

By Senator Lee

rb01sa-04

1 A reviser's bill to be entitled
2 An act relating to the Florida Statutes;
3 amending ss. 11.40, 28.2401, 101.049, 110.205,
4 112.061, 117.05, 121.021, 121.051, 163.01,
5 163.3167, 163.524, 192.0105, 206.02, 206.9825,
6 220.187, 265.285, 287.057, 288.1045, 288.31,
7 315.031, 316.1937, 320.02, 322.051, 322.08,
8 322.09, 322.18, 332.004, 341.301, 369.255,
9 370.01, 372.001, 373.0421, 373.45922,
10 381.06014, 391.029, 393.0657, 394.741,
11 394.9082, 394.917, 400.0075, 402.3057,
12 403.7192, 404.20, 409.017, 409.1671, 409.1757,
13 409.904, 409.9065, 409.908, 409.91196, 409.912,
14 409.9122, 414.095, 440.02, 440.102, 440.14,
15 440.15, 440.25, 440.33, 440.385, 440.45,
16 440.491, 440.515, 440.60, 443.1215, 455.2125,
17 456.028, 456.048, 456.051, 458.320, 458.347,
18 459.0085, 475.01, 475.278, 475.611, 475.6221,
19 487.046, 493.6106, 499.01, 499.0121, 499.0122,
20 499.015, 499.03, 499.05, 504.011, 504.014,
21 517.021, 538.18, 552.40, 565.02, 601.48,
22 607.1331, 607.1407, 624.123, 624.307, 624.430,
23 624.461, 624.462, 624.509, 626.175, 626.371,
24 626.731, 626.7315, 626.7351, 626.7355,
25 626.7845, 626.785, 626.8305, 626.831, 626.8414,
26 626.865, 626.866, 626.867, 626.874, 626.9916,
27 627.351, 627.733, 627.736, 627.832, 628.6012,
28 628.6013, 631.57, 631.60, 636.0145, 636.029,
29 636.052, 641.21, 641.225, 641.31, 641.386,
30 648.34, 648.355, 648.45, 651.013, 657.001,
31 657.002, 657.021, 657.026, 657.031, 657.039,

1 657.066, 657.068, 679.338, 679.520, 732.2025,
2 741.04, 766.102, 766.203, 766.206, 766.209,
3 787.03, 790.061, 817.566, 817.567, 895.02,
4 921.0024, 943.171, 985.203, 1003.52, 1007.27,
5 1009.29, 1011.60, 1012.56, 1013.74, and
6 1013.79, F.S.; amending and reenacting s.
7 921.0022, F.S.; reenacting ss. 112.191,
8 220.191, 259.032, 296.10, and 499.007, F.S.;
9 and repealing s. 414.70, F.S.; pursuant to s.
10 11.242, F.S.; deleting provisions that have
11 expired, have become obsolete, have had their
12 effect, have served their purpose, or have been
13 impliedly repealed or superseded; replacing
14 incorrect cross-references and citations;
15 correcting grammatical, typographical, and like
16 errors; removing inconsistencies, redundancies,
17 and unnecessary repetition in the statutes;
18 improving the clarity of the statutes and
19 facilitating their correct interpretation; and
20 confirming the restoration of provisions
21 unintentionally omitted from republication in
22 the acts of the Legislature during the
23 amendatory process.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Paragraph (c) of subsection (5) of section
28 11.40, Florida Statutes, is amended to read:

29 11.40 Legislative Auditing Committee.--

30 (5) Following notification by the Auditor General, the
31 Department of Financial Services, or the Division of Bond

1 Finance of the State Board of Administration of the failure of
2 a local governmental entity, district school board, charter
3 school, or charter technical career center to comply with the
4 applicable provisions within s. 11.45(5)-(7), s. 218.32(1), or
5 s. 218.38, the Legislative Auditing Committee may schedule a
6 hearing. If a hearing is scheduled, the committee shall
7 determine if the entity should be subject to further state
8 action. If the committee determines that the entity should be
9 subject to further state action, the committee shall:

10 (c) In the case of a charter school or charter
11 technical career center, notify the appropriate sponsoring
12 entity, which may terminate the charter pursuant to ss.
13 1002.33 and 1002.34 ~~228.056 and 228.505~~.

14
15 Reviser's note.--Amended to reincorporate the
16 changes made to conform this section to the
17 revised Florida K-20 Education Code by s. 879,
18 ch. 2002-387, Laws of Florida. The amendment to
19 this section by s. 5, ch. 2003-261, Laws of
20 Florida, had failed to incorporate those
21 changes.

22
23 Section 2. Effective July 1, 2004, paragraph (a) of
24 subsection (1) and subsection (4) of section 28.2401, Florida
25 Statutes, as amended by section 29 of chapter 2003-402, Laws
26 of Florida, are amended to read:

27 28.2401 Service charges in probate matters.--

28 (1) Except when otherwise provided, the clerk may
29 impose service charges for the following services, not to
30 exceed the following amounts:

1 (a) For the opening of any estate of one document or
2 more, including, but not limited to, petitions and orders to
3 approve settlement of minor's claims; to open a safe-deposit
4 box; to enter rooms and places; for the determination of
5 heirs, if not formal administration; and for a foreign
6 guardian to manage property of a nonresident; but not to
7 include issuance of letters or order of summary administration
8\$100

9 (4) Recording shall be required for all petitions
10 opening and closing an estate; petitions regarding real
11 estate; and orders, letters, bonds, oaths, wills, proofs of
12 wills, returns, and such other papers as the judge shall deem
13 advisable to record or that shall be required to be recorded
14 under the Florida Probate Code ~~Law~~.

15
16 Reviser's note.--Paragraph (1)(a) is amended to
17 improve clarity and facilitate correct
18 interpretation. Subsection (4) is amended to
19 conform to the repeal of the provisions
20 encompassing the Florida Probate Law by s. 3,
21 ch. 74-106, Laws of Florida, and creation of
22 the Florida Probate Code by ch. 74-106.

23
24 Section 3. Subsection (1) of section 101.049, Florida
25 Statutes, is amended to read:

26 101.049 Provisional ballots; special circumstances.--

27 (1) Any person who votes in an election after the
28 regular poll-closing time pursuant to a court or other order
29 extending the statutory polling hours must vote a provisional
30 ballot. Once voted, the provisional ballot shall be placed in
31 a secrecy envelope and thereafter sealed in a provisional

1 ballot envelope. The election official witnessing the voter's
2 subscription and affirmation on the Provisional Ballot Voter's
3 Certificate shall indicate whether or not the voter met all
4 requirements to vote a regular ballot at the polls. All such
5 provisional ballots shall remain sealed in their envelopes and
6 be transmitted to the supervisor of elections.

7

8 Reviser's note.--Amended to improve clarity and
9 facilitate correct interpretation.

10

11 Section 4. Paragraph (m) of subsection (2) of section
12 110.205, Florida Statutes, is amended to read:

13 110.205 Career service; exemptions.--

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

16 (m) All assistant division director, deputy division
17 director, and bureau chief positions in any department, and
18 those positions determined by the department to have
19 managerial responsibilities comparable to such positions,
20 which positions include, but are not limited to:

21 1. Positions in the Department of Health and the
22 Department of Children and Family Services that are assigned
23 primary duties of serving as the superintendent or assistant
24 superintendent of an institution.

25 2. Positions in the Department of Corrections that are
26 assigned primary duties of serving as the warden, assistant
27 warden, colonel, or major of an institution or that are
28 assigned primary duties of serving as the circuit
29 administrator or deputy circuit administrator.

30 3. Positions in the Department of Transportation that
31 are assigned primary duties of serving as regional toll

1 managers and managers of offices as defined in s. 20.23(3)(c)
2 and (4)(c)~~20.23(3)(c) and (4)(d)~~, and captains and majors of
3 the Office of Motor Carrier Compliance.

4 4. Positions in the Department of Environmental
5 Protection that are assigned the duty of an Environmental
6 Administrator or program administrator.

7 5. Positions in the Department of Health that are
8 assigned the duties of Environmental Administrator, Assistant
9 County Health Department Director, and County Health
10 Department Financial Administrator.

11
12 Unless otherwise fixed by law, the department shall set the
13 salary and benefits of the positions listed in this paragraph
14 in accordance with the rules established for the Selected
15 Exempt Service.

16
17 Reviser's note.--Amended to conform to the
18 redesignation of subunits within s. 20.23 by s.
19 5, ch. 2003-286, Laws of Florida.

20
21 Section 5. Paragraph (b) of subsection (14) of section
22 112.061, Florida Statutes, is amended to read:

23 112.061 Per diem and travel expenses of public
24 officers, employees, and authorized persons.--

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

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

31

1 Reviser's note.--Amended to conform to the
2 context of the reference and the fact that
3 there is no subsection (15).
4

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

7 112.191 Firefighters; death benefits.--
8 (2)

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

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

28 b. It is unlawful for a person to willfully and
29 knowingly make, or cause to be made, or to assist, conspire
30 with, or urge another to make, or cause to be made, any false,
31 fraudulent, or misleading oral or written statement to obtain

1 health insurance coverage as provided under this paragraph. A
2 person who violates this sub-subparagraph commits a
3 misdemeanor of the first degree, punishable as provided in s.
4 775.082 or s. 775.083.

5 c. In addition to any applicable criminal penalty,
6 upon conviction for a violation as described in
7 sub-subparagraph b., a firefighter or other beneficiary who
8 receives or seeks to receive health insurance benefits under
9 this paragraph shall forfeit the right to receive such health
10 insurance benefits, and shall reimburse the employer for all
11 benefits paid due to the fraud or other prohibited activity.
12 For purposes of this sub-subparagraph, "conviction" means a
13 determination of guilt that is the result of a plea or trial,
14 regardless of whether adjudication is withheld.

15 2. In order for the firefighter, spouse, and dependent
16 children to be eligible for such insurance coverage, the
17 injury must have occurred as the result of the firefighter's
18 response to what is reasonably believed to be an emergency
19 involving the protection of life or property, or an unlawful
20 act perpetrated by another. Except as otherwise provided
21 herein, nothing in this paragraph shall be construed to limit
22 health insurance coverage for which the firefighter, spouse,
23 or dependent children may otherwise be eligible, except that a
24 person who qualifies for benefits under this section shall not
25 be eligible for the health insurance subsidy provided under
26 chapter 121, chapter 175, or chapter 185.

27
28 Notwithstanding any provision of this section to the contrary,
29 the death benefits provided in paragraphs (b), (c), and (f)
30 shall also be applicable and paid in cases where a firefighter
31 received bodily injury prior to July 1, 1993, and subsequently

1 died on or after July 1, 1993, as a result of such
2 in-line-of-duty injury.

