to any drug or class of
 3934 drugs exempted by regulations adopted under s. 507(c) or (d) of
 3935 the federal act.

3936 (12) If it is a drug intended for use by humans which is a
 3937 habit-forming drug or which, because of its toxicity or other
 3938 potentiality for harmful effect, or the method of its use, or
 3939 the collateral measures necessary to its use, is not safe for
 3940 use except under the supervision of a practitioner licensed by
 3941 law to administer such drugs; or which is limited by an
 3942 effective application under s. 505 of the federal act to use
 3943 under the professional supervision of a practitioner licensed by
 3944 law to prescribe such drug, unless it is dispensed only:

3945 (a) Upon the written prescription of a practitioner
 3946 licensed by law to prescribe such drug;

3947 (b) Upon an oral prescription of such practitioner, which
 3948 is reduced promptly to writing and filled by the pharmacist; or

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3949 (c) By refilling any such written or oral prescription, if
 3950 such refilling is authorized by the prescriber either in the
 3951 original prescription or by oral order which is reduced promptly
 3952 to writing and filled by the pharmacist.

3953
 3954 This subsection does not relieve any person from any requirement
 3955 prescribed by law with respect to controlled substances as
 3956 defined in the applicable federal and state laws.

3957 (13) If it is a drug that is subject to paragraph (12)(a),
 3958 and if, at any time before it is dispensed, its label fails to
 3959 bear the statement:

3960 (a) "Caution: Federal Law Prohibits Dispensing Without
 3961 Prescription";

3962 (b) "Rx Only";

3963 (c) The prescription symbol followed by the word "Only";
 3964 or

3965 (d) "Caution: State Law Prohibits Dispensing Without
 3966 Prescription."

3967 (14) If it is a drug that is not subject to paragraph
 3968 (12)(a), if at any time before it is dispensed its label bears
 3969 the statement of caution required in subsection (13).

3970 (15) If it is a color additive, the intended use of which
 3971 in or on drugs is for the purpose of coloring only, unless its
 3972 packaging and labeling are in conformity with the packaging and
 3973 labeling requirements that apply to such color additive and are
 3974 prescribed under the federal act.

3975
 3976 A drug dispensed by filling or refilling a written or oral
 3977 prescription of a practitioner licensed by law to prescribe such

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3978 drug is exempt from the requirements of this section, except
 3979 subsections (1), (8), (10), and (11) and the packaging
 3980 requirements of subsections (6) and (7), if the drug bears a
 3981 label that contains the name and address of the dispenser or
 3982 seller, the prescription number and the date the prescription
 3983 was written or filled, the name of the prescriber and the name
 3984 of the patient, and the directions for use and cautionary
 3985 statements. This exemption does not apply to any drug dispensed
 3986 in the course of the conduct of a business of dispensing drugs
 3987 pursuant to diagnosis by mail or to any drug dispensed in
 3988 violation of subsection (12). The department may, by rule,
 3989 exempt drugs subject to ss. 499.062-499.064 from subsection (12)
 3990 if compliance with that subsection is not necessary to protect
 3991 the public health, safety, and welfare.

3992
 3993 Reviser's note.--Section 10, ch. 2003-155, Laws of
 3994 Florida, amended subsection (2) without publishing the
 3995 flush left language at the end of the section. Absent
 3996 affirmative evidence of legislative intent to repeal
 3997 the flush left language at the end of the section, the
 3998 section is reenacted to confirm that the omission was
 3999 not intended.

4000
 4001 Section 85. Subsection (3) of section 499.01, Florida
 4002 Statutes, is amended to read:

4003 499.01 Permits; applications; renewal; general
 4004 requirements.--

4005 (3) Notwithstanding subsection (7), a permitted person in
 4006 good standing may change the type of permit issued to that

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4007 person by completing a new application for the requested permit,
 4008 paying the amount of the difference in the permit fees if the
 4009 fee for the new permit is more than the fee for the original
 4010 permit, and meeting the applicable permitting conditions for the
 4011 new permit type. The new permit expires on the expiration date
 4012 of the original permit being changed; however, a new permit for
 4013 a prescription drug wholesaler, an out-of-state prescription
 4014 drug wholesaler, or a retail pharmacy drug wholesaler shall
 4015 expire on the expiration date of the original permit or 1 year
 4016 after the date of issuance of the new permit, whichever is
 4017 earlier. A refund may not be issued if the fee for the new
 4018 permit is less than the fee that was paid for the original
 4019 permit.

4020
 4021 Reviser's note.--Amended to facilitate correct
 4022 interpretation.

4023
 4024 Section 86. Paragraph (d) of subsection (6) of section
 4025 499.0121, Florida Statutes, is amended to read:

4026 499.0121 Storage and handling of prescription drugs;
 4027 recordkeeping.--The department shall adopt rules to implement
 4028 this section as necessary to protect the public health, safety,
 4029 and welfare. Such rules shall include, but not be limited to,
 4030 requirements for the storage and handling of prescription drugs
 4031 and for the establishment and maintenance of prescription drug
 4032 distribution records.

4033 (6) RECORDKEEPING.--The department shall adopt rules that
 4034 require keeping such records of prescription drugs as are
 4035 necessary for the protection of the public health.

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4036 (d)1. Each person who is engaged in the wholesale
 4037 distribution of a prescription drug, and who is not an
 4038 authorized distributor of record for the drug manufacturer's
 4039 products, must provide to each wholesale distributor of such
 4040 drug, before the sale is made to such wholesale distributor, a
 4041 written statement under oath identifying each previous sale of
 4042 the drug back to the last authorized distributor of record, the
 4043 lot number of the drug, and the sales invoice number of the
 4044 invoice evidencing the sale of the drug. The written statement
 4045 must accompany the drug to the next wholesale distributor. The
 4046 department shall adopt rules relating to the requirements of
 4047 this written statement. This paragraph does not apply to a
 4048 manufacturer unless the manufacturer is performing the
 4049 manufacturing operation of repackaging prescription drugs.

4050 2. Each wholesale distributor of prescription drugs must
 4051 maintain separate and distinct from other required records all
 4052 statements that are required under subparagraph 1. and paragraph
 4053 (e).

4054 3. Each manufacturer of a prescription drug sold in this
 4055 state must maintain at its corporate offices a current list of
 4056 authorized distributors and must make such list available to the
 4057 department upon request.

4058 4. Each manufacturer shall file a written list of all of
 4059 the manufacturer's authorized distributors of record with the
 4060 department. A manufacturer shall notify the department not later
 4061 than 10 days after any change to the list. The department shall
 4062 publish a list of all authorized distributors of record on its
 4063 website.

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4064 5. For the purposes of this subsection, the term
 4065 "authorized distributors of record" means a wholesale
 4066 distributor with whom a manufacturer has established an ongoing
 4067 relationship to distribute the manufacturer's products.
 4068 Effective March 1, 2004, an ongoing relationship is deemed to
 4069 exist when a wholesale distributor, including any affiliated
 4070 group, as defined in s. 1504 of the Internal Revenue Code, of
 4071 which the wholesale distributor is a member:

4072 a. Is listed on the manufacturer's current list of
 4073 authorized distributors of record.

4074 b. Annually purchases not less than 90 percent of all of
 4075 its purchases of a manufacturer's prescription drug products,
 4076 based on dollar volume, directly from that manufacturer and has
 4077 total annual prescription drug sales of \$100 million or more.

4078 c. Has reported to the department pursuant to s.
 4079 499.012(3)(g)2. ~~499.012(2)(g)2.~~ that the wholesale distributor
 4080 has total annual prescription drug sales of \$100 million or
 4081 more, and has a verifiable account number issued by the
 4082 manufacturer authorizing the wholesale distributor to purchase
 4083 the manufacturer's drug products directly from that manufacturer
 4084 and that wholesale distributor makes not fewer than 12 purchases
 4085 of that manufacturer's drug products directly from the
 4086 manufacturer using said verifiable account number in 12 months.
 4087 The provisions of this sub-subparagraph apply with respect to a
 4088 manufacturer that fails to file a copy of the manufacturer's
 4089 list of authorized distributors of record with the department by
 4090 July 1, 2003; that files a list of authorized distributors of
 4091 record which contains fewer than 10 wholesale distributors
 4092 permitted in this state, excluding the wholesale distributors

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4093 described in sub-subparagraph b.; or that, as a result of
 4094 changes to the list of authorized distributors of record filed
 4095 with the department, has fewer than 10 wholesale distributors
 4096 permitted in this state as authorized distributors of record,
 4097 excluding the wholesale distributors described in sub-
 4098 subparagraph b.

4099
 4100 A wholesale distributor that satisfies the requirements of sub-
 4101 subparagraph b. or sub-subparagraph c. shall submit to the
 4102 department documentation substantiating its qualification
 4103 pursuant to sub-subparagraph b. or sub-subparagraph c. The
 4104 department shall add those wholesale distributors that the
 4105 department has determined have met the requirements of sub-
 4106 subparagraph b. or sub-subparagraph c. to the list of authorized
 4107 distributors of record on the department's website.

4108 6. This paragraph expires July 1, 2006.

4109
 4110 Reviser's note.--Amended to correct an apparent error.
 4111 Section 499.012(2)(g)2. does not exist, and s.
 4112 499.012(3)(g)2. contains contextually consistent
 4113 material.

4114
 4115 Section 87. Paragraph (b) of subsection (2) of section
 4116 499.0122, Florida Statutes, is amended to read:

4117 499.0122 Medical oxygen and veterinary legend drug retail
 4118 establishments; definitions, permits, general requirements.--

4119 (2)

4120 (b) The department shall adopt rules relating to
 4121 information required from each retail establishment pursuant to

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4122 s. 499.01(4) ~~499.01(2)~~, including requirements for prescriptions
 4123 or orders.

4124

4125 Reviser's note.--Amended to conform to the
 4126 redesignation of s. 499.01(2) as s. 499.01(4) by s.
 4127 12, ch. 2003-155, Laws of Florida.

4128

4129 Section 88. Paragraph (a) of subsection (1) and subsection
 4130 (3) of section 499.015, Florida Statutes, are amended to read:

4131 499.015 Registration of drugs, devices, and cosmetics;
 4132 issuance of certificates of free sale.--

4133 (1)(a) Except for those persons exempted from the
 4134 definition in s. 499.003(28) ~~499.003(21)~~, any person who
 4135 manufactures, packages, repackages, labels, or relabels a drug,
 4136 device, or cosmetic in this state must register such drug,
 4137 device, or cosmetic biennially with the department; pay a fee in
 4138 accordance with the fee schedule provided by s. 499.041; and
 4139 comply with this section. The registrant must list each separate
 4140 and distinct drug, device, or cosmetic at the time of
 4141 registration.

4142 (3) Except for those persons exempted from the definition
 4143 in s. 499.003(28) ~~499.003(21)~~, a person may not sell any product
 4144 that he or she has failed to register in conformity with this
 4145 section. Such failure to register subjects such drug, device, or
 4146 cosmetic product to seizure and condemnation as provided in ss.
 4147 499.062-499.064, and subjects such person to the penalties and
 4148 remedies provided in ss. 499.001-499.081.

4149

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4150 Reviser's note.--Amended to conform to the
 4151 redesignation of s. 499.003(21) as s. 499.003(28) by
 4152 s. 3, ch. 2003-155, Laws of Florida.

4153
 4154 Section 89. Subsection (1) of section 499.03, Florida
 4155 Statutes, is amended to read:

4156 499.03 Possession of new drugs or legend drugs without
 4157 prescriptions unlawful; exemptions and exceptions.--

4158 (1) A person may not possess, or possess with intent to
 4159 sell, dispense, or deliver, any habit-forming, toxic, harmful,
 4160 or new drug subject to s. 499.003(29) ~~499.003(22)~~, or legend
 4161 drug as defined in s. 499.003(25) ~~499.003(19)~~, unless the
 4162 possession of the drug has been obtained by a valid prescription
 4163 of a practitioner licensed by law to prescribe the drug.

4164 However, this section does not apply to the delivery of such
 4165 drugs to persons included in any of the classes named in this
 4166 subsection, or to the agents or employees of such persons, for
 4167 use in the usual course of their businesses or practices or in
 4168 the performance of their official duties, as the case may be;
 4169 nor does this section apply to the possession of such drugs by
 4170 those persons or their agents or employees for such use:

4171 (a) A licensed pharmacist or any person under the licensed
 4172 pharmacist's supervision while acting within the scope of the
 4173 licensed pharmacist's practice;

4174 (b) A licensed practitioner authorized by law to prescribe
 4175 legend drugs or any person under the licensed practitioner's
 4176 supervision while acting within the scope of the licensed
 4177 practitioner's practice;

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4178 (c) A qualified person who uses legend drugs for lawful
 4179 research, teaching, or testing, and not for resale;

4180 (d) A licensed hospital or other institution that procures
 4181 such drugs for lawful administration or dispensing by
 4182 practitioners;

4183 (e) An officer or employee of a federal, state, or local
 4184 government; or

4185 (f) A person that holds a valid permit issued by the
 4186 department pursuant to ss. 499.001-499.081 which authorizes that
 4187 person to possess prescription drugs.

4188
 4189 Reviser's note.--Amended to conform to the
 4190 redesignation of s. 499.003(19) as s. 499.003(25) and
 4191 s. 499.003(22) as s. 499.003(29) by s. 3, ch. 2003-
 4192 155, Laws of Florida.

4193
 4194 Section 90. Paragraph (g) of subsection (1) of section
 4195 499.05, Florida Statutes, is amended to read:

4196 499.05 Rules.--

4197 (1) The department shall adopt rules to implement and
 4198 enforce ss. 499.001-499.081 with respect to:

4199 (g) Inspections and investigations conducted under s.
 4200 499.051, and the identification of information claimed to be a
 4201 trade secret and exempt from the public records law as provided
 4202 in s. 499.051(7) ~~499.051(5)~~.

4203
 4204 Reviser's note.--Amended to conform to the
 4205 redesignation of s. 499.051(5) as s. 499.051(7) by s.
 4206 21, ch. 2003-155, Laws of Florida.

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Section 91. Section 504.011, Florida Statutes, is amended to read:

504.011 Short title.--This chapter ~~part~~ shall be known and may be cited as the "Produce Labeling Act of 1979."

Reviser's note.--Amended to conform to the arrangement of chapter 504, which is not divided into parts.

Section 92. Section 504.014, Florida Statutes, is amended to read:

504.014 Enforcement.--The Department of Agriculture and Consumer Services shall be responsible for enforcing the provisions of this chapter ~~part~~.

Reviser's note.--Amended to conform to the arrangement of chapter 504, which is not divided into parts.

Section 93. Subsection (9) of section 517.021, Florida Statutes, is amended to read:

517.021 Definitions.--When used in this chapter, unless the context otherwise indicates, the following terms have the following respective meanings:

(9) "Federal covered adviser" means a person who is registered or required to be registered under s. 203 of the Investment Advisers Act of 1940. The term "federal covered adviser" does not include any person who is excluded from the definition of investment adviser under subparagraphs (13)(b)1.-8 ~~(12)(b)1.-8~~.