3
4 Reviser's note.--Section 47, ch. 2003-412, Laws
5 of Florida, amended paragraph (2)(g) without
6 publishing the flush left language at the end
7 of the paragraph. Absent affirmative evidence
8 of legislative intent to repeal it, paragraph
9 (2)(g) is reenacted here to confirm that the
10 omission was not intended.

11
12 Section 7. Paragraph (b) of subsection (5) of section
13 117.05, Florida Statutes, is amended to read:

14 117.05 Use of notary commission; unlawful use; notary
15 fee; seal; duties; employer liability; name change;
16 advertising; photocopies; penalties.--

17 (5) A notary public may not notarize a signature on a
18 document unless he or she personally knows, or has
19 satisfactory evidence, that the person whose signature is to
20 be notarized is the individual who is described in and who is
21 executing the instrument. A notary public shall certify in the
22 certificate of acknowledgment or jurat the type of
23 identification, either based on personal knowledge or other
24 form of identification, upon which the notary public is
25 relying.

26 (b) For the purposes of this subsection, "satisfactory
27 evidence" means the absence of any information, evidence, or
28 other circumstances which would lead a reasonable person to
29 believe that the person whose signature is to be notarized is
30 not the person he or she claims to be and any one of the
31 following:

1 1. The sworn written statement of one credible witness
2 personally known to the notary public or the sworn written
3 statement of two credible witnesses whose identities are
4 proven to the notary public upon the presentation of
5 satisfactory evidence that each of the following is true:
6 a. That the person whose signature is to be notarized
7 is the person named in the document;
8 b. That the person whose signature is to be notarized
9 is personally known to the witnesses;
10 c. That it is the reasonable belief of the witnesses
11 that the circumstances of the person whose signature is to be
12 notarized are such that it would be very difficult or
13 impossible for that person to obtain another acceptable form
14 of identification;
15 d. That it is the reasonable belief of the witnesses
16 that the person whose signature is to be notarized does not
17 possess any of the identification documents specified in
18 subparagraph 2.; and
19 e. That the witnesses do not have a financial interest
20 in nor are parties to the underlying transaction; or
21 2. Reasonable reliance on the presentation to the
22 notary public of any one of the following forms of
23 identification, if the document is current or has been issued
24 within the past 5 years and bears a serial or other
25 identifying number:
26 a. A Florida identification card or driver's license
27 issued by the public agency authorized to issue driver's
28 licenses;
29 b. A passport issued by the Department of State of the
30 United States;
31

1 c. A passport issued by a foreign government if the
2 document is stamped by the United States Bureau of Citizenship
3 and Immigration Services ~~Immigration and Naturalization~~
4 ~~Service~~;

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

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

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

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

17 h. A sworn, written statement from a sworn law
18 enforcement officer that the forms of identification for an
19 inmate in an institution of confinement were confiscated upon
20 confinement and that the person named in the document is the
21 person whose signature is to be notarized; or

22 i. An identification card issued by the United States
23 Bureau of Citizenship and Immigration Services ~~Immigration and~~
24 ~~Naturalization Service~~.

25

26 Reviser's note.--Amended to conform to the
27 redesignation of the Immigration and
28 Naturalization Service pursuant to its transfer
29 to the Department of Homeland Security by s.
30 451, Pub. L. No. 107-296.

31

1 Section 8. Paragraph (a) of subsection (22) and
2 subsection (38) of section 121.021, Florida Statutes, are
3 amended to read:

4 121.021 Definitions.--The following words and phrases
5 as used in this chapter have the respective meanings set forth
6 unless a different meaning is plainly required by the context:

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

10 (a) Compensation shall include:

11 1. Overtime payments paid from a salary fund.

12 2. Accumulated annual leave payments.

13 3. Payments in addition to the employee's base rate of
14 pay if all the following apply:

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

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

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

21 d. The payments are paid at least annually.

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

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

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

6 (38) "Continuous service" means creditable service as
7 a member, beginning with the first day of employment with an
8 employer covered under a state-administered retirement system
9 consolidated herein and continuing for as long as the member
10 remains in an employer-employee relationship with an employer
11 covered under this chapter. An absence of 1 calendar month or
12 more from an employer's payroll shall be considered a break in
13 continuous service, except for periods of absence during which
14 an employer-employee relationship continues to exist and such
15 period of absence is creditable under this chapter or under
16 one of the existing systems consolidated herein. However, a
17 law enforcement officer as defined in s. 121.0515(2)(a) who
18 was a member of a state-administered retirement system under
19 chapter 122 or chapter 321 and who resigned and was
20 subsequently reemployed in a law enforcement position within
21 12 calendar months of such resignation by an employer under
22 such state-administered retirement system shall be deemed to
23 have not experienced a break in service. Further, with respect
24 to a state-employed law enforcement officer who meets the
25 criteria specified in s. 121.0515(2)(a), if the absence from
26 the employer's payroll is the result of a "layoff" as defined
27 in s. 110.107 ~~110.203(24)~~ or a resignation to run for an
28 elected office that meets the criteria specified in s.
29 121.0515(2)(a), no break in continuous service shall be deemed
30 to have occurred if the member is reemployed as a state law
31 enforcement officer or is elected to an office which meets the

1 criteria specified in s. 121.0515(2)(a) within 12 calendar
2 months after the date of the layoff or resignation,
3 notwithstanding the fact that such period of layoff or
4 resignation is not creditable service under this chapter. A
5 withdrawal of contributions will constitute a break in
6 service. Continuous service also includes past service
7 purchased under this chapter, provided such service is
8 continuous within this definition and the rules established by
9 the administrator. The administrator may establish
10 administrative rules and procedures for applying this
11 definition to creditable service authorized under this
12 chapter. Any correctional officer, as defined in s. 943.10,
13 whose participation in the state-administered retirement
14 system is terminated due to the transfer of a county detention
15 facility through a contractual agreement with a private entity
16 pursuant to s. 951.062, shall be deemed an employee with
17 continuous service in the Special Risk Class, provided return
18 to employment with the former employer takes place within 3
19 years due to contract termination or the officer is employed
20 by a covered employer in a special risk position within 1 year
21 after his or her initial termination of employment by such
22 transfer of its detention facilities to the private entity.

23
24 Reviser's note.--Paragraph (22)(a) is amended
25 to conform to the replacement of ss. 231.700
26 and 236.08106 by ss. 1012.73 and 1012.72,
27 respectively, in the revised Florida K-20
28 Education Code and the subsequent repeal of s.
29 1012.73 by s. 23, ch. 2003-391, Laws of
30 Florida. Subsection (38) is amended to conform
31 to the repeal of s. 110.203(24) by s. 19, ch.

1 2003-138, Laws of Florida, and the enactment of
2 s. 110.107, which also defines the term
3 "layoff," by s. 3, ch. 2003-138.
4

5 Section 9. Paragraph (c) of subsection (2) of section
6 121.051, Florida Statutes, is amended to read:

7 121.051 Participation in the system.--

8 (2) OPTIONAL PARTICIPATION.--

9 (c) Employees of public community colleges or charter
10 technical career centers sponsored by public community
11 colleges, as designated in s. 1000.21(3), who are members of
12 the Regular Class of the Florida Retirement System and who
13 comply with the criteria set forth in this paragraph and in s.
14 1012.875 may elect, in lieu of participating in the Florida
15 Retirement System, to withdraw from the Florida Retirement
16 System altogether and participate in an optional retirement
17 program provided by the employing agency under s. 1012.875, to
18 be known as the State Community College System Optional
19 Retirement Program. Pursuant thereto:

20 1. Through June 30, 2001, the cost to the employer for
21 such annuity shall equal the normal cost portion of the
22 employer retirement contribution which would be required if
23 the employee were a member of the Regular Class defined
24 benefit program, plus the portion of the contribution rate
25 required by s. 112.363(8) that would otherwise be assigned to
26 the Retiree Health Insurance Subsidy Trust Fund. Effective
27 July 1, 2001, each employer shall contribute on behalf of each
28 participant in the optional program an amount equal to 10.43
29 percent of the participant's gross monthly compensation. The
30 employer shall deduct an amount to provide for the
31 administration of the optional retirement program. The

1 employer providing the optional program shall contribute an
2 additional amount to the Florida Retirement System Trust Fund
3 equal to the unfunded actuarial accrued liability portion of
4 the Regular Class contribution rate.

5 2. The decision to participate in such an optional
6 retirement program shall be irrevocable for as long as the
7 employee holds a position eligible for participation, except
8 as provided in subparagraph 3. Any service creditable under
9 the Florida Retirement System shall be retained after the
10 member withdraws from the Florida Retirement System; however,
11 additional service credit in the Florida Retirement System
12 shall not be earned while a member of the optional retirement
13 program.

14 3. An employee who has elected to participate in the
15 optional retirement program shall have one opportunity, at the
16 employee's discretion, to choose to transfer from the optional
17 retirement program to the defined benefit program of the
18 Florida Retirement System or to the Public Employee Optional
19 Retirement Program, subject to the terms of the applicable
20 optional retirement program contracts.

21 a. If the employee chooses to move to the Public
22 Employee Optional Retirement Program, any contributions,
23 interest, and earnings creditable to the employee under the
24 State Community College System Optional Retirement Program
25 shall be retained by the employee in the State Community
26 College System Optional Retirement Program, and the applicable
27 provisions of s. 121.4501(4) shall govern the election.

28 b. If the employee chooses to move to the defined
29 benefit program of the Florida Retirement System, the employee
30 shall receive service credit equal to his or her years of
31

1 service under the State Community College Optional Retirement
2 Program.

3 (I) The cost for such credit shall be an amount
4 representing the present value of that employee's accumulated
5 benefit obligation for the affected period of service. The
6 cost shall be calculated as if the benefit commencement occurs
7 on the first date the employee would become eligible for
8 unreduced benefits, using the discount rate and other relevant
9 actuarial assumptions that were used to value the Florida
10 Retirement System defined benefit plan liabilities in the most
11 recent actuarial valuation. The calculation shall include any
12 service already maintained under the defined benefit plan in
13 addition to the years under the State Community College
14 Optional Retirement Program. The present value of any service
15 already maintained under the defined benefit plan shall be
16 applied as a credit to total cost resulting from the
17 calculation. The division shall ensure that the transfer sum
18 is prepared using a formula and methodology certified by an
19 enrolled actuary.

20 (II) The employee must transfer from his or her State
21 Community College System Optional Retirement Program account
22 and from other employee moneys as necessary, a sum
23 representing the present value of that employee's accumulated
24 benefit obligation immediately following the time of such
25 movement, determined assuming that attained service equals the
26 sum of service in the defined benefit program and service in
27 the State Community College System Optional Retirement
28 Program.