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Reviser's note.--Amended to conform to the redesignation of subsection (12) as subsection (13) by s. 583, ch. 2003-261, Laws of Florida.

Section 94. Subsection (5) of section 538.18, Florida Statutes, is amended to read:

538.18 Definitions.--As used in this part, the term:

(5) "Personal identification card" means a driver's license or identification card issued by the Department of Highway Safety and Motor Vehicles under s. 322.03 or s. 322.051, or a similar card issued by another state, a military identification card, a passport, or an appropriate work authorization issued by the United States Bureau of Citizenship and Immigration Services ~~Immigration and Naturalization Service~~.

Reviser's note.--Amended to conform to the redesignation of the Immigration and Naturalization Service pursuant to its transfer to the Department of Homeland Security by s. 451, Pub. L. No. 107-296.

Section 95. Subsections (1) and (3) of section 552.40, Florida Statutes, are amended to read:

552.40 Administrative remedy for alleged damage due to the use of explosives in connection with construction materials mining activities.--

(1) A person may initiate an administrative proceeding to recover damages resulting from the use of explosives in connection with construction materials mining activities by

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4265 filing a petition with the Division of Administrative Hearings
 4266 on a form provided by it ~~the division~~ and accompanied by a
 4267 filing fee of \$100 within 180 days after the occurrence of the
 4268 alleged damage. If the petitioner submits an affidavit stating
 4269 that the petitioner's annual income is less than 150 percent of
 4270 the applicable federal poverty guideline published in the
 4271 Federal Register by the United States Department of Health and
 4272 Human Services, the \$100 filing fee must be waived.

4273 (3) Within 5 business days after the Division of
 4274 Administrative Hearings receives a petition, it ~~the division~~
 4275 shall issue and serve on the petitioner and the respondent an
 4276 initial order that assigns the case to a specific administrative
 4277 law judge and provides general information regarding the
 4278 practice and procedure before the Division of Administrative
 4279 Hearings. The initial order must advise that a summary hearing
 4280 is available upon the agreement of the parties under subsection
 4281 (6) and must briefly describe the expedited time sequences,
 4282 limited discovery, and final order provisions of the summary
 4283 procedure. The initial order must also contain a statement
 4284 advising the petitioner and the respondent that a mandatory,
 4285 nonbinding mediation is required before a summary administrative
 4286 hearing or a formal administrative hearing may be held.

4287
 4288 Reviser's note.--Amended to improve clarity and
 4289 facilitate correct interpretation.

4290
 4291 Section 96. Subsection (9) of section 565.02, Florida
 4292 Statutes, is amended to read:

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4293 565.02 License fees; vendors; clubs; caterers; and
 4294 others.--

4295 (9) It is the finding of the Legislature that passenger
 4296 vessels engaged exclusively in foreign commerce are susceptible
 4297 to a distinct and separate classification for purposes of the
 4298 sale of alcoholic beverages under the Beverage Law. Upon the
 4299 filing of an application and payment of an annual fee of \$1,100,
 4300 the director is authorized to issue a permit authorizing the
 4301 operator, or, if applicable, his or her concessionaire, of a
 4302 passenger vessel which has cabin-berth capacity for at least 75
 4303 passengers, and which is engaged exclusively in foreign
 4304 commerce, to sell alcoholic beverages on the vessel for
 4305 consumption on board only:

4306 (a) During a period not in excess of 24 hours prior to
 4307 departure while the vessel is moored at a dock or wharf in a
 4308 port of this state; or

4309 (b) At any time while the vessel is located in Florida
 4310 territorial waters and is in transit to or from international
 4311 waters.

4312
 4313 One such permit shall be required for each such vessel and shall
 4314 name the vessel for which it is issued. No license shall be
 4315 required or tax levied by any municipality or county for the
 4316 privilege of selling beverages for consumption on board such
 4317 vessels. The beverages so sold may be purchased outside the
 4318 state by the permittee, and the same shall not be considered as
 4319 imported for the purposes of s. 561.14(3) solely because of such
 4320 sale. The permittee is not required to obtain its beverages from
 4321 licensees under the Beverage Law, but it shall keep a strict

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4322 account of all such beverages sold within this state and shall
 4323 make monthly reports to the division on forms prepared and
 4324 furnished by the division. A permittee who sells on board the
 4325 vessel beverages withdrawn from United States Bureau of Customs
 4326 and Border Protection ~~Customs Service~~ bonded storage on board
 4327 the vessel may satisfy such accounting requirement by supplying
 4328 the division with copies of the appropriate United States Bureau
 4329 of Customs and Border Protection ~~Customs Service~~ forms
 4330 evidencing such withdrawals as importations under United States
 4331 customs laws. Such permittee shall pay to the state an excise
 4332 tax for beverages sold pursuant to this section, if such excise
 4333 tax has not previously been paid, in an amount equal to the tax
 4334 which would be required to be paid on such sales by a licensed
 4335 manufacturer or distributor. A vendor holding such permit shall
 4336 pay the tax monthly to the division at the same time he or she
 4337 furnishes the required report. Such report shall be filed on or
 4338 before the 15th day of each month for the sales occurring during
 4339 the previous calendar month.

4340
 4341 Reviser's note.--Amended to conform to the
 4342 redesignation of the United States Customs Service
 4343 pursuant to its transfer to the Department of Homeland
 4344 Security by s. 403, Pub. L. No. 107-296.

4345
 4346 Section 97. Subsection (1) of section 601.48, Florida
 4347 Statutes, is amended to read:

4348 601.48 Grading processed citrus products.--
 4349 (1) If ~~such~~ processed citrus products meet the
 4350 requirements of the two highest grades as established by the

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4351 Department of Citrus or, at the option of the processor, the two
 4352 highest grades established by the United States Department of
 4353 Agriculture, the processor shall have the privilege, ~~in lieu of~~
 4354 ~~the grade declaration requirements of subsection (1)~~, of using
 4355 labels, brands, or trademarks properly registered with the
 4356 Department of Citrus, as provided in subsection (2) ~~(3)~~, to
 4357 represent state or U.S. grades.

4358
 4359 Reviser's note.--Amended to conform to the repeal of
 4360 former subsection (1), relating to inspection and
 4361 grading of processed citrus products, by s. 52, ch.
 4362 2001-279, Laws of Florida, and to the redesignation of
 4363 former subsection (3) as subsection (2) to conform to
 4364 that repeal.

4365
 4366 Section 98. Subsection (1) of section 607.1331, Florida
 4367 Statutes, is amended to read:

4368 607.1331 Court costs and counsel fees.--

4369 (1) The court in an appraisal proceeding ~~commenced under~~
 4370 ~~s. 607.1330~~ shall determine all costs of the proceeding,
 4371 including the reasonable compensation and expenses of appraisers
 4372 appointed by the court. The court shall assess the costs against
 4373 the corporation, except that the court may assess costs against
 4374 all or some of the shareholders demanding appraisal, in amounts
 4375 the court finds equitable, to the extent the court finds such
 4376 shareholders acted arbitrarily, vexatiously, or not in good
 4377 faith with respect to the rights provided by this chapter.

4378

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4379 Reviser's note.--Amended to facilitate correct
 4380 interpretation. Section 607.1330 was deleted from
 4381 House Bill 1623 before it was passed. House Bill 1623
 4382 became ch. 2003-283, Laws of Florida.

4383
 4384 Section 99. Paragraph (a) of subsection (3) of section
 4385 607.1407, Florida Statutes, is amended to read:

4386 607.1407 Unknown claims against dissolved corporation.--A
 4387 dissolved corporation or successor entity, as defined in s.
 4388 607.1406(15), may choose to execute one of the following
 4389 procedures to resolve payment of unknown claims.

4390 (3) If the dissolved corporation or successor entity
 4391 complies with subsection (1) or subsection (2), the claim of
 4392 each of the following claimants is barred unless the claimant
 4393 commences a proceeding to enforce the claim against the
 4394 dissolved corporation within 4 years after the filing date:

4395 (a) A claimant who did not receive written notice under s.
 4396 607.1406(9), or whose claim was not provided for under s.
 4397 607.1406(10) ~~607.1456(10)~~, whether such claim is based on an
 4398 event occurring before or after the effective date of
 4399 dissolution.

4400
 4401 Reviser's note.--Amended to correct an apparent error
 4402 and facilitate correct interpretation. Section
 4403 607.1456(10) does not exist; s. 607.1406(10) relates
 4404 to claims against dissolved corporations.

4405
 4406 Section 100. Paragraph (a) of subsection (1) of section
 4407 624.123, Florida Statutes, is amended to read:

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4408 624.123 Certain international health insurance policies;
 4409 exemption from code.--

4410 (1) International health insurance policies and
 4411 applications may be solicited and sold in this state at any
 4412 international airport to a resident of a foreign country. Such
 4413 international health insurance policies shall be solicited and
 4414 sold only by a licensed health insurance agent and underwritten
 4415 only by an admitted insurer. For purposes of this subsection:

4416 (a) "International airport" means any airport in Florida
 4417 with United States Bureau of Customs and Border Protection
 4418 ~~Customs~~ service, which enplanes more than 1 million passengers
 4419 per year.

4420
 4421 Reviser's note.--Amended to conform to the
 4422 redesignation of the United States Customs Service
 4423 pursuant to its transfer to the Department of Homeland
 4424 Security by s. 403, Pub. L. No. 107-296.

4425
 4426 Section 101. Subsection (1) of section 624.307, Florida
 4427 Statutes, is amended to read:

4428 624.307 General powers; duties.--

4429 (1) The department and office shall enforce the provisions
 4430 of this code and shall execute the duties imposed upon them ~~it~~
 4431 by this code, within the respective jurisdiction of each, as
 4432 provided by law.

4433
 4434 Reviser's note.--Amended to improve clarity and
 4435 facilitate correct interpretation.

4436

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4437 Section 102. Subsection (8) of section 624.430, Florida
 4438 Statutes, is amended to read:

4439 624.430 Withdrawal of insurer or discontinuance of writing
 4440 certain kinds or lines of insurance.--

4441 (8) Notwithstanding subsection (7), any insurer desiring
 4442 to surrender its certificate of authority, withdraw from this
 4443 state, or discontinue the writing of any one or multiple kinds
 4444 or lines of insurance in this state is expected to have availed
 4445 itself of all reasonably available reinsurance. Reasonably
 4446 available reinsurance shall include unrealized reinsurance,
 4447 which is defined as reinsurance recoverable on known losses
 4448 incurred and due under valid reinsurance contracts that have not
 4449 been identified in the normal course of business and have not
 4450 been reported in financial statements filed with the Office of
 4451 Insurance ~~Insurer~~ Regulation. Within 90 days after surrendering
 4452 its certificate of authority, withdrawing from this state, or
 4453 discontinuing the writing of any one or multiple kinds or lines
 4454 of insurance in this state, the insurer shall certify to the
 4455 Director of the Office of Insurance ~~Insurer~~ Regulation that the
 4456 insurer has engaged an independent third party to search for
 4457 unrealized reinsurance, and that the insurer has made all
 4458 relevant books and records available to such third party. The
 4459 compensation to such third party may be a percentage of
 4460 unrealized reinsurance identified and collected.

4461
 4462 Reviser's note.--Amended to improve clarity and
 4463 facilitate correct interpretation and to conform to
 4464 the correct title of the Office of Insurance
 4465 Regulation established in s. 20.121.

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Section 103. Section 624.461, Florida Statutes, is amended to read:

624.461 Definition.--For the purposes of the Florida Insurance Code, "self-insurance fund" means both commercial self-insurance funds organized under s. 624.462 and group self-insurance funds organized under s. 624.4621. The term "self-insurance fund" does not include a governmental self-insurance pool created under s. 768.28(16) ~~768.28(15)~~.

Reviser's note.--Amended to conform to the redesignation of s. 768.28(15) as s. 768.28(16) by s. 67, ch. 2003-416, Laws of Florida.

Section 104. Subsection (6) of section 624.462, Florida Statutes, is amended to read:

624.462 Commercial self-insurance funds.--

(6) A governmental self-insurance pool created pursuant to s. 768.28(16) ~~768.28(15)~~ shall not be considered a commercial self-insurance fund.

Reviser's note.--Amended to conform to the redesignation of s. 768.28(15) as s. 768.28(16) by s. 67, ch. 2003-416, Laws of Florida.

Section 105. Paragraph (b) of subsection (5) of section 624.509, Florida Statutes, is amended to read:

624.509 Premium tax; rate and computation.--

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4494 (5) There shall be allowed a credit against the net tax
 4495 imposed by this section equal to 15 percent of the amount paid
 4496 by the insurer in salaries to employees located or based within
 4497 this state and who are covered by the provisions of chapter 443.
 4498 For purposes of this subsection:

4499 (b) The term "employees" does not include independent
 4500 contractors or any person whose duties require that the person
 4501 hold a valid license under the Florida Insurance Code, except
 4502 persons defined in s. 626.015(1), (14), and (16) ~~626.015(1),~~
 4503 ~~(15), and (17)~~.

4504
 4505 Reviser's note.--Amended to conform to the
 4506 redesignation of subunits within s. 626.015 by the
 4507 reviser incident to compiling the 2003 Florida
 4508 Statutes.

4509
 4510 Section 106. Paragraph (a) of subsection (1) of section
 4511 626.175, Florida Statutes, is amended to read:

4512 626.175 Temporary licensing.--

4513 (1) The department may issue a nonrenewable temporary
 4514 license for a period not to exceed 6 months authorizing
 4515 appointment of a general lines insurance agent or a life agent,
 4516 or an industrial fire or burglary agent, subject to the
 4517 conditions described in this section. The fees paid for a
 4518 temporary license and appointment shall be as specified in s.
 4519 624.501. Fees paid shall not be refunded after a temporary
 4520 license has been issued.

4521 (a) An applicant for a temporary license must be:

4522 1. A natural person at least 18 years of age.

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4523 2. A United States citizen or legal alien who possesses
 4524 work authorization from the United States Bureau of Citizenship
 4525 and Immigration Services ~~Immigration and Naturalization Service~~.

4526
 4527 Reviser's note.--Amended to conform to the
 4528 redesignation of the Immigration and Naturalization
 4529 Service pursuant to its transfer to the Department of
 4530 Homeland Security by s. 451, Pub. L. No. 107-296.

4531
 4532 Section 107. Paragraph (b) of subsection (3) of section
 4533 626.371, Florida Statutes, is amended to read:

4534 626.371 Payment of fees, taxes for appointment period
 4535 without appointment.--

4536 (3)

4537 (b) Failure to timely renew an appointment by an
 4538 appointing entity prior to the expiration date of the
 4539 appointment shall result in the appointing entity being assessed
 4540 late filing ~~filing~~, continuation, and reinstatement fees as
 4541 prescribed in s. 624.501. Such fees must be paid by the
 4542 appointing entity and cannot be charged back to the appointee.

4543
 4544 Reviser's note.--Amended to improve clarity and
 4545 facilitate correct interpretation.