29 4. Participation in the optional retirement program
30 shall be limited to those employees who satisfy the following
31 eligibility criteria:

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

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

7 (I) Instructional; or

8 (II) Executive Management, Instructional Management,
9 or Institutional Management, if a community college determines
10 that recruiting to fill a vacancy in the position is to be
11 conducted in the national or regional market, and:

12 (A) The duties and responsibilities of the position
13 include either the formulation, interpretation, or
14 implementation of policies; or

15 (B) The duties and responsibilities of the position
16 include the performance of functions that are unique or
17 specialized within higher education and that frequently
18 involve the support of the mission of the community college.

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

22 5. Participants in the program are subject to the same
23 reemployment limitations, renewed membership provisions, and
24 forfeiture provisions as are applicable to regular members of
25 the Florida Retirement System under ss. 121.091(9), 121.122,
26 and 121.091(5), respectively.

27 6. Eligible community college employees shall be
28 compulsory members of the Florida Retirement System until,
29 pursuant to the procedures set forth in s. 1012.875, a written
30 election to withdraw from the Florida Retirement System and to
31 participate in the State Community College Optional Retirement

1 Program is filed with the program administrator and received
2 by the division.

3 a. Any community college employee whose program
4 eligibility results from initial employment shall be enrolled
5 in the State Community College Optional Retirement Program
6 retroactive to the first day of eligible employment. The
7 employer retirement contributions paid through the month of
8 the employee plan change shall be transferred to the community
9 college for the employee's optional program account, and,
10 effective the first day of the next month, the employer shall
11 pay the applicable contributions based upon subparagraph 1.

12 b. Any community college employee whose program
13 eligibility results from a change in status due to the
14 subsequent designation of the employee's position as one of
15 those specified in subparagraph 4. or due to the employee's
16 appointment, promotion, transfer, or reclassification to a
17 position specified in subparagraph 4. shall be enrolled in the
18 program upon the first day of the first full calendar month
19 that such change in status becomes effective. The employer
20 retirement contributions paid from the effective date through
21 the month of the employee plan change shall be transferred to
22 the community college for the employee's optional program
23 account, and, effective the first day of the next month, the
24 employer shall pay the applicable contributions based upon
25 subparagraph 1.

26 7. Effective July 1, 2003, any participant of the
27 State Community College Optional Retirement Program who has
28 service credit in the defined benefit plan of the Florida
29 Retirement System for the period between his or her first
30 eligibility to transfer from the defined benefit plan to the
31 optional retirement program and the actual date of transfer

1 may, during his or her ~~their~~ employment, elect to transfer to
2 the optional retirement program a sum representing the present
3 value of the accumulated benefit obligation under the defined
4 benefit retirement program for such period of service credit.
5 Upon such transfer, all such service credit previously earned
6 under the defined benefit program of the Florida Retirement
7 System during this period shall be nullified for purposes of
8 entitlement to a future benefit under the defined benefit
9 program of the Florida Retirement System.

10
11 Reviser's note.--Amended to improve clarity and
12 correct sentence construction.

13
14 Section 10. Paragraph (h) of subsection (3) of section
15 163.01, Florida Statutes, is amended to read:

16 163.01 Florida Interlocal Cooperation Act of 1969.--

17 (3) As used in this section:

18 (h) "Local government liability pool" means a
19 reciprocal insurer as defined in s. 629.021 or any
20 self-insurance program created pursuant to s. 768.28(16)
21 ~~768.28(15)~~, formed and controlled by counties or
22 municipalities of this state to provide liability insurance
23 coverage for counties, municipalities, or other public
24 agencies of this state, which pool may contract with other
25 parties for the purpose of providing claims administration,
26 processing, accounting, and other administrative facilities.

27
28 Reviser's note.--Amended to conform to the
29 redesignation of s. 768.28(15) as s. 768.28(16)
30 by s. 67, ch. 2003-416, Laws of Florida.

1 Section 11. Subsection (10) of section 163.3167,
2 Florida Statutes, is amended to read:

3 163.3167 Scope of act.--

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

6
7 Reviser's note.--Amended to conform to the
8 repeal of ss. 341.321-341.386, the Florida
9 High-Speed Rail Transportation Act, by s. 55,
10 ch. 2002-20, Laws of Florida, and the creation
11 of ss. 341.8201-341.842, the Florida High-Speed
12 Rail Authority Act, by ch. 2002-20.

13
14 Section 12. Subsection (3) of section 163.524, Florida
15 Statutes, is amended to read:

16 163.524 Neighborhood Preservation and Enhancement
17 Program; participation; creation of Neighborhood Preservation
18 and Enhancement Districts; creation of Neighborhood Councils
19 and Neighborhood Enhancement Plans.--

20 (3) After the boundaries and size of the Neighborhood
21 Preservation and Enhancement District have been defined, the
22 local government shall pass an ordinance authorizing the
23 creation of the Neighborhood Preservation and Enhancement
24 District. The ordinance shall contain a finding that the
25 boundaries of the Neighborhood Preservation and Enhancement
26 District meet the provisions of s. 163.340(7) or (8)(a)-(n)
27 ~~163.340(7) or (8)(a)~~ or do not contain properties that are
28 protected by deed restrictions. Such ordinance may be amended
29 or repealed in the same manner as other local ordinances.

1 Reviser's note.--Amended to conform to the
2 redesignation of subunits of s. 163.340 by s.
3 2, ch. 2002-294, Laws of Florida.
4

5 Section 13. Paragraph (a) of subsection (1) of section
6 192.0105, Florida Statutes, is amended to read:

7 192.0105 Taxpayer rights.--There is created a Florida
8 Taxpayer's Bill of Rights for property taxes and assessments
9 to guarantee that the rights, privacy, and property of the
10 taxpayers of this state are adequately safeguarded and
11 protected during tax levy, assessment, collection, and
12 enforcement processes administered under the revenue laws of
13 this state. The Taxpayer's Bill of Rights compiles, in one
14 document, brief but comprehensive statements that summarize
15 the rights and obligations of the property appraisers, tax
16 collectors, clerks of the court, local governing boards, the
17 Department of Revenue, and taxpayers. Additional rights
18 afforded to payors of taxes and assessments imposed under the
19 revenue laws of this state are provided in s. 213.015. The
20 rights afforded taxpayers to assure that their privacy and
21 property are safeguarded and protected during tax levy,
22 assessment, and collection are available only insofar as they
23 are implemented in other parts of the Florida Statutes or
24 rules of the Department of Revenue. The rights so guaranteed
25 to state taxpayers in the Florida Statutes and the
26 departmental rules include:

27 (1) THE RIGHT TO KNOW.--

28 (a) The right to be mailed notice of proposed property
29 taxes and proposed or adopted non-ad valorem assessments (see
30 ss. 194.011(1), 200.065(2)(b) and (d) and (13)(a), and
31 200.069). The notice must also inform the taxpayer that the

1 final tax bill may contain additional non-ad valorem
2 assessments (see s. 200.069(10)~~200.069(11)~~).

3
4 Reviser's note.--Amended to conform to the
5 redesignation of subsections of s. 200.069 by
6 s. 7, ch. 2002-18, Laws of Florida.

7
8 Section 14. Paragraph (c) of subsection (2) of section
9 206.02, Florida Statutes, is amended to read:

10 206.02 Application for license; temporary license;
11 terminal suppliers, importers, exporters, blenders, biodiesel
12 manufacturers, and wholesalers.--

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

16 (c) The name and complete residence address of the
17 owner or the names and addresses of the partners, if such
18 person is a partnership, or of the principal officers, if such
19 person is a corporation or association; and, if such person is
20 a corporation organized under the laws of another state,
21 territory, or country, he or she shall also indicate the
22 state, territory, or country ~~county~~ where the corporation is
23 organized and the date the corporation was registered with the
24 Department of State as a foreign corporation authorized to
25 transact business in the state.

26
27 The application shall require a \$30 license tax. Each license
28 shall be renewed annually through application, including an
29 annual \$30 license tax.

30
31

1 Reviser's note.--Amended to provide consistent
2 terminology within the paragraph.

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

7 206.9825 Aviation fuel tax.--

8 (1)

9 (b) Any licensed wholesaler or terminal supplier that
10 delivers aviation fuel to an air carrier offering
11 transcontinental jet service and that, after January 1, 1996,
12 increases the air carrier's Florida workforce by more than
13 1000 percent and by 250 or more full-time equivalent employee
14 positions, may receive a credit or refund as the ultimate
15 vendor of the aviation fuel for the 6.9 cents excise tax
16 previously paid, provided that the air carrier has no facility
17 for fueling highway vehicles from the tank in which the
18 aviation fuel is stored. In calculating the new or additional
19 Florida full-time equivalent employee positions, any full-time
20 equivalent employee positions of parent or subsidiary
21 corporations which existed before January 1, 1996, shall not
22 be counted toward reaching the Florida employment increase
23 thresholds. The refund allowed under this paragraph is in
24 furtherance of the goals and policies of the State
25 Comprehensive Plan set forth in s. 187.201(16)(a), (b)1., 2.,
26 (17)(a), (b)1., 4., (19)(a), (b)5., (21)(a), (b)1., 2., 4.,
27 7., 9., and 12.~~187.201(17)(a), (b)1., 2., (18)(a), (b)1., 4.,~~
28 ~~(20)(a), (b)5., (22)(a), (b)1., 2., 4., 7., 9., and 12.~~

29 (3) An excise tax of 6.9 cents per gallon is imposed
30 on each gallon of aviation gasoline in the manner prescribed
31

1 by paragraph(2)(a)~~(3)(a)~~. However, the exemptions allowed by
2 paragraph(2)(b)~~(3)(b)~~do not apply to aviation gasoline.

3
4 Reviser's note.--Paragraph (1)(b) is amended to
5 conform to the repeal of former s. 187.201(1)
6 by s. 1056, ch. 2002-387, Laws of Florida.
7 Subsection (3) is amended to conform to the
8 repeal of former subsection (2) by s. 3, ch.
9 2003-2, Laws of Florida.

10
11 Section 16. Paragraph (c) of subsection (2) of section
12 220.187, Florida Statutes, is amended to read:

13 220.187 Credits for contributions to nonprofit
14 scholarship-funding organizations.--

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

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

20
21 Reviser's note.--Amended to conform to the
22 redesignation of subunits of s. 220.187 by s.
23 9, ch. 2003-391, Laws of Florida.

24
25 Section 17. Section 220.191, Florida Statutes, is
26 reenacted to read:

27 220.191 Capital investment tax credit.--

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

29 (a) "Commencement of operations" means the beginning
30 of active operations by a qualifying business of the principal
31 function for which a qualifying project was constructed.

1 (b) "Cumulative capital investment" means the total
2 capital investment in land, buildings, and equipment made in
3 connection with a qualifying project during the period from
4 the beginning of construction of the project to the
5 commencement of operations.

6 (c) "Eligible capital costs" means all expenses
7 incurred by a qualifying business in connection with the
8 acquisition, construction, installation, and equipping of a
9 qualifying project during the period from the beginning of
10 construction of the project to the commencement of operations,
11 including, but not limited to:

12 1. The costs of acquiring, constructing, installing,
13 equipping, and financing a qualifying project, including all
14 obligations incurred for labor and obligations to contractors,
15 subcontractors, builders, and materialmen.

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

18 3. The costs of architectural and engineering
19 services, including test borings, surveys, estimates, plans
20 and specifications, preliminary investigations, environmental
21 mitigation, and supervision of construction, as well as the
22 performance of all duties required by or consequent to the
23 acquisition, construction, installation, and equipping of a
24 qualifying project.

25 4. The costs associated with the installation of
26 fixtures and equipment; surveys, including archaeological and
27 environmental surveys; site tests and inspections; subsurface
28 site work and excavation; removal of structures, roadways, and
29 other surface obstructions; filling, grading, paving, and
30 provisions for drainage, storm water retention, and
31 installation of utilities, including water, sewer, sewage

1 treatment, gas, electricity, communications, and similar
2 facilities; and offsite construction of utility extensions to
3 the boundaries of the property.

4

5 Eligible capital costs shall not include the cost of any
6 property previously owned or leased by the qualifying
7 business.

8 (d) "Income generated by or arising out of the
9 qualifying project" means the qualifying project's annual
10 taxable income as determined by generally accepted accounting
11 principles and under s. 220.13.

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

19 (f) "Office" means the Office of Tourism, Trade, and
20 Economic Development.

21 (g) "Qualifying business" means a business which
22 establishes a qualifying project in this state and which is
23 certified by the office to receive tax credits pursuant to
24 this section.

25 (h) "Qualifying project" means:

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

1 2. A new financial services facility in this state,
2 which creates at least 2,000 new jobs in this state, pays an
3 average annual wage of at least \$50,000, and makes a
4 cumulative capital investment of at least \$30 million. This
5 subparagraph is repealed June 30, 2004.

6 (2) An annual credit against the tax imposed by this
7 chapter shall be granted to any qualifying business in an
8 amount equal to 5 percent of the eligible capital costs
9 generated by a qualifying project, for a period not to exceed
10 20 years beginning with the commencement of operations of the
11 project. The tax credit shall be granted against only the
12 corporate income tax liability or the premium tax liability
13 generated by or arising out of the qualifying project, and the
14 sum of all tax credits provided pursuant to this section shall
15 not exceed 100 percent of the eligible capital costs of the
16 project. In no event may any credit granted under this section
17 be carried forward or backward by any qualifying business with
18 respect to a subsequent or prior year. The annual tax credit
19 granted under this section shall not exceed the following
20 percentages of the annual corporate income tax liability or
21 the premium tax liability generated by or arising out of a
22 qualifying project:

23 (a) One hundred percent for a qualifying project which
24 results in a cumulative capital investment of at least \$100
25 million.

26 (b) Seventy-five percent for a qualifying project
27 which results in a cumulative capital investment of at least
28 \$50 million but less than \$100 million.

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

1
2 A qualifying project which results in a cumulative capital
3 investment of less than \$25 million is not eligible for the
4 capital investment tax credit. An insurance company claiming a
5 credit against premium tax liability under this program shall
6 not be required to pay any additional retaliatory tax levied
7 pursuant to s. 624.5091 as a result of claiming such credit.
8 Because credits under this section are available to an
9 insurance company, s. 624.5091 does not limit such credit in
10 any manner.

11 (3) Prior to receiving tax credits pursuant to this
12 section, a qualifying business must achieve and maintain the
13 minimum employment goals beginning with the commencement of
14 operations at a qualifying project and continuing each year
15 thereafter during which tax credits are available pursuant to
16 this section.

17 (4) The office, upon a recommendation by Enterprise
18 Florida, Inc., shall first certify a business as eligible to
19 receive tax credits pursuant to this section prior to the
20 commencement of operations of a qualifying project, and such
21 certification shall be transmitted to the Department of
22 Revenue. Upon receipt of the certification, the Department of
23 Revenue shall enter into a written agreement with the
24 qualifying business specifying, at a minimum, the method by
25 which income generated by or arising out of the qualifying
26 project will be determined.

27 (5) The office, in consultation with Enterprise
28 Florida, Inc., is authorized to develop the necessary
29 guidelines and application materials for the certification
30 process described in subsection (4).

31

1 (6) It shall be the responsibility of the qualifying
2 business to affirmatively demonstrate to the satisfaction of
3 the Department of Revenue that such business meets the job
4 creation and capital investment requirements of this section.

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

8
9 Reviser's note.--Section 1, ch. 2003-270, Laws
10 of Florida, purported to amend s. 220.191, but
11 did not publish paragraphs (1)(a)-(g) and
12 subsections (2)-(7). Absent affirmative
13 evidence that the Legislature intended to
14 repeal the material, the section is reenacted
15 to confirm that the omission was not intended.

16
17 Section 18. Subsection (10) of section 259.032,
18 Florida Statutes, is reenacted to read:

19 259.032 Conservation and Recreation Lands Trust Fund;
20 purpose.--

21 (10)(a) State, regional, or local governmental
22 agencies or private entities designated to manage lands under
23 this section shall develop and adopt, with the approval of the
24 board of trustees, an individual management plan for each
25 project designed to conserve and protect such lands and their
26 associated natural resources. Private sector involvement in
27 management plan development may be used to expedite the
28 planning process.

29 (b) Individual management plans required by s.
30 253.034(5), for parcels over 160 acres, shall be developed
31 with input from an advisory group. Members of this advisory

1 group shall include, at a minimum, representatives of the lead
2 land managing agency, comanaging entities, local private
3 property owners, the appropriate soil and water conservation
4 district, a local conservation organization, and a local
5 elected official. The advisory group shall conduct at least
6 one public hearing within the county in which the parcel or
7 project is located. For those parcels or projects that are
8 within more than one county, at least one areawide public
9 hearing shall be acceptable and the lead managing agency shall
10 invite a local elected official from each county. The areawide
11 public hearing shall be held in the county in which the core
12 parcels are located. Notice of such public hearing shall be
13 posted on the parcel or project designated for management,
14 advertised in a paper of general circulation, and announced at
15 a scheduled meeting of the local governing body before the
16 actual public hearing. The management prospectus required
17 pursuant to paragraph (9)(d) shall be available to the public
18 for a period of 30 days prior to the public hearing.

19 (c) Once a plan is adopted, the managing agency or
20 entity shall update the plan at least every 10 years in a form
21 and manner prescribed by rule of the board of trustees. Such
22 updates, for parcels over 160 acres, shall be developed with
23 input from an advisory group. Such plans may include transfers
24 of leasehold interests to appropriate conservation
25 organizations or governmental entities designated by the Land
26 Acquisition and Management Advisory Council or its successor,
27 for uses consistent with the purposes of the organizations and
28 the protection, preservation, conservation, restoration, and
29 proper management of the lands and their resources. Volunteer
30 management assistance is encouraged, including, but not
31 limited to, assistance by youths participating in programs

1 sponsored by state or local agencies, by volunteers sponsored
2 by environmental or civic organizations, and by individuals
3 participating in programs for committed delinquents and
4 adults.

5 (d) For each project for which lands are acquired
6 after July 1, 1995, an individual management plan shall be
7 adopted and in place no later than 1 year after the essential
8 parcel or parcels identified in the annual Conservation and
9 Recreation Lands report prepared pursuant to s. 259.035(2)(a)
10 have been acquired. Beginning in fiscal year 1998-1999, the
11 Department of Environmental Protection shall distribute only
12 75 percent of the acquisition funds to which a budget entity
13 or water management district would otherwise be entitled from
14 the Preservation 2000 Trust Fund to any budget entity or any
15 water management district that has more than one-third of its
16 management plans overdue.

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

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

23 2. Key management activities necessary to preserve and
24 protect natural resources and restore habitat, and for
25 controlling the spread of nonnative plants and animals, and
26 for prescribed fire and other appropriate resource management
27 activities.

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

31

1 4. A priority schedule for conducting management
2 activities, based on the purposes for which the lands were
3 acquired.

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

7 6. A cost estimate for conducting other management
8 activities which would enhance the natural resource value or
9 public recreation value for which the lands were acquired. The
10 cost estimate shall include recommendations for cost-effective
11 methods of accomplishing those activities.

12 7. A determination of the public uses and public
13 access that would be consistent with the purposes for which
14 the lands were acquired.

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

19 1. Within 60 days after receiving a plan from the
20 division, review each plan for compliance with the
21 requirements of this subsection and with the requirements of
22 the rules established by the board pursuant to this
23 subsection.

24 2. Consider the propriety of the recommendations of
25 the managing agency with regard to the future use or
26 protection of the property.

27 3. After its review, submit the plan, along with its
28 recommendations and comments, to the board of trustees, with
29 recommendations as to whether to approve the plan as
30 submitted, approve the plan with modifications, or reject the
31 plan.

1 (g) The board of trustees shall consider the
2 individual management plan submitted by each state agency and
3 the recommendations of the Land Acquisition and Management
4 Advisory Council, or its successor, and the Division of State
5 Lands and shall approve the plan with or without modification
6 or reject such plan. The use or possession of any lands owned
7 by the board of trustees which is not in accordance with an
8 approved individual management plan is subject to termination
9 by the board of trustees.

10
11 By July 1 of each year, each governmental agency and each
12 private entity designated to manage lands shall report to the
13 Secretary of Environmental Protection on the progress of
14 funding, staffing, and resource management of every project
15 for which the agency or entity is responsible.

16
17 Reviser's note.--Section 6, ch. 2003-394, Laws
18 of Florida, amended paragraph (10)(c) without
19 publishing the flush left paragraph at the end
20 of the subsection. Absent affirmative evidence
21 of legislative intent to repeal the flush left
22 material at the end of subsection (10),
23 subsection (10) is reenacted to confirm that
24 the omission was not intended.