4546
 4547 Section 108. Paragraph (b) of subsection (1) of section
 4548 626.731, Florida Statutes, is amended to read:

4549 626.731 Qualifications for general lines agent's
 4550 license.--

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4551 (1) The department shall not grant or issue a license as
 4552 general lines agent to any individual found by it to be
 4553 untrustworthy or incompetent or who does not meet each of the
 4554 following qualifications:

4555 (b) The applicant is a United States citizen or legal
 4556 alien who possesses work authorization from the United States
 4557 Bureau of Citizenship and Immigration Services ~~Immigration and~~
 4558 ~~Naturalization Service~~ and is a bona fide resident of this
 4559 state. An individual who is a bona fide resident of this state
 4560 shall be deemed to meet the residence requirement of this
 4561 paragraph, notwithstanding the existence at the time of
 4562 application for license of a license in his or her name on the
 4563 records of another state as a resident licensee of such other
 4564 state, if the applicant furnishes a letter of clearance
 4565 satisfactory to the department that the resident licenses have
 4566 been canceled or changed to a nonresident basis and that he or
 4567 she is in good standing.

4568
 4569 Reviser's note.--Amended to conform to the
 4570 redesignation of the Immigration and Naturalization
 4571 Service pursuant to its transfer to the Department of
 4572 Homeland Security by s. 451, Pub. L. No. 107-296.

4573
 4574 Section 109. Section 626.7315, Florida Statutes, is
 4575 amended to read:

4576 626.7315 Prohibition against the unlicensed transaction of
 4577 general lines insurance.--With respect to any line of authority
 4578 as defined in s. 626.015(5) ~~626.015(6)~~, no individual shall,
 4579 unless licensed as a general lines agent:

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4580 (1) Solicit insurance or procure applications therefor;

4581 (2) In this state, receive or issue a receipt for any
 4582 money on account of or for any insurer, or receive or issue a
 4583 receipt for money from other persons to be transmitted to any
 4584 insurer for a policy, contract, or certificate of insurance or
 4585 any renewal thereof, even though the policy, certificate, or
 4586 contract is not signed by him or her as agent or representative
 4587 of the insurer, except as provided in s. 626.0428(1);

4588 (3) Directly or indirectly represent himself or herself to
 4589 be an agent of any insurer or as an agent, to collect or forward
 4590 any insurance premium, or to solicit, negotiate, effect,
 4591 procure, receive, deliver, or forward, directly or indirectly,
 4592 any insurance contract or renewal thereof or any endorsement
 4593 relating to an insurance contract, or attempt to effect the
 4594 same, of property or insurable business activities or interests,
 4595 located in this state;

4596 (4) In this state, engage or hold himself or herself out
 4597 as engaging in the business of analyzing or abstracting
 4598 insurance policies or of counseling or advising or giving
 4599 opinions, other than as a licensed attorney at law, relative to
 4600 insurance or insurance contracts, for fee, commission, or other
 4601 compensation, other than as a salaried bona fide full-time
 4602 employee so counseling and advising his or her employer relative
 4603 to the insurance interests of the employer and of the
 4604 subsidiaries or business affiliates of the employer;

4605 (5) In any way, directly or indirectly, make or cause to
 4606 be made, or attempt to make or cause to be made, any contract of
 4607 insurance for or on account of any insurer;

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4608 (6) Solicit, negotiate, or in any way, directly or
 4609 indirectly, effect insurance contracts, if a member of a
 4610 partnership or association, or a stockholder, officer, or agent
 4611 of a corporation which holds an agency appointment from any
 4612 insurer; or

4613 (7) Receive or transmit applications for suretyship, or
 4614 receive for delivery bonds founded on applications forwarded
 4615 from this state, or otherwise procure suretyship to be effected
 4616 by a surety insurer upon the bonds of persons in this state or
 4617 upon bonds given to persons in this state.

4618
 4619 Reviser's note.--Amended to conform to the
 4620 redesignation of subunits within s. 626.015 by the
 4621 reviser incident to compiling the 2003 Florida
 4622 Statutes.

4623
 4624 Section 110. Paragraph (a) of subsection (2) of section
 4625 626.7351, Florida Statutes, is amended to read:

4626 626.7351 Qualifications for customer representative's
 4627 license.--The department shall not grant or issue a license as
 4628 customer representative to any individual found by it to be
 4629 untrustworthy or incompetent, or who does not meet each of the
 4630 following qualifications:

4631 (2)(a) The applicant is a United States citizen or legal
 4632 alien who possesses work authorization from the United States
 4633 Bureau of Citizenship and Immigration Services ~~Immigration and~~
 4634 ~~Naturalization Service~~ and is a bona fide resident of this state
 4635 and will actually reside in the state at least 6 months out of
 4636 the year. An individual who is a bona fide resident of this

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4637 state shall be deemed to meet the residence requirements of this
 4638 subsection, notwithstanding the existence at the time of
 4639 application for license of a license in his or her name on the
 4640 records of another state as a resident licensee of the other
 4641 state, if the applicant furnishes a letter of clearance
 4642 satisfactory to the department that the resident licenses have
 4643 been canceled or changed to a nonresident basis and that he or
 4644 she is in good standing.

4645
 4646 Reviser's note.--Amended to conform to the
 4647 redesignation of the Immigration and Naturalization
 4648 Service pursuant to its transfer to the Department of
 4649 Homeland Security by s. 451, Pub. L. No. 107-296.

4650
 4651 Section 111. Paragraph (c) of subsection (1) of section
 4652 626.7355, Florida Statutes, is amended to read:

4653 626.7355 Temporary license as customer representative
 4654 pending examination.--

4655 (1) The department shall issue a temporary customer
 4656 representative's license with respect to a person who has
 4657 applied for such license upon finding that the person:

4658 (c) Is a United States citizen or legal alien who
 4659 possesses work authorization from the United States Bureau of
 4660 Citizenship and Immigration Services ~~Immigration and~~
 4661 ~~Naturalization Service~~ and is a bona fide resident of this state
 4662 or is a resident of another state sharing a common boundary with
 4663 this state. An individual who is a bona fide resident of this
 4664 state shall be deemed to meet the residence requirement of this
 4665 paragraph, notwithstanding the existence at the time of

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4666 application for license, of a license in his or her name on the
 4667 records of another state as a resident licensee of such other
 4668 state, if the applicant furnishes a letter of clearance
 4669 satisfactory to the department that his or her resident licenses
 4670 have been canceled or changed to a nonresident basis and that he
 4671 or she is in good standing.

4672
 4673 Reviser's note.--Amended to conform to the
 4674 redesignation of the Immigration and Naturalization
 4675 Service pursuant to its transfer to the Department of
 4676 Homeland Security by s. 451, Pub. L. No. 107-296.

4677
 4678 Section 112. Subsection (2) of section 626.7845, Florida
 4679 Statutes, is amended to read:

4680 626.7845 Prohibition against unlicensed transaction of
 4681 life insurance.--

4682 (2) Except as provided in s. 626.112(6), with respect to
 4683 any line of authority specified in s. 626.015(10) ~~626.015(11)~~,
 4684 no individual shall, unless licensed as a life agent:

4685 (a) Solicit insurance or annuities or procure
 4686 applications; or

4687 (b) In this state, engage or hold himself or herself out
 4688 as engaging in the business of analyzing or abstracting
 4689 insurance policies or of counseling or advising or giving
 4690 opinions to persons relative to insurance or insurance contracts
 4691 other than:

- 4692 1. As a consulting actuary advising an insurer; or
- 4693 2. As to the counseling and advising of labor unions,
 4694 associations, trustees, employers, or other business entities,

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4695 the subsidiaries and affiliates of each, relative to their
 4696 interests and those of their members or employees under
 4697 insurance benefit plans.

4698
 4699 Reviser's note.--Amended to conform to the
 4700 redesignation of subunits within s. 626.015 by the
 4701 reviser incident to compiling the 2003 Florida
 4702 Statutes.

4703
 4704 Section 113. Paragraph (b) of subsection (1) of section
 4705 626.785, Florida Statutes, is amended to read:

4706 626.785 Qualifications for license.--

4707 (1) The department shall not grant or issue a license as
 4708 life agent to any individual found by it to be untrustworthy or
 4709 incompetent, or who does not meet the following qualifications:

4710 (b) Must be a United States citizen or legal alien who
 4711 possesses work authorization from the United States Bureau of
 4712 Citizenship and Immigration Services ~~Immigration and~~
 4713 ~~Naturalization Service~~ and a bona fide resident of this state.

4714
 4715 Reviser's note.--Amended to conform to the
 4716 redesignation of the Immigration and Naturalization
 4717 Service pursuant to its transfer to the Department of
 4718 Homeland Security by s. 451, Pub. L. No. 107-296.

4719
 4720 Section 114. Section 626.8305, Florida Statutes, is
 4721 amended to read:

4722 626.8305 Prohibition against the unlicensed transaction of
 4723 health insurance.--Except as provided in s. 626.112(6), with

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4724 respect to any line of authority specified in s. 626.015(6)
 4725 ~~626.015(7)~~, no individual shall, unless licensed as a health
 4726 agent:

- 4727 (1) Solicit insurance or procure applications; or
- 4728 (2) In this state, engage or hold himself or herself out
 4729 as engaging in the business of analyzing or abstracting
 4730 insurance policies or of counseling or advising or giving
 4731 opinions to persons relative to insurance contracts other than:
 - 4732 (a) As a consulting actuary advising insurers; or
 - 4733 (b) As to the counseling and advising of labor unions,
 4734 associations, trustees, employers, or other business entities,
 4735 the subsidiaries and affiliates of each, relative to their
 4736 interests and those of their members or employees under
 4737 insurance benefit plans.

4738
 4739 Reviser's note.--Amended to conform to the
 4740 redesignation of subunits within s. 626.015 by the
 4741 reviser incident to compiling the 2003 Florida
 4742 Statutes.

4743
 4744 Section 115. Paragraph (b) of subsection (1) of section
 4745 626.831, Florida Statutes, is amended to read:

4746 626.831 Qualifications for license.--

- 4747 (1) The department shall not grant or issue a license as
 4748 health agent as to any individual found by it to be
 4749 untrustworthy or incompetent, or who does not meet the following
 4750 qualifications:

- 4751 (b) Must be a United States citizen or legal alien who
 4752 possesses work authorization from the United States Bureau of

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4753 Citizenship and Immigration Services ~~Immigration and~~
 4754 ~~Naturalization Service~~ and a bona fide resident of this state.

4755
 4756 Reviser's note.--Amended to conform to the
 4757 redesignation of the Immigration and Naturalization
 4758 Service pursuant to its transfer to the Department of
 4759 Homeland Security by s. 451, Pub. L. No. 107-296.

4760
 4761 Section 116. Subsection (2) of section 626.8414, Florida
 4762 Statutes, is amended to read:

4763 626.8414 Qualifications for examination.--The department
 4764 must authorize any natural person to take the examination for
 4765 the issuance of a license as a title insurance agent if the
 4766 person meets all of the following qualifications:

4767 (2) The applicant must be a United States citizen or legal
 4768 alien who possesses work authorization from the United States
 4769 Bureau of Citizenship and Immigration Services ~~Immigration and~~
 4770 ~~Naturalization Service~~ and a bona fide resident of this state. A
 4771 person meets the residency requirement of this subsection,
 4772 notwithstanding the existence at the time of application for
 4773 license of a license in the applicant's name on the records of
 4774 another state as a resident licensee of such other state, if the
 4775 applicant furnishes a letter of clearance satisfactory to the
 4776 department that the resident licenses have been canceled or
 4777 changed to a nonresident basis and that the applicant is in good
 4778 standing.

4779
 4780 Reviser's note.--Amended to conform to the
 4781 redesignation of the Immigration and Naturalization

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4782 Service pursuant to its transfer to the Department of
 4783 Homeland Security by s. 451, Pub. L. No. 107-296.

4784
 4785 Section 117. Paragraph (b) of subsection (1) of section
 4786 626.865, Florida Statutes, is amended to read:

4787 626.865 Public adjuster's qualifications, bond.--

4788 (1) The office shall issue a license to an applicant for a
 4789 public adjuster's license upon determining that the applicant
 4790 has paid the applicable fees specified in s. 624.501 and
 4791 possesses the following qualifications:

4792 (b) Is a United States citizen or legal alien who
 4793 possesses work authorization from the United States Bureau of
 4794 Citizenship and Immigration Services ~~Immigration and~~
 4795 ~~Naturalization Service~~ and a bona fide resident of this state.

4796
 4797 Reviser's note.--Amended to conform to the
 4798 redesignation of the Immigration and Naturalization
 4799 Service pursuant to its transfer to the Department of
 4800 Homeland Security by s. 451, Pub. L. No. 107-296.

4801
 4802 Section 118. Subsection (2) of section 626.866, Florida
 4803 Statutes, is amended to read:

4804 626.866 Independent adjuster's qualifications.--The office
 4805 shall issue a license to an applicant for an independent
 4806 adjuster's license upon determining that the applicable license
 4807 fee specified in s. 624.501 has been paid and that the applicant
 4808 possesses the following qualifications:

4809 (2) Is a United States citizen or legal alien who
 4810 possesses work authorization from the United States Bureau of

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4811 Citizenship and Immigration Services ~~Immigration and~~
 4812 ~~Naturalization Service~~ and a bona fide resident of this state.

4813
 4814 Reviser's note.--Amended to conform to the
 4815 redesignation of the Immigration and Naturalization
 4816 Service pursuant to its transfer to the Department of
 4817 Homeland Security by s. 451, Pub. L. No. 107-296.

4818
 4819 Section 119. Subsection (2) of section 626.867, Florida
 4820 Statutes, is amended to read:

4821 626.867 Company employee adjuster's qualifications.--The
 4822 office shall issue a license to an applicant for a company
 4823 employee adjuster's license upon determining that the applicable
 4824 license fee specified in s. 624.501 has been paid and that the
 4825 applicant possesses the following qualifications:

4826 (2) Is a United States citizen or legal alien who
 4827 possesses work authorization from the United States Bureau of
 4828 Citizenship and Immigration Services ~~Immigration and~~
 4829 ~~Naturalization Service~~ and a bona fide resident of this state.

4830
 4831 Reviser's note.--Amended to conform to the
 4832 redesignation of the Immigration and Naturalization
 4833 Service pursuant to its transfer to the Department of
 4834 Homeland Security by s. 451, Pub. L. No. 107-296.

4835
 4836 Section 120. Subsection (1) of section 626.874, Florida
 4837 Statutes, is amended to read:

4838 626.874 Catastrophe or emergency adjusters.--

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4839 (1) In the event of a catastrophe or emergency, the office
 4840 may issue a license, for the purposes and under the conditions
 4841 which it shall fix and for the period of emergency as it shall
 4842 determine, to persons who are residents or nonresidents of this
 4843 state, who are at least 18 years of age, who are United States
 4844 citizens or legal aliens who possess work authorization from the
 4845 United States Bureau of Citizenship and Immigration Services
 4846 ~~Immigration and Naturalization Service~~, and who are not licensed
 4847 adjusters under this part but who have been designated and
 4848 certified to it as qualified to act as adjusters by independent
 4849 resident adjusters or by an authorized insurer or by a licensed
 4850 general lines agent to adjust claims, losses, or damages under
 4851 policies or contracts of insurance issued by such insurers. The
 4852 fee for the license shall be as provided in s. 624.501(12)(c).