25
26 Section 19. Paragraph (a) of subsection (1) of section
27 265.285, Florida Statutes, is amended to read:

28 265.285 Florida Arts Council; membership, duties.--

29 (1)(a) The Florida Arts Council is created in the
30 department as an advisory body, as defined in s. 20.03(7), to
31 consist of 15 members. Seven members shall be appointed by the

1 Governor, four members shall be appointed by the President of
2 the Senate, and four members shall be appointed by the Speaker
3 of the House of Representatives. The appointments, to be made
4 in consultation with the Secretary of State, shall recognize
5 the need for geographical representation. Council members
6 appointed by the Governor shall be appointed for 4-year terms.
7 Council members appointed by the President of the Senate and
8 the Speaker of the House of Representatives shall be appointed
9 for 2-year terms. Council members serving on July 1, 2002, may
10 serve the remainder of their respective terms. New
11 appointments to the council shall not be made until the
12 retirement, resignation, removal, or expiration of the terms
13 of the initial members results in fewer than 15 members
14 remaining. As vacancies occur, the first appointment to the
15 council shall be made by the Governor. The President of the
16 Senate, the Speaker of the House of Representatives, and the
17 Governor, respectively, shall then alternate appointments
18 until the council ~~commission~~ is composed as required herein.
19 No member of the council who serves two 4-year terms or two
20 2-year terms will be eligible for reappointment during a
21 1-year period following the expiration of the member's second
22 term. A member whose term has expired shall continue to serve
23 on the council until such time as a replacement is appointed.
24 Any vacancy on the council shall be filled for the remainder
25 of the unexpired term in the same manner as for the original
26 appointment. Members should have a substantial history of
27 community service in the performing or visual arts, which
28 includes, but is not limited to, theatre, dance, folk arts,
29 music, architecture, photography, and literature. In addition,
30 it is desirable that members have successfully served on
31

1 boards of cultural institutions such as museums and performing
2 arts centers or are recognized as patrons of the arts.

3

4 Reviser's note.--Amended to conform to the
5 references to the arts council elsewhere in the
6 section.

7

8 Section 20. Paragraph (f) of subsection (5) of section
9 287.057, Florida Statutes, is amended to read:

10 287.057 Procurement of commodities or contractual
11 services.--

12 (5) When the purchase price of commodities or
13 contractual services exceeds the threshold amount provided in
14 s. 287.017 for CATEGORY TWO, no purchase of commodities or
15 contractual services may be made without receiving competitive
16 sealed bids, competitive sealed proposals, or competitive
17 sealed replies unless:

18 (f) The following contractual services and commodities
19 are not subject to the competitive-solicitation requirements
20 of this section:

- 21 1. Artistic services.
- 22 2. Academic program reviews.
- 23 3. Lectures by individuals.
- 24 4. Auditing services.
- 25 5. Legal services, including attorney, paralegal,
26 expert witness, appraisal, or mediator services.
- 27 6. Health services involving examination, diagnosis,
28 treatment, prevention, medical consultation, or
29 administration.
- 30 7. Services provided to persons with mental or
31 physical disabilities by not-for-profit corporations which

1 have obtained exemptions under the provisions of s. 501(c)(3)
2 of the United States Internal Revenue Code or when such
3 services are governed by the provisions of Office of
4 Management and Budget Circular A-122. However, in acquiring
5 such services, the agency shall consider the ability of the
6 vendor, past performance, willingness to meet time
7 requirements, and price.

8 8. Medicaid services delivered to an eligible Medicaid
9 recipient by a health care provider who has not previously
10 applied for and received a Medicaid provider number from the
11 Agency for Health Care Administration. However, this exception
12 shall be valid for a period not to exceed 90 days after the
13 date of delivery to the Medicaid recipient and shall not be
14 renewed by the agency.

15 9. Family placement services.

16 10. Prevention services related to mental health,
17 including drug abuse prevention programs, child abuse
18 prevention programs, and shelters for runaways, operated by
19 not-for-profit corporations. However, in acquiring such
20 services, the agency shall consider the ability of the vendor,
21 past performance, willingness to meet time requirements, and
22 price.

23 11. Training and education services provided to
24 injured employees pursuant to s. 440.491(6)~~440.49(1)~~.

25 12. Contracts entered into pursuant to s. 337.11.

26 13. Services or commodities provided by governmental
27 agencies.

28
29 Reviser's note.--Amended to conform to the
30 repeal of s. 440.49(1), relating to
31 rehabilitation, by s. 43, ch. 93-415, Laws of

1 Florida, and the enactment of similar language
2 in s. 440.491(6) by s. 44, ch. 93-415.

3
4 Section 21. Paragraph (f) of subsection (5) of section
5 288.1045, Florida Statutes, is amended to read:

6 288.1045 Qualified defense contractor tax refund
7 program.--

8 (5) ANNUAL CLAIM FOR REFUND FROM A QUALIFIED DEFENSE
9 CONTRACTOR.--

10 (f) Upon approval of the tax refund pursuant to
11 paragraphs (c) and (d), the Chief Financial Officer shall
12 issue a warrant for the amount included in the written order.
13 In the event of any appeal of the written order, the Chief
14 Financial Officer ~~Comptroller~~ may not issue a warrant for a
15 refund to the qualified applicant until the conclusion of all
16 appeals of the written order.

17
18 Reviser's note.--Amended to conform to the
19 transfer of the duties of the Comptroller to
20 the Chief Financial Officer by Revision No. 8,
21 adopted in 1998, amending s. 4, Art. IV of the
22 State Constitution.

23
24 Section 22. Subsection (1) of section 288.31, Florida
25 Statutes, is amended to read:

26 288.31 Armories; financing construction authorized.--

27 (1) The Division of Bond Finance of the State Board of
28 Administration shall have the power to borrow money and incur
29 obligations by way of bonds, notes, or revenue certificates
30 and issue such obligations for the purpose of financing,
31 either in whole or in part, the construction of armories in

1 such counties and municipalities as designated by the State
2 Armory Board. The authority hereby conferred shall empower the
3 said division to issue such certificates or bonds for the
4 financing of the share or portion of the cost to be borne by a
5 county or municipality when required by the provisions of a
6 grant of funds from the state or the Federal Government or any
7 other source, or to authorize the borrowing and issuing of
8 obligations for financing such an armory in its entirety.
9 Bonds, notes, or certificates issued hereunder shall be issued
10 in conformity to all the provisions of chapter 215, and the
11 division shall be empowered to fix the rentals or charges to
12 be collected for the purpose of the retirement or purchase of
13 said obligations. The division and the county or municipality
14 shall be empowered to enter into such lease, or leases, as may
15 be necessary to ensure the providing of sufficient funds to
16 retire such obligations and when the said obligations shall
17 have been fully paid, the armory shall be conveyed to the
18 state. Leases with the county or municipality under the terms
19 of this section shall provide for the control of the building
20 and its use to be vested in the military commander
21 representing the Armory Board in accordance with the
22 provisions of s. 250.40 ~~250.41~~.

23
24 Reviser's note.--Amended to conform to the
25 repeal of s. 250.41 by s. 55, ch. 2003-68, Laws
26 of Florida, and the addition of similar
27 material to s. 250.40 by s. 38, ch. 2003-68.

28
29 Section 23. Section 296.10, Florida Statutes, is
30 reenacted to read:
31 296.10 Residents; contribution to support.--

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

11 (b) Whenever there is an increase in benefit amounts
12 payable under Title II of the Social Security Act, 42 U.S.C.
13 ss. 401 et seq., as a result of a determination made under s.
14 215(i) of such act, 42 U.S.C. s. 415(i), the administrator
15 shall increase the amount that each resident shall be allowed
16 to retain. The increased amount will be determined by the
17 percentage used to increase the benefits under the Social
18 Security Act, 42 U.S.C. ss. 401 et seq. This first such
19 increase to residents' personal use funds will take place on
20 January 1, 2004, and shall be continued each ensuing year that
21 there is an increase in benefits under the said act.

22 (2) Notwithstanding subsection (1), each resident who
23 participates in a vocational rehabilitation or work incentive
24 program shall contribute to his or her support in an amount
25 that is determined by the administrator and approved by the
26 director, is computed at 50 percent of the resident's net
27 earnings after taxes and after the setoff of the first \$100
28 per month, and does not exceed the cost of care. The resident
29 is required to authorize the administrator of the home to
30 secure from the employer sufficient information to verify the
31 resident's earnings under the program.

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

7
8 Reviser's note.--Section 4, ch. 2003-42, Laws
9 of Florida, purported to amend s. 296.10 in its
10 entirety, but did not publish subsections (2)
11 and (3). Absent affirmative evidence of
12 legislative intent to repeal subsections (2)
13 and (3), the section is reenacted to confirm
14 that the omission was not intended.

15
16 Section 24. Paragraph (e) of subsection (1) of section
17 315.031, Florida Statutes, is amended to read:

18 315.031 Promoting and advertising port facilities.--

19 (1) Each unit is authorized and empowered:

20 (e) To enter into agreements with the purchaser or
21 purchasers of port facilities bonds issued under the
22 provisions of this law to establish a special fund to be set
23 aside from the proceeds of the revenues collected under the
24 provisions of s. 315.03(14)~~315.03(13)~~, during any fiscal
25 year, for the promotional activities authorized herein.

26
27 Nothing herein shall be construed to authorize any unit to
28 expend funds for meals, hospitality, amusement or any other
29 purpose of an entertainment nature.

1 Reviser's note.--Amended to conform to the
2 redesignation of subunits of s. 315.03 by s.
3 66, ch. 2002-20, Laws of Florida.

4
5 Section 25. Paragraph (b) of subsection (5) of section
6 316.1937, Florida Statutes, is amended to read:

7 316.1937 Ignition interlock devices, requiring;
8 unlawful acts.--

9 (5)

10 (b) Any person convicted of a violation of subsection
11 (6) who does not have a driver's license shall, in addition to
12 any other penalty provided by law, pay a fine of not less than
13 \$250 or more than \$500 per each such violation. In the event
14 that the person is unable to pay any such fine, the fine shall
15 become a lien against the motor vehicle used in violation of
16 subsection (6) and payment shall be made pursuant to s.
17 316.3025(5)~~316.3025(4)~~.

18
19 Reviser's note.--Amended to conform to the
20 redesignation of subunits of s. 316.3025 by s.
21 12, ch. 2003-286, Laws of Florida.

22
23 Section 26. Subsection (9) of section 320.02, Florida
24 Statutes, is amended to read:

25 320.02 Registration required; application for
26 registration; forms.--

27 (9) Before a motor vehicle which has not been
28 manufactured in accordance with the federal Clean Air Act and
29 the federal Motor Vehicle Safety Act can be sold to a consumer
30 and titled and registered in this state, the motor vehicle
31 must be certified by the United States Bureau of Customs and

1 Border Protection ~~Customs Service~~ or the United States
2 Department of Transportation and the United States
3 Environmental Protection Agency to be in compliance with these
4 federal standards. A vehicle which is registered pursuant to
5 this subsection shall not be titled as a new motor vehicle.

6
7 Reviser's note.--Amended to conform to the
8 redesignation of the United States Customs
9 Service pursuant to its transfer to the
10 Department of Homeland Security by s. 403, Pub.
11 L. No. 107-296.

12
13 Section 27. Paragraph (a) of subsection (1) and
14 paragraphs (b) and (c) of subsection (2) of section 322.051,
15 Florida Statutes, are amended to read:

16 322.051 Identification cards.--

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

22 (a) Each such application shall include the following
23 information regarding the applicant:

- 24 1. Full name (first, middle or maiden, and last),
25 gender, social security card number, county of residence and
26 mailing address, country of birth, and a brief description.
27 2. Proof of birth date satisfactory to the department.
28 3. Proof of identity satisfactory to the department.

29 Such proof must include one of the following documents issued
30 to the applicant:

31

1 a. A driver's license record or identification card
2 record from another jurisdiction that required the applicant
3 to submit a document for identification which is substantially
4 similar to a document required under sub-subparagraph b.,
5 sub-subparagraph c., sub-subparagraph d., sub-subparagraph e.,
6 or sub-subparagraph f.;

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

9 c. A valid United States passport;

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

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

13 f. Proof of nonimmigrant classification provided by
14 the United States Department of Homeland Security ~~Justice~~, for
15 an original identification card. In order to prove such
16 nonimmigrant classification, applicants may produce but are
17 not limited to the following documents:

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

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

22 (III) Notice of the approval of an application for
23 adjustment of status issued by the United States Bureau of
24 Citizenship and Immigration Services ~~Immigration and~~
25 ~~Naturalization Service~~.

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

30 (V) Notice of action transferring any pending matter
31 from another jurisdiction to Florida, issued by the United

1 States Bureau of Citizenship and Immigration Services

2 ~~Immigration and Naturalization Service.~~

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

7
8 Presentation of any of the foregoing documents shall entitle
9 the applicant to a driver's license or temporary permit for a
10 period not to exceed the expiration date of the document
11 presented or 2 years, whichever first occurs.

12 (2)

13 (b) Notwithstanding any other provision of this
14 chapter, if an applicant establishes his or her identity for
15 an identification card using a document authorized under
16 sub-subparagraph(1)(a)3.d.~~(a)3.d.~~, the identification card
17 shall expire on the fourth birthday of the applicant following
18 the date of original issue or upon first renewal or duplicate
19 issued after implementation of this section. After an initial
20 showing of such documentation, he or she is exempted from
21 having to renew or obtain a duplicate in person.

22 (c) Notwithstanding any other provisions of this
23 chapter, if an applicant establishes his or her identity for
24 an identification card using an identification document
25 authorized under sub-subparagraphs(1)(a)3.e.-f. ~~(a)3.e.-f.~~,
26 the identification card shall expire 2 years after the date of
27 issuance or upon the expiration date cited on the United
28 States Department of Homeland Security ~~Justice~~ documents,
29 whichever date first occurs, and may not be renewed or obtain
30 a duplicate except in person.

31

1 Reviser's note.--Paragraphs (1)(a) and (2)(c)
2 are amended to conform to the redesignation of
3 the Immigration and Naturalization Service
4 pursuant to its transfer from the Department of
5 Justice to the Department of Homeland Security
6 by s. 451, Pub. L. No. 107-296. Paragraphs
7 (2)(b) and (c) are amended to reference
8 contextually consistent material; the
9 referenced sub-subparagraphs do not exist.

10
11 Section 28. Paragraph (c) of subsection (2) of section
12 322.08, Florida Statutes, is amended to read:

13 322.08 Application for license.--

14 (2) Each such application shall include the following
15 information regarding the applicant:

16 (c) Proof of identity satisfactory to the department.
17 Such proof must include one of the following documents issued
18 to the applicant:

19 1. A driver's license record or identification card
20 record from another jurisdiction that required the applicant
21 to submit a document for identification which is substantially
22 similar to a document required under subparagraph 2.,
23 subparagraph 3., subparagraph 4., subparagraph 5., or
24 subparagraph 6.;

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

27 3. A valid United States passport;

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

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

31

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

3
4 Reviser's note.--Amended to conform to the
5 transfer of the Immigration and Naturalization
6 Service of the Department of Justice to the
7 Department of Homeland Security by s. 451, Pub.
8 L. No. 107-296.

9
10 Section 29. Paragraph (b) of subsection (1) of section
11 322.09, Florida Statutes, is amended to read:

12 322.09 Application of minors; responsibility for
13 negligence or misconduct of minor.--

14 (1)

15 (b) There shall be submitted with each application a
16 certified copy of a United States birth certificate, a valid
17 United States passport, an alien registration receipt card
18 (green card), an employment authorization card issued by the
19 United States Department of Homeland Security ~~Justice~~, or
20 proof of nonimmigrant classification provided by the United
21 States Department of Homeland Security ~~Justice~~, for an
22 original license.

23
24 Reviser's note.--Amended to conform to the
25 transfer of the Immigration and Naturalization
26 Service of the Department of Justice to the
27 Department of Homeland Security by s. 451, Pub.
28 L. No. 107-296.

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

4 322.18 Original applications, licenses, and renewals;
5 expiration of licenses; delinquent licenses.--

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

9 (d) Notwithstanding any other provision of this
10 chapter, if applicant establishes his or her identity for a
11 driver's license using a document authorized in s.
12 322.08(2)(c)5. or 6., the driver's license shall expire 4
13 years after the date of issuance or upon the expiration date
14 cited on the United States Department of Homeland Security
15 ~~Justice~~ documents, whichever date first occurs.

16 (4)

17 (c) Notwithstanding any other provision of this
18 chapter, if a licensee establishes his or her identity for a
19 driver's license using an identification document authorized
20 under s. 322.08(2)(c)5. or 6., the licensee may not renew the
21 driver's license except in person and upon submission of an
22 identification document authorized under s. 322.08(2)(c)4.-6.
23 A driver's license renewed under this paragraph expires 4
24 years after the date of issuance or upon the expiration date
25 cited on the United States Department of Homeland Security
26 ~~Justice~~ documents, whichever date first occurs.

27

28 Reviser's note.--Amended to conform to the
29 transfer of the Immigration and Naturalization
30 Service of the Department of Justice to the

31

1 Department of Homeland Security by s. 451, Pub.
2 L. No. 107-296.

3
4 Section 31. Paragraph (a) of subsection (5) of section
5 332.004, Florida Statutes, is amended to read:

6 332.004 Definitions of terms used in ss.
7 332.003-332.007.--As used in ss. 332.003-332.007, the term:

8 (5) "Airport or aviation discretionary capacity
9 improvement projects" or "discretionary capacity improvement
10 projects" means capacity improvements which are consistent, to
11 the maximum extent feasible, with the approved local
12 government comprehensive plans of the units of local
13 government in which the airport is located, and which enhance
14 intercontinental capacity at airports which:

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

17
18 Reviser's note.--Amended to conform to the
19 redesignation of the United States Customs
20 Service pursuant to its transfer to the
21 Department of Homeland Security by s. 403, Pub.
22 L. No. 107-296.

23
24 Section 32. Subsection (5) of section 341.301, Florida
25 Statutes, is amended to read:

26 341.301 Definitions; ss. 341.302 and 341.303.--As used
27 in ss. 341.302 and 341.303, the term:

28 (5) "Railroad" or "rail system" means any common
29 carrier fixed-guideway transportation system such as the
30 conventional steel rail-supported, steel-wheeled system. The
31 term does not include a high-speed rail line developed by the

1 Department of Transportation pursuant to ss. 341.8201-341.842
2 ~~341.321-341.386~~.

3
4 Reviser's note.--Amended to conform to the
5 repeal of ss. 341.321-341.386, the Florida
6 High-Speed Rail Transportation Act, by s. 55,
7 ch. 2002-20, Laws of Florida, and the creation
8 of ss. 341.8201-341.842, the Florida High-Speed
9 Rail Authority Act, by ss. 28-50, ch. 2002-20.

10
11 Section 33. Subsection (1) of section 369.255, Florida
12 Statutes, is amended to read:

13 369.255 Green utility ordinances for funding
14 greenspace management and exotic plant control.--

15 (1) LEGISLATIVE FINDING.--The Legislature finds that
16 the proper management of greenspace areas, including, without
17 limitation, the urban forest, greenways, private and public
18 forest preserves, wetlands, and aquatic zones, is essential to
19 the state's environment and economy and to the health and
20 safety of its residents and visitors. The Legislature also
21 finds that the limitation and control of nonindigenous plants
22 and tree replacement and maintenance are vital to achieving
23 the natural systems and recreational lands goals and policies
24 of the state pursuant to s. 187.201(9)~~187.201(10)~~, the State
25 Comprehensive Plan. It is the intent of this section to enable
26 local governments to establish a mechanism to provide
27 dedicated funding for the aforementioned activities, when
28 deemed necessary by a county or municipality.

29
30 Reviser's note.--Amended to conform to the
31 redesignation of subunits of s. 187.201

1 necessitated by the repeal of s. 187.201(1) by
2 s. 1056, ch. 2002-387, Laws of Florida.

3
4 Section 34. Subsections (17) and (21) of section
5 370.01, Florida Statutes, are amended to read:

6 370.01 Definitions.--In construing these statutes,
7 where the context does not clearly indicate otherwise, the
8 word, phrase, or term:

9 (17) "Nonresident alien" shall mean those individuals
10 from other nations who can provide documentation from the
11 Bureau of Citizenship and Immigration Services ~~Immigration and~~
12 ~~Naturalization Service~~ evidencing permanent residency status
13 in the United States. For the purposes of this chapter, a
14 "nonresident alien" shall be considered a "nonresident."

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

22
23 Reviser's note.--Amended to conform to the
24 redesignation of the Immigration and
25 Naturalization Service pursuant to its transfer
26 to the Department of Homeland Security by s.
27 451, Pub. L. No. 107-296.

28
29 Section 35. Subsection (16) of section 372.001,
30 Florida Statutes, is amended to read:

31

1 372.001 Definitions.--In construing these statutes,
2 when applied to saltwater and freshwater fish, shellfish,
3 crustacea, sponges, wild birds, and wild animals, where the
4 context permits, the word, phrase, or term:

5 (16) "Saltwater fish" means any saltwater species of
6 finfish of the classes Agnatha, Chondrichthyes, or
7 Osteichthyes and marine invertebrates ~~that~~ of the classes
8 Gastropoda, Bivalvia, or Crustacea, or of the phylum
9 Echinodermata, but does not include nonliving shells or
10 echinoderms.