4853
 4854 Reviser's note.--Amended to conform to the
 4855 redesignation of the Immigration and Naturalization
 4856 Service pursuant to its transfer to the Department of
 4857 Homeland Security by s. 451, Pub. L. No. 107-296.

4858
 4859 Section 121. Paragraph (f) of subsection (7) of section
 4860 626.9916, Florida Statutes, is amended to read:

4861 626.9916 Viatical settlement broker license required;
 4862 application for license.--

4863 (7) Upon the filing of a sworn application and the payment
 4864 of the license fee and all other applicable fees under this act,
 4865 the department shall investigate each applicant and may issue
 4866 the applicant a license if the department finds that the
 4867 applicant:

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4868 (f) If a natural person, is at least 18 years of age and a
 4869 United States citizen or legal alien who possesses work
 4870 authorization from the United States Bureau of Citizenship and
 4871 Immigration Services ~~Immigration and Naturalization Service~~.

4872
 4873 Reviser's note.--Amended to conform to the
 4874 redesignation of the Immigration and Naturalization
 4875 Service pursuant to its transfer to the Department of
 4876 Homeland Security by s. 451, Pub. L. No. 107-296.

4877
 4878 Section 122. Subparagraph 15. of paragraph (c) of
 4879 subsection (6) of section 627.351, Florida Statutes, is amended
 4880 to read:

4881 627.351 Insurance risk apportionment plans.--

4882 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

4883 (c) The plan of operation of the corporation:

4884 15. Must provide that the corporation appoint as its
 4885 licensed agents only those agents who also hold an appointment
 4886 as defined in s. 626.015(3) ~~626.104~~ with an insurer who at the
 4887 time of the agent's initial appointment by the corporation is
 4888 authorized to write and is actually writing personal lines
 4889 residential property coverage, commercial residential property
 4890 coverage, or commercial nonresidential property coverage within
 4891 the state.

4892
 4893 Reviser's note.--Amended to conform to the repeal of
 4894 s. 626.104 by s. 72, ch. 2002-206, Laws of Florida,
 4895 and the creation of s. 626.015, relating to similar
 4896 subject matter, by s. 4, ch. 2002-206.

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Section 123. Paragraph (b) of subsection (3) of section 627.733, Florida Statutes, is amended to read:

627.733 Required security.--

(3) Such security shall be provided:

(b) By any other method authorized by s. 324.031(2), (3), or (4) and approved by the Department of Highway Safety and Motor Vehicles as affording security equivalent to that afforded by a policy of insurance or by self-insuring as authorized by s. 768.28(16) ~~768.28(15)~~. The person filing such security shall have all of the obligations and rights of an insurer under ss. 627.730-627.7405.

Reviser's note.--Amended to conform to the redesignation of s. 768.28(15) as s. 768.28(16) by s. 67, ch. 2003-416, Laws of Florida.

Section 124. Paragraph (b) of subsection (5) of section 627.736, Florida Statutes, is amended to read:

627.736 Required personal injury protection benefits; exclusions; priority; claims.--

(5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

(b)1. An insurer or insured is not required to pay a claim or charges:

a. Made by a broker or by a person making a claim on behalf of a broker;

b. For any service or treatment that was not lawful at the time rendered;

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4925 c. To any person who knowingly submits a false or
 4926 misleading statement relating to the claim or charges;
 4927 d. With respect to a bill or statement that does not
 4928 substantially meet the applicable requirements of paragraph (d);
 4929 e. For any treatment or service that is upcoded, or that
 4930 is unbundled when such treatment or services should be bundled,
 4931 in accordance with paragraph (d). To facilitate prompt payment
 4932 of lawful services, an insurer may change codes that it
 4933 determines to have been improperly or incorrectly upcoded or
 4934 unbundled, and may make payment based on the changed codes,
 4935 without affecting the right of the provider to dispute the
 4936 change by the insurer, provided that before doing so, the
 4937 insurer must contact the health care provider and discuss the
 4938 reasons for the insurer's change and the health care provider's
 4939 reason for the coding, or make a reasonable good faith effort to
 4940 do so, as documented in the insurer's file; and
 4941 f. For medical services or treatment billed by a physician
 4942 and not provided in a hospital unless such services are rendered
 4943 by the physician or are incident to his or her professional
 4944 services and are included on the physician's bill, including
 4945 documentation verifying that the physician is responsible for
 4946 the medical services that were rendered and billed.
 4947 2. Charges for medically necessary cephalic thermograms,
 4948 peripheral thermograms, spinal ultrasounds, extremity
 4949 ultrasounds, video fluoroscopy, and surface electromyography
 4950 shall not exceed the maximum reimbursement allowance for such
 4951 procedures as set forth in the applicable fee schedule or other
 4952 payment methodology established pursuant to s. 440.13.

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4953 3. Allowable amounts that may be charged to a personal
 4954 injury protection insurance insurer and insured for medically
 4955 necessary nerve conduction testing when done in conjunction with
 4956 a needle electromyography procedure and both are performed and
 4957 billed solely by a physician licensed under chapter 458, chapter
 4958 459, chapter 460, or chapter 461 who is also certified by the
 4959 American Board of Electrodiagnostic Medicine or by a board
 4960 recognized by the American Board of Medical Specialties or the
 4961 American Osteopathic Association or who holds diplomate status
 4962 with the American Chiropractic Neurology Board or its
 4963 predecessors shall not exceed 200 percent of the allowable
 4964 amount under the participating physician fee schedule of
 4965 Medicare Part B for year 2001, for the area in which the
 4966 treatment was rendered, adjusted annually on August 1 to reflect
 4967 the prior calendar year's changes in the annual Medical Care
 4968 Item of the Consumer Price Index for All Urban Consumers in the
 4969 South Region as determined by the Bureau of Labor Statistics of
 4970 the United States Department of Labor.

4971 4. Allowable amounts that may be charged to a personal
 4972 injury protection insurance insurer and insured for medically
 4973 necessary nerve conduction testing that does not meet the
 4974 requirements of subparagraph 3. shall not exceed the applicable
 4975 fee schedule or other payment methodology established pursuant
 4976 to s. 440.13.

4977 5. Effective upon this act becoming a law and before
 4978 November 1, 2001, allowable amounts that may be charged to a
 4979 personal injury protection insurance insurer and insured for
 4980 magnetic resonance imaging services shall not exceed 200 percent
 4981 of the allowable amount under Medicare Part B for year 2001, for

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4982 the area in which the treatment was rendered. Beginning November
 4983 1, 2001, allowable amounts that may be charged to a personal
 4984 injury protection insurance insurer and insured for magnetic
 4985 resonance imaging services shall not exceed 175 percent of the
 4986 allowable amount under the participating physician fee schedule
 4987 of Medicare Part B for year 2001, for the area in which the
 4988 treatment was rendered, adjusted annually on August 1 to reflect
 4989 the prior calendar year's changes in the annual Medical Care
 4990 Item of the Consumer Price Index for All Urban Consumers in the
 4991 South Region as determined by the Bureau of Labor Statistics of
 4992 the United States Department of Labor for the 12-month period
 4993 ending June 30 of that year, except that allowable amounts that
 4994 may be charged to a personal injury protection insurance insurer
 4995 and insured for magnetic resonance imaging services provided in
 4996 facilities accredited by the Accreditation Association for
 4997 Ambulatory Health Care, the American College of Radiology, or
 4998 the Joint Commission on Accreditation of Healthcare
 4999 Organizations shall not exceed 200 percent of the allowable
 5000 amount under the participating physician fee schedule of
 5001 Medicare Part B for year 2001, for the area in which the
 5002 treatment was rendered, adjusted annually on August 1 to reflect
 5003 the prior calendar year's changes in the annual Medical Care
 5004 Item of the Consumer Price Index for All Urban Consumers in the
 5005 South Region as determined by the Bureau of Labor Statistics of
 5006 the United States Department of Labor for the 12-month period
 5007 ending June 30 of that year. This paragraph does not apply to
 5008 charges for magnetic resonance imaging services and nerve
 5009 conduction testing for inpatients and emergency services and

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5010 care as defined in chapter 395 rendered by facilities licensed
 5011 under chapter 395.

5012 6. The Department of Health, in consultation with the
 5013 appropriate professional licensing boards, shall adopt, by rule,
 5014 a list of diagnostic tests deemed not to be medically necessary
 5015 for use in the treatment of persons sustaining bodily injury
 5016 covered by personal injury protection benefits under this
 5017 section. The initial list shall be adopted by January 1, 2004,
 5018 and shall be revised from time to time as determined by the
 5019 Department of Health, in consultation with the respective
 5020 professional licensing boards. Inclusion of a test on the list
 5021 of invalid diagnostic tests shall be based on lack of
 5022 demonstrated medical value and a level of general acceptance by
 5023 the relevant provider community and shall not be dependent for
 5024 results entirely upon subjective patient response.
 5025 Notwithstanding its inclusion on a fee schedule in this
 5026 subsection, an insurer or insured is not required to pay any
 5027 charges or reimburse claims for any invalid diagnostic test as
 5028 determined by the Department of Health.

5029
 5030 Reviser's note.--Amended to improve clarity.

5031
 5032 Section 125. Subsection (4) of section 627.832, Florida
 5033 Statutes, is amended to read:

5034 627.832 Grounds for refusal, suspension, or revocation of
 5035 license.--

5036 (4) Every license issued hereunder shall remain in force
 5037 and effect until it has been surrendered, revoked, or suspended
 5038 or expires in accordance with the provisions of this part; but

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5039 the office may reinstate a suspended license or ~~to~~ issue a new
 5040 license to a licensee whose license has been revoked, if no fact
 5041 or condition then exists which clearly would have warranted
 5042 office refusal originally to issue such license under this part.

5043

5044 Reviser's note.--Amended to improve clarity and
 5045 correct sentence construction.

5046

5047 Section 126. Section 628.6012, Florida Statutes, is
 5048 amended to read:

5049 628.6012 Premiums written; restrictions.--Assessable
 5050 mutual insurers shall be subject to a cap on net annual premiums
 5051 on the same basis and in the same manner as provided in former
 5052 s. 624.469 as to commercial self-insurance funds. For an
 5053 assessable mutual that has converted from a commercial self-
 5054 insurance fund, the first 6 full calendar years of its operation
 5055 as set forth in former s. 624.469 shall be computed from the
 5056 date of its certificate of authority as a commercial self-
 5057 insurance fund.

5058

5059 Reviser's note.--Amended to conform to the repeal of
 5060 s. 624.469 by s. 17, ch. 2003-2, Laws of Florida.

5061

5062 Section 127. Subsection (2) of section 628.6013, Florida
 5063 Statutes, is amended to read:

5064 628.6013 Converted self-insurance fund; trade association;
 5065 board of directors.--

5066 (2) An assessable mutual insurer formed by the conversion
 5067 of a commercial self-insurance fund pursuant to former s.

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5068 624.463 or by the conversion of a group self-insurer's fund
 5069 organized under s. 624.4621 shall be endorsed at the time of
 5070 conversion by a statewide not-for-profit trade association,
 5071 industry association, or professional association of employers
 5072 or professionals which has a constitution or bylaws, which is
 5073 incorporated under the laws of this state, and which has been
 5074 organized for purposes other than that of obtaining or providing
 5075 insurance and operated in good faith for a continuous period of
 5076 1 year. The association shall not be liable for any actions of
 5077 the insurer, nor shall it require the establishment or
 5078 enforcement of any policy of the insurer. Fees, services, and
 5079 other aspects of the relationship between the association and
 5080 the insurer must be reasonable and are subject to contractual
 5081 agreement.

5082
 5083 Reviser's note.--Amended to conform to the repeal of
 5084 s. 624.463 by s. 17, ch. 2003-2, Laws of Florida, and
 5085 s. 1978, ch. 2003-261, Laws of Florida.

5086
 5087 Section 128. Paragraph (d) of subsection (2) of section
 5088 631.57, Florida Statutes, is amended to read:

5089 631.57 Powers and duties of the association.--

5090 (2) The association may:

5091 (d) Negotiate and become a party to such contracts as are
 5092 necessary to carry out the purpose of this part. ~~Without~~
 5093 ~~limiting the generality of the foregoing, the association may~~
 5094 ~~enter into such contracts with a municipality as are necessary~~
 5095 ~~in order for the municipality to issue bonds under s.~~
 5096 ~~166.111(2). In connection with the issuance of such bonds and~~

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5097 ~~the entering into of the necessary contracts, the association~~
 5098 ~~may agree to such terms and conditions as it deems necessary and~~
 5099 ~~proper.~~

5100
 5101 Reviser's note.--Amended to conform to the repeal of
 5102 s. 166.111(2) by s. 159, ch. 2003-261, Laws of
 5103 Florida.

5104
 5105 Section 129. Subsection (1) of section 631.60, Florida
 5106 Statutes, is amended to read:

5107 631.60 Effect of paid claims.--

5108 (1) Any person recovering under this part shall be deemed
 5109 to have assigned her or his rights under the policy to the
 5110 association to the extent of the person's recovery from the
 5111 association, regardless of whether such recovery is received
 5112 directly from the association or through payments made from the
 5113 proceeds of bonds issued under former s. 166.111(2). Every
 5114 insured or claimant seeking the protection of this part shall
 5115 cooperate with the association to the same extent as such person
 5116 would have been required to cooperate with the insolvent
 5117 insurer. The association shall have no cause of action against
 5118 the insured of the insolvent insurer for any sums it has paid
 5119 out except such causes of action as the insolvent insurer would
 5120 have had if such sums had been paid by the insolvent insurer. In
 5121 the case of an insolvent insurer operating on a plan with
 5122 assessment liability, payments of claims of the association
 5123 shall not operate to reduce the liability of insureds to the
 5124 receiver, liquidator, or statutory successor for unpaid
 5125 assessments.

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Reviser's note.--Amended to conform to the repeal of s. 166.111(2) by s. 159, ch. 2003-261, Laws of Florida.

Section 130. Section 636.0145, Florida Statutes, is amended to read:

636.0145 Certain entities contracting with Medicaid.--Notwithstanding the requirements of s. 409.912(4)(b) ~~409.912(3)(b)~~, an entity that is providing comprehensive inpatient and outpatient mental health care services to certain Medicaid recipients in Hillsborough, Highlands, Hardee, Manatee, and Polk Counties through a capitated, prepaid arrangement pursuant to the federal waiver provided for in s. 409.905(5) must become licensed under chapter 636 by December 31, 1998. Any entity licensed under this chapter which provides services solely to Medicaid recipients under a contract with Medicaid shall be exempt from ss. 636.017, 636.018, 636.022, 636.028, and 636.034.

Reviser's note.--Amended to conform to the redesignation of s. 409.912(3) as s. 409.912(4) by s. 9, ch. 2003-279, Laws of Florida.

Section 131. Subsection (3) of section 636.029, Florida Statutes, is amended to read:

636.029 Construction and relationship with other laws.--
(3) The department and office are vested with all powers granted to them ~~it~~ under the insurance code with respect to the

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5155 investigation of any violation of this act within their
 5156 respective regulatory jurisdictions.