11
12 Reviser's note.--Amended to improve clarity.

13
14 Section 36. Paragraph (b) of subsection (1) of section
15 373.0421, Florida Statutes, is amended to read:

16 373.0421 Establishment and implementation of minimum
17 flows and levels.--

18 (1) ESTABLISHMENT.--

19 (b) Exclusions.--

20 1. The Legislature recognizes that certain water
21 bodies no longer serve their historical hydrologic functions.
22 The Legislature also recognizes that recovery of these water
23 bodies to historical hydrologic conditions may not be
24 economically or technically feasible, and that such recovery
25 effort could cause adverse environmental or hydrologic
26 impacts. Accordingly, the department or governing board may
27 determine that setting a minimum flow or level for such a
28 water body based on its historical condition is not
29 appropriate.

30 2. The department or the governing board is not
31 required to establish minimum flows or levels pursuant to s.

1 373.042 for surface water bodies less than 25 acres in area,
2 unless the water body or bodies, individually or cumulatively,
3 have significant economic, environmental, or hydrologic value.
4 3. The department or the governing board shall not set
5 minimum flows or levels pursuant to s. 373.042 for surface
6 water bodies constructed prior to the requirement for a
7 permit, or pursuant to an exemption, a permit, or a
8 reclamation plan which regulates the size, depth, or function
9 of the surface water body under the provisions of this
10 chapter, chapter 378, or chapter 403, unless the constructed
11 surface water body is of significant hydrologic value or is an
12 essential element of the water resources of the area.

13
14 The exclusions of this paragraph shall not apply to the
15 Everglades Protection Area, as defined in s. 373.4592(2)(i)
16 ~~373.4592(2)(h)~~.

17
18 Reviser's note.--Amended to conform to the
19 redesignation of subunits of s. 373.4592 by s.
20 1, ch. 2003-12, Laws of Florida.

21
22 Section 37. Section 373.45922, Florida Statutes, is
23 amended to read:

24 373.45922 South Florida Water Management District;
25 permit for completion of Everglades Construction Project;
26 report.--Within 60 days after receipt of any permit issued
27 pursuant to s. 404 of the Clean Water Act, 33 U.S.C. s. 1344,
28 for the completion of the Everglades Construction Project, as
29 defined by s. 373.4592(2)(g)~~373.4592(2)(f)~~, the South Florida
30 Water Management District shall submit a report to the
31 Governor, the President of the Senate, and the Speaker of the

1 House of Representatives that details the differences between
2 the permit and the Everglades Program as defined by s.
3 373.4592(2)(h)~~373.4592(2)(g)~~ and identifies any changes to
4 the schedule or funding for the Everglades Program that result
5 from the permit. The South Florida Water Management District
6 shall include in the report a complete chronological record of
7 any negotiations related to conditions included in the permit.
8 Such record shall be documented by inclusion of all relevant
9 correspondence in the report. If any condition of the permit
10 affects the schedule or costs of the Everglades Construction
11 Project, the South Florida Water Management District shall
12 include in the report a detailed explanation of why the
13 condition was imposed and a detailed analysis of whether the
14 condition would promote or hinder the progress of the project.

15
16 Reviser's note.--Amended to conform to the
17 redesignation of subunits of s. 373.4592 by s.
18 1, ch. 2003-12, Laws of Florida.

19
20 Section 38. Subsection (3) of section 381.06014,
21 Florida Statutes, is amended to read:

22 381.06014 Blood establishments.--

23 (3) Any blood establishment determined to be operating
24 in the state in a manner not consistent with the provisions of
25 Title 21 parts 211 and 600-640, Code of Federal Regulations,
26 and in a manner that constitutes a danger to the health or
27 well-being of donors or recipients as evidenced by the federal
28 Food and Drug Administration's inspection reports and the
29 revocation of the blood establishment's license or
30 registration shall be in violation of this chapter ~~part~~ and
31 shall immediately cease all operations in the state.

1 Reviser's note.--Amended to conform to the
2 arrangement of chapter 381, which is not
3 divided into parts.

4
5 Section 39. Subsection (2) of section 391.029, Florida
6 Statutes, is amended to read:

7 391.029 Program eligibility.--

8 (2) The following individuals are financially eligible
9 for the program:

10 (a) A high-risk pregnant female who is eligible for
11 Medicaid.

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

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

17 (d) A child with special health care needs from birth
18 to age 21 years whose projected annual cost of care adjusts
19 the family income to Medicaid financial criteria. In cases
20 where the family income is adjusted based on a projected
21 annual cost of care, the family shall participate financially
22 in the cost of care based on criteria established by the
23 department.

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

27 (f) An infant who receives an award of compensation
28 under s. 766.31(1). The Florida Birth-Related Neurological
29 Injury Compensation Association shall reimburse the Children's
30 Medical Services Network the state's share of funding, which
31

1 must thereafter be used to obtain matching federal funds under
2 Title XXI of the Social Security Act.

3
4 ~~The department may continue to serve certain children with~~
5 ~~special health care needs who are 21 years of age or older and~~
6 ~~who were receiving services from the program prior to April 1,~~
7 ~~1998. Such children may be served by the department until~~
8 ~~July 1, 2000.~~

9
10 Reviser's note.--Amended to delete a provision
11 that has served its purpose.

12
13 Section 40. Section 393.0657, Florida Statutes, is
14 amended to read:

15 393.0657 Persons not required to be refingerprinted or
16 rescreened.--Any provision of law to the contrary
17 notwithstanding, human resource personnel who have been
18 fingerprinted or screened pursuant to chapters 393, 394, 397,
19 402, and 409, and teachers who have been fingerprinted
20 pursuant to chapter 1012, who have not been unemployed for
21 more than 90 days thereafter, and who under the penalty of
22 perjury attest to the completion of such fingerprinting or
23 screening and to compliance with the provisions of this
24 section and the standards for good moral character as
25 contained in such provisions as ss. 110.1127(3), 393.0655(1),
26 394.457(6), 397.451, 402.305(2), and 409.175(6) ~~409.175(5)~~,
27 shall not be required to be refingerprinted or rescreened in
28 order to comply with any direct service provider screening or
29 fingerprinting requirements.

1 Reviser's note.--Amended to conform to the
2 redesignation of s. 409.175(5) as s. 409.175(6)
3 by s. 6, ch. 2002-219, Laws of Florida.
4

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

8 394.741 Accreditation requirements for providers of
9 behavioral health care services.--

10 (6) The department or agency, by accepting the survey
11 or inspection of an accrediting organization, does not forfeit
12 its rights to monitor for the purpose of ensuring that
13 services for which the department has paid were provided. The
14 department may investigate complaints or suspected problems
15 and ~~to~~ monitor the provider's compliance with negotiated terms
16 and conditions, including provisions relating to consent
17 decrees, which are unique to a specific contract and are not
18 statements of general applicability. The department may
19 monitor compliance with federal and state statutes, federal
20 regulations, or state administrative rules, if such monitoring
21 does not duplicate the review of accreditation standards or
22 independent audits pursuant to subsections (3) and (8).
23

24 Reviser's note.--Subsection (6) is amended to
25 improve clarity. Subsection (9) is repealed to
26 delete obsolete material requiring two reports
27 due January 1, 2003.
28

29 Section 42. Paragraphs (a), (b), and (e) of subsection
30 (4) of section 394.9082, Florida Statutes, are amended to
31 read:

1 394.9082 Behavioral health service delivery
2 strategies.--

3 (4) CONTRACT FOR SERVICES.--

4 (a) The Department of Children and Family Services and
5 the Agency for Health Care Administration may contract for the
6 provision or management of behavioral health services with a
7 managing entity in at least two geographic areas. Both the
8 Department of Children and Family Services and the Agency for
9 Health Care Administration must contract with the same
10 managing entity in any distinct geographic area where the
11 strategy operates. This managing entity shall be accountable
12 at a minimum for the delivery of behavioral health services
13 specified and funded by the department and the agency. The
14 geographic area must be of sufficient size in population and
15 have enough public funds for behavioral health services to
16 allow for flexibility and maximum efficiency. Notwithstanding
17 the provisions of s. 409.912(4)(b)1.~~409.912(3)(b)1. and 2.~~,
18 at least one service delivery strategy must be in one of the
19 service districts in the catchment area of G. Pierce Wood
20 Memorial Hospital.

21 (b) Under one of the service delivery strategies, the
22 Department of Children and Family Services may contract with a
23 prepaid mental health plan that operates under s. 409.912 to
24 be the managing entity. Under this strategy, the Department of
25 Children and Family Services is not required to competitively
26 procure those services and, notwithstanding other provisions
27 of law, may employ prospective payment methodologies that the
28 department finds are necessary to improve client care or
29 institute more efficient practices. The Department of Children
30 and Family Services may employ in its contract any provision
31 of the current prepaid behavioral health care plan authorized

1 under s. 409.912(4)(a) and (b)~~409.912(3)(a) and (b)~~, or any
2 other provision necessary to improve quality, access,
3 continuity, and price. Any contracts under this strategy in
4 Area 6 of the Agency for Health Care Administration or in the
5 prototype region under s. 20.19(7) of the Department of
6 Children and Family Services may be entered with the existing
7 substance abuse treatment provider network if an
8 administrative services organization is part of its network.
9 In Area 6 of the Agency for Health Care Administration or in
10 the prototype region of the Department of Children and Family
11 Services, the Department of Children and Family Services and
12 the Agency for Health Care Administration may employ
13 alternative service delivery and financing methodologies,
14 which may include prospective payment for certain population
15 groups. The population groups that are to be provided these
16 substance abuse services would include at a minimum:
17 individuals and families receiving family safety services;
18 Medicaid-eligible children, adolescents, and adults who are
19 substance-abuse-impaired; or current recipients and persons at
20 risk of needing cash assistance under Florida's welfare reform
21 initiatives.

22 (e) The cost of the managing entity contract shall be
23 funded through a combination of funds from the Department of
24 Children and Family Services and the Agency for Health Care
25 Administration. To operate the managing entity, the Department
26 of Children and Family Services and the Agency for Health Care
27 Administration may not expend more than 10 percent of the
28 annual appropriations for mental health and substance abuse
29 treatment services prorated to the geographic areas and must
30 include all behavioral health Medicaid funds, including
31 psychiatric inpatient funds. This restriction does not apply

1 to a prepaid behavioral health plan that is authorized under
2 s. 409.912(4)(a) and (b)~~409.912(3)(a) and (b)~~.