5157
 5158 Reviser's note.--Amended to improve clarity and
 5159 facilitate correct interpretation.

5160
 5161 Section 132. Section 636.052, Florida Statutes, is amended
 5162 to read:

5163 636.052 Civil remedy.--In any civil action brought to
 5164 enforce the terms and conditions of a prepaid limited health
 5165 service organization contract, the prevailing party is entitled
 5166 to recover reasonable attorney's fees and court costs. This
 5167 section does not authorize a civil action against the office or
 5168 its employees or against the Agency for Health Care
 5169 Administration, its employees, or the secretary ~~director~~ of that
 5170 agency.

5171
 5172 Reviser's note.--Amended to conform to the
 5173 redesignation of the Director of Health Care
 5174 Administration as the Secretary of Health Care
 5175 Administration by s. 2, ch. 2000-305, Laws of Florida.

5176
 5177 Section 133. Paragraph (j) of subsection (1) of section
 5178 641.21, Florida Statutes, is amended to read:

5179 641.21 Application for certificate.--
 5180 (1) Before any entity may operate a health maintenance
 5181 organization, it shall obtain a certificate of authority from
 5182 the office. The office shall accept and shall begin its review
 5183 of an application for a certificate of authority anytime after

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5184 an organization has filed an application for a health care
 5185 provider certificate pursuant to part III of this chapter.
 5186 However, the office may not issue a certificate of authority to
 5187 any applicant which does not possess a valid health care
 5188 provider certificate issued by the agency. Each application for
 5189 a certificate shall be on such form as the commission shall
 5190 prescribe, shall be verified by the oath of two officers of the
 5191 corporation and properly notarized, and shall be accompanied by
 5192 the following:

5193 (j) Such additional reasonable data, financial statements,
 5194 and other pertinent information as the commission ~~commissioner~~
 5195 or office requires with respect to the determination that the
 5196 applicant can provide the services to be offered.

5197
 5198 Reviser's note.--Amended to facilitate correct
 5199 interpretation and to conform to context.

5200
 5201 Section 134. Subsection (3) of section 641.225, Florida
 5202 Statutes, is amended to read:

5203 641.225 Surplus requirements.--

5204 (3)(a) An entity providing prepaid capitated services
 5205 which is authorized under s. 409.912(4)(a) ~~409.912(3)(a)~~ and
 5206 which applies for a certificate of authority is subject to the
 5207 minimum surplus requirements set forth in subsection (1), unless
 5208 the entity is backed by the full faith and credit of the county
 5209 in which it is located.

5210 (b) An entity providing prepaid capitated services which
 5211 is authorized under s. 409.912(4)(b) or (c) ~~409.912(3)(b)~~ or

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5212 ~~(e)~~, and which applies for a certificate of authority is subject
 5213 to the minimum surplus requirements set forth in s. 409.912.

5214
 5215 Reviser's note.--Amended to conform to the
 5216 redesignation of s. 409.912(3) as s. 409.912(4) by s.
 5217 9, ch. 2003-279, Laws of Florida.

5218
 5219 Section 135. Paragraph (d) of subsection (3) of section
 5220 641.31, Florida Statutes, is amended to read:

5221 641.31 Health maintenance contracts.--
 5222 (3)

5223 (d) Any change in rates charged for the contract must be
 5224 filed with the office not less than 30 days in advance of the
 5225 effective date. At the expiration of such 30 days, the rate
 5226 filing shall be deemed approved unless prior to such time the
 5227 filing has been affirmatively approved or disapproved by order
 5228 of the office. The approval of the filing by the office
 5229 constitutes a waiver of any unexpired portion of such waiting
 5230 period. The office may extend by not more than an additional 15
 5231 days the period within which it may so affirmatively approve or
 5232 disapprove any such filing, by giving notice of such extension
 5233 before expiration of the initial 30-day period. At the
 5234 expiration of any such period as so extended, and in the absence
 5235 of such prior affirmative approval or disapproval, any such
 5236 filing shall be deemed approved. This paragraph does not apply
 5237 to group health contracts effectuated and delivered in this
 5238 state, insuring groups of 51 or more persons, except for
 5239 Medicare supplement insurance, long-term care insurance, and any
 5240 coverage under which the increase in claims costs over the

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5241 lifetime of the contract due to advancing age or duration is
 5242 prefunded ~~refunded~~ in the premium.

5243
 5244 Reviser's note.--Amended to facilitate correct
 5245 interpretation and to conform to context.

5246
 5247 Section 136. Subsection (4) of section 641.386, Florida
 5248 Statutes, is amended to read:

5249 641.386 Agent licensing and appointment required;
 5250 exceptions.--

5251 (4) All agents and health maintenance organizations shall
 5252 comply with and be subject to the applicable provisions of ss.
 5253 641.309 and 409.912(21) ~~409.912(19)~~, and all companies and
 5254 entities appointing agents shall comply with s. 626.451, when
 5255 marketing for any health maintenance organization licensed
 5256 pursuant to this part, including those organizations under
 5257 contract with the Agency for Health Care Administration to
 5258 provide health care services to Medicaid recipients or any
 5259 private entity providing health care services to Medicaid
 5260 recipients pursuant to a prepaid health plan contract with the
 5261 Agency for Health Care Administration.

5262
 5263 Reviser's note.--Amended to conform to the
 5264 redesignation of s. 409.912(19) as s. 409.912(21) by
 5265 s. 9, ch. 2003-279, Laws of Florida.

5266
 5267 Section 137. Paragraph (b) of subsection (2) of section
 5268 648.34, Florida Statutes, is amended to read:

5269 648.34 Bail bond agents; qualifications.--

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5270 (2) To qualify as a bail bond agent, it must affirmatively
 5271 appear at the time of application and throughout the period of
 5272 licensure that the applicant has complied with the provisions of
 5273 s. 648.355 and has obtained a temporary license pursuant to such
 5274 section and:

5275 (b) The applicant is a United States citizen or legal
 5276 alien who possesses work authorization from the United States
 5277 Bureau of Citizenship and Immigration Services ~~Immigration and~~
 5278 ~~Naturalization Service~~ and is a resident of this state. An
 5279 individual who is a resident of this state shall be deemed to
 5280 meet the residence requirement of this paragraph,
 5281 notwithstanding the existence, at the time of application for
 5282 license, of a license in the applicant's name on the records of
 5283 another state as a resident licensee of such other state, if the
 5284 applicant furnishes a letter of clearance satisfactory to the
 5285 department that his or her resident licenses have been canceled
 5286 or changed to a nonresident basis and that he or she is in good
 5287 standing.

5288
 5289 Reviser's note.--Amended to conform to the
 5290 redesignation of the Immigration and Naturalization
 5291 Service pursuant to its transfer to the Department of
 5292 Homeland Security by s. 451, Pub. L. No. 107-296.

5293
 5294 Section 138. Paragraph (b) of subsection (1) of section
 5295 648.355, Florida Statutes, is amended to read:

5296 648.355 Temporary limited license as limited surety agent
 5297 or professional bail bond agent; pending examination.--

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5298 (1) The department may, in its discretion, issue a
 5299 temporary license as a limited surety agent or professional bail
 5300 bond agent, subject to the following conditions:

5301 (b) The applicant is a United States citizen or legal
 5302 alien who possesses work authorization from the United States
 5303 Bureau of Citizenship and Immigration Services ~~Immigration and~~
 5304 ~~Naturalization Service~~ and is a resident of this state. An
 5305 individual who is a resident of this state shall be deemed to
 5306 meet the residence requirement of this paragraph,
 5307 notwithstanding the existence, at the time of application for
 5308 temporary license, of a license in the individual's name on the
 5309 records of another state as a resident licensee of such other
 5310 state, if the applicant furnishes a letter of clearance
 5311 satisfactory to the department that the individual's resident
 5312 licenses have been canceled or changed to a nonresident basis
 5313 and that the individual is in good standing.

5314
 5315 Reviser's note.--Amended to conform to the
 5316 redesignation of the Immigration and Naturalization
 5317 Service pursuant to its transfer to the Department of
 5318 Homeland Security by s. 451, Pub. L. No. 107-296.

5319
 5320 Section 139. Subsection (4) of section 648.45, Florida
 5321 Statutes, is amended to read:

5322 648.45 Actions against a licensee; suspension or
 5323 revocation of eligibility to hold a license.--

5324 (4) Any licensee found to have violated s. 648.44(1)(b),
 5325 (d), or (i) ~~648.44(1)(b)~~, ~~(c)~~, or ~~(h)~~ shall, at a minimum, be
 5326 suspended for a period of 3 months. A greater penalty, including

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5327 revocation, shall be imposed if there is a willful or repeated
 5328 violation of s. 648.44(1)(b), (d), or (i) ~~648.44(1)(b), (c), or~~
 5329 ~~(h)~~, or the licensee has committed other violations of this
 5330 chapter.

5331
 5332 Reviser's note.--Amended to conform to the
 5333 redesignation of s. 648.44(1)(c) and (h) as s.
 5334 648.44(1)(d) and (i) by s. 21, ch. 2002-260, Laws of
 5335 Florida.

5336
 5337 Section 140. Subsection (2) of section 651.013, Florida
 5338 Statutes, is amended to read:
 5339 651.013 Chapter exclusive; applicability of other laws.--
 5340 (2) In addition to other applicable provisions cited in
 5341 this chapter, the office has the authority granted under ss.
 5342 624.302 and 624.303 ~~624.302-624.305~~, 624.308-624.312,
 5343 624.319(1)-(3), 624.320-624.321, 624.324, and 624.34 of the
 5344 Florida Insurance Code to regulate providers of continuing care.

5345
 5346 Reviser's note.--Amended to conform to the repeal of
 5347 s. 624.305 by s. 1978, ch. 2003-261, Laws of Florida.

5348
 5349 Section 141. Section 657.001, Florida Statutes, is amended
 5350 to read:
 5351 657.001 Short title.--This chapter ~~part~~ may be cited as
 5352 the "Florida Credit Union Act."

5353
 5354 Reviser's note.--Amended to conform to the arrangement
 5355 of chapter 657, which is not divided into parts.

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Section 142. Section 657.002, Florida Statutes, is amended to read:

657.002 Definitions.--As used in this chapter ~~part~~:

(1) "Capital" means shares, deposits, and equity.

(2) "Central credit union" means a credit union the membership of which includes, but is not limited to, other credit unions, members of credit unions, credit union employees, employees of organizations serving credit unions, and the families of such members.

(3) "Corporate credit union" means any central credit union organized pursuant to any state or federal act for the purpose of serving other credit unions.

(4) "The corporation" means the Florida Credit Union Guaranty Corporation, Inc.

(5) "Correspondent" means that person designated on an application to organize a credit union as the person to whom all correspondence regarding the application should be sent.

(6) "Credit union" means any cooperative society organized pursuant to this chapter ~~part~~.

(7) "Deposits" means that portion of the capital paid into the credit union by members on which a contractual rate of interest will be paid.

(8) "Equity" means undivided earnings, reserves, and allowance for loan losses.

(9) "Foreign credit union" means a credit union organized and operating under the laws of another state.

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5383 (10) "Immediate family" means parents, children, spouse,
 5384 or surviving spouse of the member, or any other relative by
 5385 blood, marriage, or adoption.

5386 (11) "Limited field of membership" means the defined group
 5387 of persons designated as eligible for membership in the credit
 5388 union who:

5389 (a) Have a similar profession, occupation, or formal
 5390 association with an identifiable purpose; or

5391 (b) Reside within an identifiable neighborhood, community,
 5392 rural district, or county; or

5393 (c) Are employed by a common employer; or

5394 (d) Are employed by the credit union; and

5395
 5396 members of the immediate family of persons within such group.

5397 (12) "Shares" means that portion of the capital paid into
 5398 the credit union by members on which dividends may be paid.

5399 (13) "Unimpaired capital" means capital which is not
 5400 impaired by losses that exceed applicable reserves.

5401
 5402 Reviser's note.--Amended to conform to the arrangement
 5403 of chapter 657, which is not divided into parts.

5404
 5405 Section 143. Paragraph (e) of subsection (7) of section
 5406 657.021, Florida Statutes, is amended to read:

5407 657.021 Board of directors; executive committee.--

5408 (7) The board of directors must exercise the following
 5409 duties which are nondelegable:

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5410 (e) Adequately provide for reserves as required by this
 5411 chapter ~~part~~ or by rules or order of the commission or office or
 5412 as otherwise determined necessary by the board.

5413
 5414 Reviser's note.--Amended to conform to the arrangement
 5415 of chapter 657, which is not divided into parts.

5416
 5417 Section 144. Subsection (4) of section 657.026, Florida
 5418 Statutes, is amended to read:

5419 657.026 Supervisory or audit committee.--

5420 (4) The supervisory or audit committee shall notify the
 5421 board of directors, the office, and, as applicable, either the
 5422 corporation or the National Credit Union Administration of any
 5423 violation of this chapter ~~part~~, any violation of the certificate
 5424 of authorization or bylaws of the credit union, or any practice
 5425 of the credit union deemed by the supervisory or audit committee
 5426 to be unsafe, unsound, or unauthorized.

5427
 5428 For the purposes of this subsection, two-thirds of the members
 5429 of the supervisory or audit committee constitutes a quorum.

5430
 5431 Reviser's note.--Amended to conform to the arrangement
 5432 of chapter 657, which is not divided into parts.

5433
 5434 Section 145. Subsections (13) and (16) of section 657.031,
 5435 Florida Statutes, are amended to read:

5436 657.031 Powers.--A credit union shall have the power to:

5437 (13) Invest funds, as provided in this chapter ~~part~~.

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5438 (16) Hold membership in central credit unions or corporate
 5439 credit unions organized under this chapter ~~part~~ or under any
 5440 other state or federal acts and membership in associations and
 5441 organizations of credit unions.

5442
 5443 Reviser's note.--Amended to conform to the arrangement
 5444 of chapter 657, which is not divided into parts.

5445
 5446 Section 146. Paragraph (a) of subsection (1) of section
 5447 657.039, Florida Statutes, is amended to read:

5448 657.039 Loan powers; extension of credit to directors,
 5449 officers, committee members, and certain employees.--

5450 (1) A credit union may extend credit to its officers,
 5451 directors, credit manager, members of its supervisory, audit,
 5452 and credit committees, and any other person authorized to
 5453 approve extensions of credit, provided:

5454 (a) The extension of credit complies with all requirements
 5455 under this chapter ~~part~~ with respect to credit extended to other
 5456 borrowers and is not on terms more favorable than those extended
 5457 to other borrowers.

5458
 5459 Reviser's note.--Amended to conform to the arrangement
 5460 of chapter 657, which is not divided into parts.

5461
 5462 Section 147. Section 657.066, Florida Statutes, is amended
 5463 to read:

5464 657.066 Conversion from state credit union to federal
 5465 credit union and conversely.--Any credit union organized under
 5466 this chapter ~~part~~ may convert into a federal credit union and

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5467 any federal credit union may convert into a credit union
 5468 organized pursuant to this chapter ~~part~~ upon approval of the
 5469 authority under the supervision of which the converted credit
 5470 union will operate and upon compliance with applicable laws.

5471 (1) Any action by the board of directors proposing
 5472 conversion shall be by resolution and shall require the
 5473 affirmative vote of an absolute majority of the board of
 5474 directors. Upon adoption of a resolution relating to
 5475 conversion, a copy of the resolution shall be mailed to each
 5476 member, together with a notice setting forth the time, location,
 5477 and purpose of a meeting of the membership which shall be held
 5478 not less than 10 nor more than 30 days following the mailing of
 5479 the notice.

5480 (2) A ballot allowing an affirmative or negative vote on
 5481 the proposed conversion shall also be mailed to each member. Any
 5482 ballot received by the credit union prior to the meeting called
 5483 to consider the conversion shall be counted along with the votes
 5484 cast at the meeting. Each member shall have but one vote. A
 5485 majority of the votes cast by the members shall be required to
 5486 approve the conversion.

5487 (3) Within 10 days after the approval of the membership,
 5488 the board of directors shall cause to be transmitted to the
 5489 authority under the supervision of which the converted credit
 5490 union will operate a copy of the resolution adopted by the board
 5491 of directors and approved by the membership.

5492 (4) Upon the written approval of the authority under the
 5493 supervision of which the converting credit union is to operate,
 5494 the converting credit union shall become a credit union under
 5495 this chapter or under the laws of the United States, as the case

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5496 may be, and thereupon all assets shall become the property of
 5497 the converted credit union, subject to all existing liabilities
 5498 against the credit union. All shares and deposits shall remain
 5499 intact. Any federal credit union seeking to convert to a state-
 5500 chartered credit union shall pay a nonrefundable filing fee of
 5501 \$500. The office may conduct an examination of any converting
 5502 federal credit union before approving the conversion and the
 5503 converting credit union shall pay a nonrefundable examination
 5504 fee as provided in s. 655.411(1)(b).

5505 (5) Every conversion must be completed within 90 days
 5506 after the approval of the authority under the supervision of
 5507 which the converted credit union will operate. Upon receiving
 5508 its certificate of authorization or charter from the authority
 5509 under the supervision of which the converted credit union will
 5510 operate, the old certificate of authorization or charter shall
 5511 be returned to the proper authority and shall be canceled.

5512 (6) In consummation of the conversion, the old credit
 5513 union may execute, acknowledge, and deliver to the newly
 5514 chartered credit union the instruments of transfer necessary to
 5515 accomplish the transfer of any property and all right, title,
 5516 and interest therein.

5517
 5518 Reviser's note.--Amended to conform to the arrangement
 5519 of chapter 657, which is not divided into parts.

5520
 5521 Section 148. Paragraph (a) of subsection (2) and
 5522 subsection (4) of section 657.068, Florida Statutes, are amended
 5523 to read:

5524 657.068 Central credit unions.--

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5525 (2) Membership in a central credit union shall be limited
5526 to:

5527 (a) Credit unions organized and operating under this
5528 chapter ~~part~~ or any other credit union act;

5529 (4) A central credit union shall have all the powers of
5530 any credit union organized under this chapter ~~part~~ and shall
5531 have the following powers, notwithstanding any limitations or
5532 restrictions herein:

5533 (a) A central credit union may make loans to other credit
5534 unions, purchase shares of and make deposits in other credit
5535 unions, and obtain or acquire the assets and liabilities of any
5536 credit union operating in this state which liquidates, provided
5537 such assets are otherwise eligible for investment by the
5538 acquiring credit union.

5539 (b) A central credit union may invest in and grant loans
5540 to associations of credit unions, central funds of credit
5541 unions, or organizations chartered to provide services to credit
5542 unions.

5543
5544 Reviser's note.--Amended to conform to the arrangement
5545 of chapter 657, which is not divided into parts.

5546
5547 Section 149. Section 679.338, Florida Statutes, is amended
5548 to read:

5549 679.338 Priority of security interest or agricultural lien
5550 perfected by filed financing statement providing certain
5551 incorrect information.--If a security interest or agricultural
5552 lien is perfected by a filed financing statement providing

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5553 information described in s. 679.516(2)(d) ~~679.516(2)(e)~~ which is
 5554 incorrect at the time the financing statement is filed:

5555 (1) The security interest or agricultural lien is
 5556 subordinate to a conflicting perfected security interest in the
 5557 collateral to the extent that the holder of the conflicting
 5558 security interest gives value in reasonable reliance upon the
 5559 incorrect information; and

5560 (2) A purchaser, other than a secured party, of the
 5561 collateral takes free of the security interest or agricultural
 5562 lien to the extent that, in reasonable reliance upon the
 5563 incorrect information, the purchaser gives value and, in the
 5564 case of chattel paper, documents, goods, instruments, or a
 5565 security certificate, receives delivery of the collateral.

5566
 5567 Reviser's note.--Amended to conform to the
 5568 redesignation of s. 679.516(2)(e) as s. 679.516(2)(d)
 5569 by s. 11, ch. 2002-242, Laws of Florida.

5570
 5571 Section 150. Subsection (3) of section 679.520, Florida
 5572 Statutes, is amended to read:

5573 679.520 Acceptance and refusal to accept record.--

5574 (3) A filed financing statement satisfying s. 679.5021(1)
 5575 and (2) is effective, even if the filing office is required to
 5576 refuse to accept it for filing under subsection (1). However, s.
 5577 679.338 applies to a filed financing statement providing
 5578 information described in s. 679.516(2)(d) ~~679.516(2)(e)~~ which is
 5579 incorrect at the time the financing statement is filed.

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5581 Reviser's note.--Amended to conform to the
 5582 redesignation of s. 679.516(2)(e) as s. 679.516(2)(d)
 5583 by s. 11, ch. 2002-242, Laws of Florida.

5584
 5585 Section 151. Paragraph (b) of subsection (2) of section
 5586 732.2025, Florida Statutes, is amended to read:

5587 732.2025 Definitions.--As used in ss. 732.2025-732.2155,
 5588 the term:

5589 (2) "Elective share trust" means a trust where:

5590 (b) The trust is subject to the provisions of former s.
 5591 738.12 or the surviving spouse has the right under the terms of
 5592 the trust or state law to require the trustee either to make the
 5593 property productive or to convert it within a reasonable time;
 5594 and

5595
 5596 Reviser's note.--Amended to improve clarity and
 5597 facilitate correct interpretation. Section 738.12 was
 5598 repealed by s. 2, ch. 2002-42, Laws of Florida.

5599
 5600 Section 152. Subsection (1) of section 741.04, Florida
 5601 Statutes, is amended to read:

5602 741.04 Marriage license issued.--

5603 (1) No county court judge or clerk of the circuit court in
 5604 this state shall issue a license for the marriage of any person
 5605 unless there shall be first presented and filed with him or her
 5606 an affidavit in writing, signed by both parties to the marriage,
 5607 providing the social security numbers or any other available
 5608 identification numbers of each party, made and subscribed before
 5609 some person authorized by law to administer an oath, reciting

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5610 the true and correct ages of such parties; unless both such
 5611 parties shall be over the age of 18 years, except as provided in
 5612 s. 741.0405; and unless one party is a male and the other party
 5613 is a female. Pursuant to the federal Personal Responsibility and
 5614 Work Opportunity Reconciliation Act of 1996, each party is
 5615 required to provide his or her social security number in
 5616 accordance with this section. The state has a compelling
 5617 interest in promoting not only marriage but also responsible
 5618 parenting, which may include the payment of child support. Any
 5619 person who has been issued a social security number shall
 5620 provide that number. Disclosure of social security numbers or
 5621 other identification numbers obtained through this requirement
 5622 shall be limited to the purpose of administration of the Title
 5623 IV-D program for child support enforcement. Any person who is
 5624 not a citizen of the United States may provide either a social
 5625 security number or an alien registration number if one has been
 5626 issued by the United States Bureau of Citizenship and
 5627 Immigration Services ~~Immigration and Naturalization Service~~. Any
 5628 person who is not a citizen of the United States and who has not
 5629 been issued a social security number or an alien registration
 5630 number is encouraged to provide another form of identification.
 5631 Nothing in this subsection shall be construed to mean that a
 5632 county court judge or clerk of the circuit court in this state
 5633 shall not issue a marriage license to individuals who are not
 5634 citizens of the United States if one or both of the parties are
 5635 unable to provide a social security number, alien registration
 5636 number, or other identification number.
 5637

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5638 Reviser's note.--Amended to conform to the
 5639 redesignation of the Immigration and Naturalization
 5640 Service pursuant to its transfer to the Department of
 5641 Homeland Security by s. 451, Pub. L. No. 107-296.

5642
 5643 Section 153. Paragraph (a) of subsection (5) of section
 5644 766.102, Florida Statutes, is amended to read:

5645 766.102 Medical negligence; standards of recovery; expert
 5646 witness.--

5647 (5) A person may not give expert testimony concerning the
 5648 prevailing professional standard of care unless that person is a
 5649 licensed health care provider and meets the following criteria:

5650 (a) If the health care provider against whom or on whose
 5651 behalf the testimony is offered is a specialist, the expert
 5652 witness must:

5653 1. Specialize in the same specialty as the health care
 5654 provider against whom or on whose behalf the testimony is
 5655 offered; or specialize in a similar specialty that includes the
 5656 evaluation, diagnosis, or treatment of the medical condition
 5657 that is the subject of the claim and have prior experience
 5658 treating similar patients; and

5659 2. Have devoted professional time during the 3 years
 5660 immediately preceding the date of the occurrence that is the
 5661 basis for the action to:

5662 a. The active clinical practice of, or consulting with
 5663 respect to, the same or similar specialty that includes the
 5664 evaluation, diagnosis, or treatment of the medical condition
 5665 that is the subject of the claim and have prior experience
 5666 treating similar patients;

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5667 b. Instruction of students in an accredited health
 5668 professional school or accredited residency or clinical research
 5669 program in the same or similar specialty; or

5670 c. A clinical research program that is affiliated with an
 5671 accredited health professional school or accredited residency or
 5672 clinical research program in the same or similar specialty
 5673 ~~speciality~~.

5674

5675 Reviser's note.--Amended to improve clarity and
 5676 facilitate correct interpretation.

5677

5678 Section 154. Subsections (2) and (3) of section 766.203,
 5679 Florida Statutes, are amended to read:

5680 766.203 Presuit investigation of medical negligence claims
 5681 and defenses by prospective parties.--

5682 (2) PRESUIT INVESTIGATION BY CLAIMANT.--Prior to issuing
 5683 notification of intent to initiate medical negligence litigation
 5684 pursuant to s. 766.106, the claimant shall conduct an
 5685 investigation to ascertain that there are reasonable grounds to
 5686 believe that:

5687 (a) Any named defendant in the litigation was negligent in
 5688 the care or treatment of the claimant; and

5689 (b) Such negligence resulted in injury to the claimant.

5690

5691 Corroboration of reasonable grounds to initiate medical
 5692 negligence litigation shall be provided by the claimant's
 5693 submission of a verified written medical expert opinion from a
 5694 medical expert as defined in s. 766.202(6) ~~766.202(5)~~, at the
 5695 time the notice of intent to initiate litigation is mailed,

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5696 | which statement shall corroborate reasonable grounds to support
 5697 | the claim of medical negligence.

5698 | (3) PRESUIT INVESTIGATION BY PROSPECTIVE DEFENDANT.--Prior
 5699 | to issuing its response to the claimant's notice of intent to
 5700 | initiate litigation, during the time period for response
 5701 | authorized pursuant to s. 766.106, the prospective defendant or
 5702 | the defendant's insurer or self-insurer shall conduct an
 5703 | investigation as provided in s. 766.106(3) to ascertain whether
 5704 | there are reasonable grounds to believe that:

5705 | (a) The defendant was negligent in the care or treatment
 5706 | of the claimant; and

5707 | (b) Such negligence resulted in injury to the claimant.

5708 |
 5709 | Corroboration of lack of reasonable grounds for medical
 5710 | negligence litigation shall be provided with any response
 5711 | rejecting the claim by the defendant's submission of a verified
 5712 | written medical expert opinion from a medical expert as defined
 5713 | in s. 766.202(6) ~~766.202(5)~~, at the time the response rejecting
 5714 | the claim is mailed, which statement shall corroborate
 5715 | reasonable grounds for lack of negligent injury sufficient to
 5716 | support the response denying negligent injury.

5717 |
 5718 | Reviser's note.--Amended to conform to the
 5719 | redesignation of s. 766.202(5) as s. 766.202(6) by s.
 5720 | 58, ch. 2003-416, Laws of Florida.

5721 |
 5722 | Section 155. Paragraph (a) of subsection (5) of section
 5723 | 766.206, Florida Statutes, is amended to read:

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5724 766.206 Presuit investigation of medical negligence claims
 5725 and defenses by court.--

5726 (5)(a) If the court finds that the corroborating written
 5727 medical expert opinion attached to any notice of claim or intent
 5728 or to any response rejecting a claim lacked reasonable
 5729 investigation or that the medical expert submitting the opinion
 5730 did not meet the expert witness qualifications as set forth in
 5731 s. 766.102(5) ~~766.202(5)~~, the court shall report the medical
 5732 expert issuing such corroborating opinion to the Division of
 5733 Medical Quality Assurance or its designee. If such medical
 5734 expert is not a resident of the state, the division shall
 5735 forward such report to the disciplining authority of that
 5736 medical expert.

5737
 5738 Reviser's note.--Amended to improve clarity and
 5739 facilitate correct interpretation. Section 766.202(5)
 5740 defines the term "investigation." Section 766.102(5)
 5741 provides criteria for persons giving expert testimony
 5742 concerning the prevailing professional standard of
 5743 care.

5744
 5745 Section 156. Paragraph (c) of subsection (4) of section
 5746 766.209, Florida Statutes, is amended to read:

5747 766.209 Effects of failure to offer or accept voluntary
 5748 binding arbitration.--

5749 (4) If the claimant rejects a defendant's offer to enter
 5750 voluntary binding arbitration:

5751 (c) Damages for future economic losses shall be awarded to
 5752 be paid by periodic payments pursuant to s. 766.202(9)

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5753 | ~~766.202(8)~~, and shall be offset by future collateral source
 5754 | payments.

5755 |
 5756 | Reviser's note.--Amended to conform to the
 5757 | redesignation of s. 766.202(8) as s. 766.202(9) by s.
 5758 | 58, ch. 2003-416, Laws of Florida.

5759 |
 5760 | Section 157. Paragraph (b) of subsection (6) of section
 5761 | 787.03, Florida Statutes, is amended to read:

5762 | 787.03 Interference with custody.--

5763 | (6)

5764 | (b) In order to gain the exemption conferred by paragraph
 5765 | (a), a person who takes a child pursuant to this subsection
 5766 | must:

5767 | 1. Within 10 days after taking the child, make a report to
 5768 | the sheriff's office or state attorney's office for the county
 5769 | in which the child resided at the time he or she was taken,
 5770 | which report must include the name of the person taking the
 5771 | child, the current address and telephone number of the person
 5772 | and child, and the reasons the child was taken.

5773 | 2. Within a reasonable time after taking the child,
 5774 | commence a custody proceeding that is consistent with the
 5775 | federal Parental Kidnapping Prevention Act, 28 U.S.C. s. 1738A,
 5776 | or the Uniform Child Custody Jurisdiction and Enforcement Act,
 5777 | ss. 61.501-61.542 Act, ~~ss. 61.1302-61.1348~~.

5778 | 3. Inform the sheriff's office or state attorney's office
 5779 | for the county in which the child resided at the time he or she
 5780 | was taken of any change of address or telephone number of the
 5781 | person and child.

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Reviser's note.--Amended to conform to the repeal of the Uniform Child Custody Jurisdiction Act, ss. 61.1302-61.1348, by s. 7, ch. 2002-65, Laws of Florida, and the creation of the Uniform Child Custody Jurisdiction and Enforcement Act, ss. 61.501-61.542, by s. 5, ch. 2002-65.

Section 158. Section 790.061, Florida Statutes, is amended to read:

790.061 Judges and justices; exceptions from licensure provisions.--A county court judge, circuit court judge, district court of appeal judge, justice of the supreme court, federal district court judge, or federal court of appeals judge serving in this state is not required to comply with the provisions of s. 790.06 in order to receive a license to carry a concealed weapon or firearm, except that any such justice or judge must comply with the provisions of s. 790.06(2)(h). The Department of Agriculture and Consumer Services ~~State~~ shall issue a license to carry a concealed weapon or firearm to any such justice or judge upon demonstration of competence of the justice or judge pursuant to s. 790.06(2)(h).

Reviser's note.--Amended to conform to the transfer of functions relating to licensure of weapons from the Department of State to the Department of Agriculture and Consumer Services by s. 1, ch. 2002-295, Laws of Florida.

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5811 Section 159. Section 817.566, Florida Statutes, is amended
 5812 to read:

5813 817.566 Misrepresentation of association with, or academic
 5814 standing at, postsecondary educational institution.--Any person
 5815 who, with intent to defraud, misrepresents his or her
 5816 association with, or academic standing or other progress at, any
 5817 postsecondary educational institution by falsely making,
 5818 altering, simulating, or forging a document, degree,
 5819 certificate, diploma, award, record, letter, transcript, form,
 5820 or other paper; or any person who causes or procures such a
 5821 misrepresentation; or any person who utters and publishes or
 5822 otherwise represents such a document, degree, certificate,
 5823 diploma, award, record, letter, transcript, form, or other paper
 5824 as true, knowing it to be false, is guilty of a misdemeanor of
 5825 the first degree, punishable as provided in s. 775.082 or s.
 5826 775.083. Individuals who present a religious academic degree
 5827 from any college, university, seminary, or institution which is
 5828 not licensed by the Commission for Independent Education ~~State~~
 5829 ~~Board of Independent Colleges and Universities~~ or which is not
 5830 exempt pursuant to the provisions of s. 246.085 shall disclose
 5831 the religious nature of the degree upon presentation.

5832
 5833 Reviser's note.--Amended to improve clarity and
 5834 facilitate correct interpretation. Section 246.031,
 5835 which created the State Board of Independent Colleges
 5836 and Universities, was repealed by s. 1058, ch. 2002-
 5837 387, Laws of Florida. The Commission for Independent
 5838 Education, established in s. 1005.21, regulates

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5839 independent postsecondary institutions under s.
 5840 1005.22.

5841
 5842 Section 160. Paragraph (d) of subsection (1) of section
 5843 817.567, Florida Statutes, is amended to read:

5844 817.567 Making false claims of academic degree or title.--

5845 (1) No person in the state may claim, either orally or in
 5846 writing, to possess an academic degree, as defined in s.
 5847 1005.02, or the title associated with said degree, unless the
 5848 person has, in fact, been awarded said degree from an
 5849 institution that is:

5850 (d) Licensed by the Commission for Independent Education
 5851 ~~State Board of Independent Colleges and Universities~~ pursuant to
 5852 ss. 1005.01-1005.38 or exempt from licensure pursuant to s.
 5853 246.085; or

5854
 5855 Reviser's note.--Amended to improve clarity and
 5856 facilitate correct interpretation. Section 246.031,
 5857 which created the State Board of Independent Colleges
 5858 and Universities, was repealed by s. 1058, ch. 2002-
 5859 387, Laws of Florida. The Commission for Independent
 5860 Education, established in s. 1005.21, regulates
 5861 independent postsecondary institutions under s.
 5862 1005.22.

5863
 5864 Section 161. Paragraph (a) of subsection (1) of section
 5865 895.02, Florida Statutes, is amended to read:

5866 895.02 Definitions.--As used in ss. 895.01-895.08, the
 5867 term:

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5868 (1) "Racketeering activity" means to commit, to attempt to
 5869 commit, to conspire to commit, or to solicit, coerce, or
 5870 intimidate another person to commit:

5871 (a) Any crime which is chargeable by indictment or
 5872 information under the following provisions of the Florida
 5873 Statutes:

5874 1. Section 210.18, relating to evasion of payment of
 5875 cigarette taxes.

5876 2. Section 403.727(3)(b), relating to environmental
 5877 control.

5878 3. Section 414.39, relating to public assistance fraud.

5879 4. Section 409.920, relating to Medicaid provider fraud.

5880 5. Section 440.105 or s. 440.106, relating to workers'
 5881 compensation.

5882 6. Sections 499.0051, 499.0052, 499.0053, 499.00545
 5883 ~~499.0054~~, and 499.0691, relating to crimes involving contraband
 5884 and adulterated drugs.

5885 7. Part IV of chapter 501, relating to telemarketing.

5886 8. Chapter 517, relating to sale of securities and
 5887 investor protection.

5888 9. Section 550.235, s. 550.3551, or s. 550.3605, relating
 5889 to dogracing and horseracing.

5890 10. Chapter 550, relating to jai alai frontons.

5891 11. Chapter 552, relating to the manufacture,
 5892 distribution, and use of explosives.

5893 12. Chapter 560, relating to money transmitters, if the
 5894 violation is punishable as a felony.

5895 13. Chapter 562, relating to beverage law enforcement.

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5896 14. Section 624.401, relating to transacting insurance
 5897 without a certificate of authority, s. 624.437(4)(c)1., relating
 5898 to operating an unauthorized multiple-employer welfare
 5899 arrangement, or s. 626.902(1)(b), relating to representing or
 5900 aiding an unauthorized insurer.

5901 15. Section 655.50, relating to reports of currency
 5902 transactions, when such violation is punishable as a felony.

5903 16. Chapter 687, relating to interest and usurious
 5904 practices.

5905 17. Section 721.08, s. 721.09, or s. 721.13, relating to
 5906 real estate timeshare plans.

5907 18. Chapter 782, relating to homicide.

5908 19. Chapter 784, relating to assault and battery.

5909 20. Chapter 787, relating to kidnapping.

5910 21. Chapter 790, relating to weapons and firearms.

5911 22. Section 796.03, s. 796.04, s. 796.05, or s. 796.07,
 5912 relating to prostitution.

5913 23. Chapter 806, relating to arson.

5914 24. Section 810.02(2)(c), relating to specified burglary
 5915 of a dwelling or structure.

5916 25. Chapter 812, relating to theft, robbery, and related
 5917 crimes.

5918 26. Chapter 815, relating to computer-related crimes.

5919 27. Chapter 817, relating to fraudulent practices, false
 5920 pretenses, fraud generally, and credit card crimes.

5921 28. Chapter 825, relating to abuse, neglect, or
 5922 exploitation of an elderly person or disabled adult.

5923 29. Section 827.071, relating to commercial sexual
 5924 exploitation of children.

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- 5925 | 30. Chapter 831, relating to forgery and counterfeiting.
- 5926 | 31. Chapter 832, relating to issuance of worthless checks
- 5927 | and drafts.
- 5928 | 32. Section 836.05, relating to extortion.
- 5929 | 33. Chapter 837, relating to perjury.
- 5930 | 34. Chapter 838, relating to bribery and misuse of public
- 5931 | office.
- 5932 | 35. Chapter 843, relating to obstruction of justice.
- 5933 | 36. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
- 5934 | s. 847.07, relating to obscene literature and profanity.
- 5935 | 37. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
- 5936 | 849.25, relating to gambling.
- 5937 | 38. Chapter 874, relating to criminal street gangs.
- 5938 | 39. Chapter 893, relating to drug abuse prevention and
- 5939 | control.
- 5940 | 40. Chapter 896, relating to offenses related to financial
- 5941 | transactions.
- 5942 | 41. Sections 914.22 and 914.23, relating to tampering with
- 5943 | a witness, victim, or informant, and retaliation against a
- 5944 | witness, victim, or informant.
- 5945 | 42. Sections 918.12 and 918.13, relating to tampering with
- 5946 | jurors and evidence.
- 5947 |
- 5948 | Reviser's note.--Amended to conform to the
- 5949 | redesignation of s. 499.0054 as s. 499.00545 by the
- 5950 | reviser incident to compiling the 2003 Florida
- 5951 | Statutes.
- 5952 |

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5953 Section 162. Paragraph (c) of subsection (3) of section
 5954 921.0022, Florida Statutes, is reenacted, and paragraph (j) of
 5955 that subsection is amended to read:

5956 921.0022 Criminal Punishment Code; offense severity
 5957 ranking chart.--

5958 (3) OFFENSE SEVERITY RANKING CHART

5959

Florida Felony

5960

Statute Degree Description

5961

5962

(c) LEVEL 3

5963

119.10(3) 3rd Unlawful use of confidential
 information from police reports.

5964

316.066(3) 3rd Unlawfully obtaining or using
 (d)-(f) confidential crash reports.

5965

316.193(2)(b) 3rd Felony DUI, 3rd conviction.

5966

316.1935(2) 3rd Fleeing or attempting to elude law
 enforcement officer in marked
 patrol vehicle with siren and
 lights activated.

5967

319.30(4) 3rd Possession by junkyard of motor

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5968

vehicle with identification number
plate removed.

319.33(1)(a)

3rd

Alter or forge any certificate of
title to a motor vehicle or mobile
home.

5969

319.33(1)(c)

3rd

Procure or pass title on stolen
vehicle.

5970

319.33(4)

3rd

With intent to defraud, possess,
sell, etc., a blank, forged, or
unlawfully obtained title or
registration.

5971

327.35(2)(b)

3rd

Felony BUI.

5972

328.05(2)

3rd

Possess, sell, or counterfeit
fictitious, stolen, or fraudulent
titles or bills of sale of
vessels.

5973

328.07(4)

3rd

Manufacture, exchange, or possess
vessel with counterfeit or wrong
ID number.

5974

370.12(1)(e)5.

3rd

Taking, disturbing, mutilating,
destroying, causing to be
destroyed, transferring, selling,

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5975	370.12(1)(e)6.	3rd	offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
5976	376.302(5)	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
5977	400.903(3)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
5978	440.105(3)(b)	3rd	Operating a clinic without a license or filing false license application or other required information.
5979	440.1051(3)	3rd	Receipt of fee or consideration without approval by judge of compensation claims.
5980	501.001(2)(b)	2nd	False report of workers' compensation fraud or retaliation for making such a report.
			Tampers with a consumer product or the container using materially

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5981			false/misleading information.
	624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
5982			
	624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
5983			
	626.902(1) (a) & (b)	3rd	Representing an unauthorized insurer.
5984			
	697.08	3rd	Equity skimming.
5985			
	790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
5986			
	796.05(1)	3rd	Live on earnings of a prostitute.
5987			
	806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
5988			
	806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
5989			
	810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with

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5990			firearm or dangerous weapon.
	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
5991			
	812.0145(2)(c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
5992			
	815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
5993			
	817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
5994			
	817.233	3rd	Burning to defraud insurer.
5995			
	817.234(8) (b)-(c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
5996			
	817.234(11)(a)	3rd	Insurance fraud; property value less than \$20,000.
5997			
	817.236	3rd	Filing a false motor vehicle insurance application.
5998			

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5999	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
6000	817.413(2)	3rd	Sale of used goods as new.
6001	817.505(4)	3rd	Patient brokering.
6002	828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
6003	831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
6004	831.29	2nd	Possession of instruments for counterfeiting drivers' licenses or identification cards.
6005	838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
6006	843.19	3rd	Injure, disable, or kill police dog or horse.
	860.15(3)	3rd	Overcharging for repairs and parts.

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870.01(2) 3rd Riot; inciting or encouraging.

893.13(1)(a)2. 3rd Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).

893.13(1)(d)2. 2nd Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of university.

893.13(1)(f)2. 2nd Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of public housing facility.

893.13(6)(a) 3rd Possession of any controlled substance other than felony possession of cannabis.

893.13(7)(a)8. 3rd Withhold information from

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			<p>practitioner regarding previous receipt of or prescription for a controlled substance.</p>
6013	893.13(7)(a)9.	3rd	<p>Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.</p>
6014	893.13(7)(a)10.	3rd	<p>Affix false or forged label to package of controlled substance.</p>
6015	893.13(7)(a)11.	3rd	<p>Furnish false or fraudulent material information on any document or record required by chapter 893.</p>
6016	893.13(8)(a)1.	3rd	<p>Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.</p>
6017	893.13(8)(a)2.	3rd	<p>Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.</p>

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893.13(8)(a)3. 3rd Knowingly write a prescription for a controlled substance for a fictitious person.

893.13(8)(a)4. 3rd Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.

918.13(1)(a) 3rd Alter, destroy, or conceal investigation evidence.

944.47 3rd Introduce contraband to
(1)(a)1.-2. correctional facility.

944.47(1)(c) 2nd Possess contraband while upon the grounds of a correctional institution.

985.3141 3rd Escapes from a juvenile facility (secure detention or residential commitment facility).

(j) LEVEL 10

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6026	<u>499.00545</u> 499.0054	1st	Sale or purchase of contraband legend drugs resulting in death.
6027	782.04(2)	1st,PBL	Unlawful killing of human; act is homicide, unpremeditated.
6028	787.01(1)(a)3.	1st,PBL	Kidnapping; inflict bodily harm upon or terrorize victim.
6029	787.01(3)(a)	Life	Kidnapping; child under age 13, perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
6030	782.07(3)	1st	Aggravated manslaughter of a child.
6031	794.011(3)	Life	Sexual battery; victim 12 years or older, offender uses or threatens to use deadly weapon or physical force to cause serious injury.
6032	876.32	1st	Treason against the state.
6033	Reviser's note.--Paragraph (3)(c) is as published in		
6034	s. 3, ch. 2003-59; s. 2, ch. 2003-95; s. 8, ch. 2003-		
6035	148; and s. 13, ch. 2003-411, Laws of Florida. The		

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6036 amendment by s. 36, ch. 2003-412, Laws of Florida,
 6037 inserted an unintended uncoded change of the felony
 6038 degree for violations of s. 893.13(1)(f)2. from "2nd"
 6039 to "3rd." The actual felony degree for violations of
 6040 s. 893.13(1)(f)2. specified in that subparagraph is
 6041 "2nd." Paragraph (3)(j) is amended to conform to the
 6042 redesignation of s. 499.0054 as s. 499.00545 by the
 6043 reviser incident to compiling the 2003 Florida
 6044 Statutes.

6045
 6046 Section 163. Paragraph (b) of subsection (1) of section
 6047 921.0024, Florida Statutes, is amended to read:

6048 921.0024 Criminal Punishment Code; worksheet computations;
 6049 scoresheets.--

6050 (1)

6051 (b) WORKSHEET KEY:

6052
 6053 Legal status points are assessed when any form of legal status
 6054 existed at the time the offender committed an offense before the
 6055 court for sentencing. Four (4) sentence points are assessed for
 6056 an offender's legal status.

6057
 6058 Community sanction violation points are assessed when a
 6059 community sanction violation is before the court for sentencing.

6060 Six (6) sentence points are assessed for each community
 6061 sanction violation, and each successive community sanction
 6062 violation; however, if the community sanction violation includes
 6063 a new felony conviction before the sentencing court, twelve (12)
 6064 community sanction violation points are assessed for such

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6065 violation, and for each successive community sanction violation
 6066 involving a new felony conviction. Multiple counts of community
 6067 sanction violations before the sentencing court shall not be a
 6068 basis for multiplying the assessment of community sanction
 6069 violation points.

6070
 6071 Prior serious felony points: If the offender has a primary
 6072 offense or any additional offense ranked in level 8, level 9, or
 6073 level 10, and one or more prior serious felonies, a single
 6074 assessment of 30 points shall be added. For purposes of this
 6075 section, a prior serious felony is an offense in the offender's
 6076 prior record that is ranked in level 8, level 9, or level 10
 6077 under s. 921.0022 or s. 921.0023 and for which the offender is
 6078 serving a sentence of confinement, supervision, or other
 6079 sanction or for which the offender's date of release from
 6080 confinement, supervision, or other sanction, whichever is later,
 6081 is within 3 years before the date the primary offense or any
 6082 additional offense was committed.

6083
 6084 Prior capital felony points: If the offender has one or more
 6085 prior capital felonies in the offender's criminal record, points
 6086 shall be added to the subtotal sentence points of the offender
 6087 equal to twice the number of points the offender receives for
 6088 the primary offense and any additional offense. A prior capital
 6089 felony in the offender's criminal record is a previous capital
 6090 felony offense for which the offender has entered a plea of nolo
 6091 contendere or guilty or has been found guilty; or a felony in
 6092 another jurisdiction which is a capital felony in that

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6093 jurisdiction, or would be a capital felony if the offense were
 6094 committed in this state.

6095
 6096 Possession of a firearm, semiautomatic firearm, or machine gun:
 6097 If the offender is convicted of committing or attempting to
 6098 commit any felony other than those enumerated in s. 775.087(2)
 6099 while having in his or her possession: a firearm as defined in
 6100 s. 790.001(6), an additional 18 sentence points are assessed; or
 6101 if the offender is convicted of committing or attempting to
 6102 commit any felony other than those enumerated in s. 775.087(3)
 6103 while having in his or her possession a semiautomatic firearm as
 6104 defined in s. 775.087(3) or a machine gun as defined in s.
 6105 790.001(9), an additional 25 sentence points are assessed.

6106
 6107 Sentencing multipliers:

6108
 6109 Drug trafficking: If the primary offense is drug trafficking
 6110 under s. 893.135, the subtotal sentence points are multiplied,
 6111 at the discretion of the court, for a level 7 or level 8
 6112 offense, by 1.5. The state attorney may move the sentencing
 6113 court to reduce or suspend the sentence of a person convicted of
 6114 a level 7 or level 8 offense, if the offender provides
 6115 substantial assistance as described in s. 893.135(4).

6116
 6117 Law enforcement protection: If the primary offense is a
 6118 violation of the Law Enforcement Protection Act under s.
 6119 775.0823(2), the subtotal sentence points are multiplied by 2.5.
 6120 If the primary offense is a violation of s. 775.0823(3), (4),
 6121 (5), (6), (7), or (8), the subtotal sentence points are

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6122 multiplied by 2.0. If the primary offense is a violation of s.
 6123 784.07(3) or s. 775.0875(1), or of the Law Enforcement
 6124 Protection Act under s. 775.0823(9) or (10), the subtotal
 6125 sentence points are multiplied by 1.5.

6126
 6127 Grand theft of a motor vehicle: If the primary offense is grand
 6128 theft of the third degree involving a motor vehicle and in the
 6129 offender's prior record, there are three or more grand thefts of
 6130 the third degree involving a motor vehicle, the subtotal
 6131 sentence points are multiplied by 1.5.

6132
 6133 Offense related to a criminal street gang: If the offender is
 6134 convicted of the primary offense and committed that offense for
 6135 the purpose of benefiting, promoting, or furthering the
 6136 interests of a criminal street gang as prohibited under s.
 6137 874.04, the subtotal sentence points are multiplied by 1.5.

6138
 6139 Domestic violence in the presence of a child: If the offender
 6140 is convicted of the primary offense and the primary offense is a
 6141 crime of domestic violence, as defined in s. 741.28, which was
 6142 committed in the presence of a child under 16 years of age who
 6143 is a family or household member as defined in s. 741.28(3)
 6144 ~~741.28(2)~~ with the victim or perpetrator, the subtotal sentence
 6145 points are multiplied by 1.5.

6146
 6147 Reviser's note.--Amended to conform to the
 6148 redesignation of s. 741.28(2) as s. 741.28(3) by s. 9,
 6149 ch. 2002-55, Laws of Florida, and to conform to the
 6150 term as defined there.

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6151
 6152 Section 164. Paragraph (b) of subsection (2) of section
 6153 943.171, Florida Statutes, is amended to read:

6154 943.171 Basic skills training in handling domestic
 6155 violence cases.--

6156 (2) As used in this section, the term:

6157 (b) "Household member" has the meaning set forth in s.
 6158 741.28(3) ~~741.28(4)~~.

6159
 6160 Reviser's note.--Amended to improve clarity and
 6161 facilitate correct interpretation. The term "household
 6162 member" is defined in s. 741.28(3).

6163
 6164 Section 165. Effective July 1, 2004, subsection (3) of
 6165 section 985.203, Florida Statutes, as amended by s. 139, ch.
 6166 2003-402, Laws of Florida, is amended to read:

6167 985.203 Right to counsel.--

6168 (3) An indigent child with nonindigent parents or legal
 6169 guardian may have counsel appointed pursuant to s. 27.52(3)(d)
 6170 ~~27.52(2)(d)~~ if the parents or legal guardian have willfully
 6171 refused to obey the court order to obtain counsel for the child
 6172 and have been punished by civil contempt and then still have
 6173 willfully refused to obey the court order. Costs of
 6174 representation are hereby imposed as provided by ss. 27.52(3)(d)
 6175 ~~27.52(2)(d)~~ and 938.29.

6176
 6177 Reviser's note.--Amended to conform to the
 6178 redesignation of s. 27.52(2)(d) as s. 27.52(3)(d) by
 6179 s. 16, ch. 2003-402, Laws of Florida.

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Section 166. Subsection (4) of section 1003.52, Florida Statutes, is amended to read:

1003.52 Educational services in Department of Juvenile Justice programs.--

(4) Educational services shall be provided at times of the day most appropriate for the juvenile justice program. School programming in juvenile justice detention, commitment, and rehabilitation programs shall be made available by the local school district during the juvenile justice school year, as defined in s. 1003.01(11) ~~1003.01(12)~~.

Reviser's note.--Amended to improve clarity and facilitate correct interpretation. Reference to the juvenile justice school year may be found in s. 1003.01(11).

Section 167. Subsection (4) of section 1007.27, Florida Statutes, is amended to read:

1007.27 Articulated acceleration mechanisms.--

(4) It is the intent of the Legislature to provide articulated acceleration mechanisms for students who are in home education programs, as defined in s. 1002.01 ~~1003.01(11)~~, consistent with the educational opportunities available to public and private secondary school students. Home education students may participate in dual enrollment, career and technical dual enrollment, early admission, and credit by examination. Credit earned by home education students through

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6208 dual enrollment shall apply toward the completion of a home
 6209 education program that meets the requirements of s. 1002.41.

6210
 6211 Reviser's note.--Amended to improve clarity and
 6212 facilitate correct interpretation. The term "home
 6213 education program" is defined in s. 1002.01.

6214
 6215 Section 168. Subsection (1) of section 1009.29, Florida
 6216 Statutes, is amended to read:

6217 1009.29 Increased fees for funding financial aid
 6218 program.--

6219 (1) Student tuition and registration fees at each state
 6220 university and community college shall include up to \$4.68 per
 6221 quarter, or \$7.02 per semester, per full-time student, or the
 6222 per-student credit hour equivalents of such amounts. The fees
 6223 provided for by this section shall be adjusted from time to
 6224 time, as necessary, to comply with the debt service coverage
 6225 requirements of the student loan revenue bonds issued pursuant
 6226 to s. 1009.79. If the Division of Bond Finance of the State
 6227 Board of Education and the Commissioner of Education determine
 6228 that such fees are no longer required as security for revenue
 6229 bonds issued pursuant to ss. 1009.78-1009.88, moneys previously
 6230 collected pursuant to this section which are held in escrow,
 6231 after administrative expenses have been met and up to \$150,000
 6232 has been used to establish a financial aid data processing
 6233 system for the state universities incorporating the necessary
 6234 features to meet the needs of all eleven ~~nine~~ universities for
 6235 application through disbursement processing, shall be
 6236 reallocated to the generating institutions to be used for

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6237 student financial aid programs, including, but not limited to,
 6238 scholarships and grants for educational purposes. Upon such
 6239 determination, such fees shall no longer be assessed and
 6240 collected.

6241
 6242 Reviser's note.--Amended to improve clarity and
 6243 facilitate correct interpretation. Section 1000.21(6)
 6244 lists 11 institutions as state universities.

6245
 6246 Section 169. Subsection (2) of section 1011.60, Florida
 6247 Statutes, is amended to read:

6248 1011.60 Minimum requirements of the Florida Education
 6249 Finance Program.--Each district which participates in the state
 6250 appropriations for the Florida Education Finance Program shall
 6251 provide evidence of its effort to maintain an adequate school
 6252 program throughout the district and shall meet at least the
 6253 following requirements:

6254 (2) MINIMUM TERM.--Operate all schools for a term of at
 6255 least 180 actual teaching days ~~as prescribed in s. 1003.01(14)~~
 6256 or the equivalent on an hourly basis as specified by rules of
 6257 the State Board of Education each school year. The State Board
 6258 of Education may prescribe procedures for altering, and, upon
 6259 written application, may alter, this requirement during a
 6260 national, state, or local emergency as it may apply to an
 6261 individual school or schools in any district or districts if, in
 6262 the opinion of the board, it is not feasible to make up lost
 6263 days, and the apportionment may, at the discretion of the
 6264 Commissioner of Education and if the board determines that the
 6265 reduction of school days is caused by the existence of a bona

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6266 | fide emergency, be reduced for such district or districts in
 6267 | proportion to the decrease in the length of term in any such
 6268 | school or schools. A strike, as defined in s. 447.203(6), by
 6269 | employees of the school district may not be considered an
 6270 | emergency.

6271 |
 6272 | Reviser's note.--Amended to improve clarity and
 6273 | facilitate correct interpretation. Section 1003.01(14)
 6274 | does not pertain to a term of 180 actual teaching
 6275 | days.

6276 |
 6277 | Section 170. Subsection (9) of section 1012.56, Florida
 6278 | Statutes, is amended to read:

6279 | 1012.56 Educator certification requirements.--

6280 | (9) NONCITIZENS.--

6281 | (a) The State Board of Education may adopt rules for
 6282 | issuing certificates to noncitizens who are needed to teach and
 6283 | who are legally admitted to the United States through the United
 6284 | States Bureau of Citizenship and Immigration Services
 6285 | ~~Immigration and Naturalization Service~~. The filing of a written
 6286 | oath to uphold the principles of the Constitution of the United
 6287 | States and the Constitution of the State of Florida, required
 6288 | under paragraph (2)(b), does not apply to individuals assigned
 6289 | to teach on an exchange basis.

6290 | (b) A certificate may not be issued to a citizen of a
 6291 | nation controlled by forces that are antagonistic to democratic
 6292 | forms of government, except to an individual who has been
 6293 | legally admitted to the United States through the United States

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6294 Bureau of Citizenship and Immigration Services ~~Immigration and~~
 6295 ~~Naturalization Service.~~

6296
 6297 Reviser's note.--Amended to conform to the
 6298 redesignation of the Immigration and Naturalization
 6299 Service pursuant to its transfer to the Department of
 6300 Homeland Security by s. 451, Pub. L. No. 107-296.

6301
 6302 Section 171. Subsection (1) of section 1013.74, Florida
 6303 Statutes, is amended to read:

6304 1013.74 University authorization for fixed capital outlay
 6305 projects.--

6306 (1) Notwithstanding the provisions of chapter 216,
 6307 including s. 216.351, a university may accomplish fixed capital
 6308 outlay projects consistent with the provisions of this section.
 6309 Projects authorized by this section shall not require
 6310 educational plant survey approval as prescribed in this chapter
 6311 ~~235~~.

6312
 6313 Reviser's note.--Amended to improve clarity and
 6314 facilitate correct interpretation. Chapter 235 was
 6315 repealed by s. 1058, ch. 2002-387, Laws of Florida.
 6316 Chapter 1013 covers educational facilities.

6317
 6318 Section 172. Subsection (3) of section 1013.79, Florida
 6319 Statutes, is amended to read:

6320 1013.79 University Facility Enhancement Challenge Grant
 6321 Program.--

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6322 (3) There is established the Alec P. Courtelis Capital
 6323 Facilities Matching Trust Fund for the purpose of providing
 6324 matching funds from private contributions for the development of
 6325 high priority instructional and research-related capital
 6326 facilities, including common areas connecting such facilities,
 6327 within a university. The Legislature shall appropriate funds to
 6328 be transferred to the trust fund. The Public Education Capital
 6329 Outlay and Debt Service Trust Fund, Capital Improvement Trust
 6330 Fund, Division of Sponsored Research Trust Fund, and Contracts
 6331 and Grants Trust Fund shall not be used as the source of the
 6332 state match for private contributions. All appropriated funds
 6333 deposited into the trust fund shall be invested pursuant to the
 6334 provisions of s. 17.61 ~~17.161~~. Interest income accruing to that
 6335 portion of the trust fund shall increase the total funds
 6336 available for the challenge grant program. Interest income
 6337 accruing from the private donations shall be returned to the
 6338 participating foundation upon completion of the project. The
 6339 State Board of Education shall administer the trust fund and all
 6340 related construction activities.

6341
 6342 Reviser's note.--Amended to improve clarity and
 6343 facilitate correct interpretation. Section 17.161 does
 6344 not exist. Section 17.61 relates to investment of
 6345 funds.

6346
 6347 Section 173. Except as otherwise provided herein, this act
 6348 shall take effect on the 60th day after adjournment sine die of
 6349 the session of the Legislature in which enacted.