3
4 Reviser's note.--Paragraph (4)(a) is amended to
5 conform to the redesignation of s.

6 409.912(3)(b)1. as s. 409.912(4)(b)1. and the
7 deletion of s. 409.912(3)(b)2. by s. 9, ch.

8 2003-279, Laws of Florida. Paragraphs (4)(b)

9 and (e) are amended to conform to the

10 redesignation of s. 409.912(3)(a) and (b) as s.

11 409.912(4)(a) and (b) by s. 9, ch. 2003-279.

12
13 Section 43. Subsection (2) of section 394.917, Florida
14 Statutes, is amended to read:

15 394.917 Determination; commitment procedure;
16 mistrials; housing; counsel and costs in indigent appellate
17 cases.--

18 (2) If the court or jury determines that the person is
19 a sexually violent predator, upon the expiration of the
20 incarcerative portion of all criminal sentences and
21 disposition of any detainers other than detainers for
22 deportation by the United States Bureau of Citizenship and
23 Immigration Services ~~Immigration and Naturalization Service~~,
24 the person shall be committed to the custody of the Department
25 of Children and Family Services for control, care, and
26 treatment until such time as the person's mental abnormality
27 or personality disorder has so changed that it is safe for the
28 person to be at large. At all times, persons who are detained
29 or committed under this part shall be kept in a secure
30 facility segregated from patients of the department who are
31 not detained or committed under this part.

1 Reviser's note.--Amended to conform to the
2 redesignation of the Immigration and
3 Naturalization Service pursuant to its transfer
4 to the Department of Homeland Security by s.
5 451, Pub. L. No. 107-296.

6
7 Section 44. Subsection (3) of section 400.0075,
8 Florida Statutes, is amended to read:

9 400.0075 Complaint resolution procedures.--

10 (3) The state ombudsman council shall provide, as part
11 of its annual report required pursuant to s. 400.0067(2)(f)
12 ~~400.0067(2)(g)~~, information relating to the disposition of all
13 complaints to the Department of Elderly Affairs.

14
15 Reviser's note.--Amended to conform to the
16 redesignation of s. 400.0067(2)(g) as s.
17 400.0067(2)(f) by s. 22, ch. 2002-223, Laws of
18 Florida.

19
20 Section 45. Section 402.3057, Florida Statutes, is
21 amended to read:

22 402.3057 Persons not required to be refingerprinted or
23 rescreened.--Any provision of law to the contrary
24 notwithstanding, human resource personnel who have been
25 fingerprinted or screened pursuant to chapters 393, 394, 397,
26 402, and 409, and teachers and noninstructional personnel who
27 have been fingerprinted pursuant to chapter 1012, who have not
28 been unemployed for more than 90 days thereafter, and who
29 under the penalty of perjury attest to the completion of such
30 fingerprinting or screening and to compliance with the
31 provisions of this section and the standards for good moral

1 character as contained in such provisions as ss. 110.1127(3),
2 393.0655(1), 394.457(6), 397.451, 402.305(2), and 409.175(6)
3 ~~409.175(5)~~, shall not be required to be refingerprinted or
4 rescreened in order to comply with any caretaker screening or
5 fingerprinting requirements.

6
7 Reviser's note.--Amended to conform to the
8 redesignation of s. 409.175(5) as s. 409.175(6)
9 by s. 6, ch. 2002-219, Laws of Florida.

10
11 Section 46. Paragraph (a) of subsection (2) of section
12 403.7192, Florida Statutes, is amended to read:

13 403.7192 Batteries; requirements for consumer,
14 manufacturers, and sellers; penalties.--

15 (2)(a) ~~A person may not distribute, sell, or offer for~~
16 ~~sale in this state an alkaline-manganese or zinc-carbon~~
17 ~~battery that contains more than 0.025 percent mercury by~~
18 ~~weight.~~A person may not distribute, sell, or offer for sale
19 in this state an alkaline-manganese or zinc-carbon battery
20 that contains any intentionally introduced mercury and more
21 than 0.0004 percent mercury by weight.

22
23 Reviser's note.--Amended to delete language
24 that has served its purpose. The deleted
25 language only applied between July 1, 1993, and
26 January 1, 1996, as enacted by s. 29, ch.
27 93-207, Laws of Florida.

28
29 Section 47. Paragraph (b) of subsection (1) of section
30 404.20, Florida Statutes, is amended to read:

31 404.20 Transportation of radioactive materials.--

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

5 (b) Such rules shall be compatible with, but no less
6 restrictive than, those established by the United States
7 Nuclear Regulatory Commission, the United States Federal
8 Aviation Administration ~~Agency~~, the United States Department
9 of Transportation, the United States Coast Guard, or the
10 United States Postal Service.

11
12 Reviser's note.--Amended to conform to the
13 correct title of the United States Federal
14 Aviation Administration.

15
16 Section 48. Paragraph (a) of subsection (3) of section
17 409.017, Florida Statutes, is amended to read:

18 409.017 Local Funding Revenue Maximization Act;
19 legislative intent; revenue maximization program.--

20 (3) REVENUE MAXIMIZATION PROGRAM.--

21 (a) For purposes of this section, the term "agency"
22 means any state agency or department that is involved in
23 providing health, social, or human services, including, but
24 not limited to, the Agency for Health Care Administration, the
25 Agency for Workforce Innovation, the Department of Children
26 and Family Services, the Department of Elderly Affairs, the
27 Department of Juvenile Justice, and the State ~~Florida~~ Board of
28 Education.

1 Reviser's note.--Amended to conform to the
2 correct title of the State Board of Education
3 as established by s. 1001.01.

4
5 Section 49. Paragraphs (g), (h), and (j) of subsection
6 (1) of section 409.1671, Florida Statutes, are amended to
7 read:

8 409.1671 Foster care and related services;
9 privatization.--

10 (1)

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

18 1. In order to ensure that the program is operational
19 by December 31, 2004, the department must, by December 31,
20 2003, begin the process of establishing access to a program in
21 any county in which the department has not either entered into
22 a transition contract or approved a community plan, as
23 described in paragraph (d), which ensures full privatization
24 by the statutory deadline.

25 2. The program must be procured through a competitive
26 process.

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

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

1 paragraph(e)~~(c)~~, or its employees or officers, except as
2 otherwise provided in paragraph(i)~~(g)~~, must, as a part of
3 its contract, obtain a minimum of \$1 million per claim/\$3
4 million per incident in general liability insurance coverage.
5 The eligible lead community-based provider must also require
6 that staff who transport client children and families in their
7 personal automobiles in order to carry out their job
8 responsibilities obtain minimum bodily injury liability
9 insurance in the amount of \$100,000 per claim, \$300,000 per
10 incident, on their personal automobiles. In any tort action
11 brought against such an eligible lead community-based provider
12 or employee, net economic damages shall be limited to \$1
13 million per liability claim and \$100,000 per automobile claim,
14 including, but not limited to, past and future medical
15 expenses, wage loss, and loss of earning capacity, offset by
16 any collateral source payment paid or payable. In any tort
17 action brought against such an eligible lead community-based
18 provider, noneconomic damages shall be limited to \$200,000 per
19 claim. A claims bill may be brought on behalf of a claimant
20 pursuant to s. 768.28 for any amount exceeding the limits
21 specified in this paragraph. Any offset of collateral source
22 payments made as of the date of the settlement or judgment
23 shall be in accordance with s. 768.76. The lead
24 community-based provider shall not be liable in tort for the
25 acts or omissions of its subcontractors or the officers,
26 agents, or employees of its subcontractors.

27 (j) Any subcontractor of an eligible lead
28 community-based provider, as defined in paragraph(e)~~(c)~~,
29 which is a direct provider of foster care and related services
30 to children and families, and its employees or officers,
31 except as otherwise provided in paragraph(i)~~(g)~~, must, as a

1 part of its contract, obtain a minimum of \$1 million per
2 claim/\$3 million per incident in general liability insurance
3 coverage. The subcontractor of an eligible lead
4 community-based provider must also require that staff who
5 transport client children and families in their personal
6 automobiles in order to carry out their job responsibilities
7 obtain minimum bodily injury liability insurance in the amount
8 of \$100,000 per claim, \$300,000 per incident, on their
9 personal automobiles. In any tort action brought against such
10 subcontractor or employee, net economic damages shall be
11 limited to \$1 million per liability claim and \$100,000 per
12 automobile claim, including, but not limited to, past and
13 future medical expenses, wage loss, and loss of earning
14 capacity, offset by any collateral source payment paid or
15 payable. In any tort action brought against such
16 subcontractor, noneconomic damages shall be limited to
17 \$200,000 per claim. A claims bill may be brought on behalf of
18 a claimant pursuant to s. 768.28 for any amount exceeding the
19 limits specified in this paragraph. Any offset of collateral
20 source payments made as of the date of the settlement or
21 judgment shall be in accordance with s. 768.76.

22
23 Reviser's note.--Amended to conform to the
24 redesignation of subunits of s. 409.1671 by s.
25 7, ch. 2003-146, Laws of Florida.

26
27 Section 50. Section 409.1757, Florida Statutes, is
28 amended to read:
29 409.1757 Persons not required to be refingerprinted or
30 rescreened.--Any provision of law to the contrary
31 notwithstanding, human resource personnel who have been

1 fingerprinted or screened pursuant to chapters 393, 394, 397,
2 402, and this chapter, and teachers who have been
3 fingerprinted pursuant to chapter 1012, who have not been
4 unemployed for more than 90 days thereafter, and who under the
5 penalty of perjury attest to the completion of such
6 fingerprinting or screening and to compliance with the
7 provisions of this section and the standards for good moral
8 character as contained in such provisions as ss. 110.1127(3),
9 393.0655(1), 394.457(6), 397.451, 402.305(2), and 409.175(6)
10 ~~409.175(5)~~, shall not be required to be refingerprinted or
11 rescreened in order to comply with any caretaker screening or
12 fingerprinting requirements.

13

14 Reviser's note.--Amended to conform to the
15 redesignation of s. 409.175(5) as s. 409.175(6)
16 by s. 6, ch. 2002-219, Laws of Florida.

17

18 Section 51. Subsection (6) of section 409.904, Florida
19 Statutes, is repealed.

20

21 Reviser's note.--Subsection (6), which relates
22 to eligibility for certain Medicaid payments by
23 specified children born before October 1, 1983,
24 who have not yet attained the age of 19, is
25 obsolete.

26

27 Section 52. Paragraph (a) of subsection (4) of section
28 409.9065, Florida Statutes, is amended to read:

29

409.9065 Pharmaceutical expense assistance.--

30

(4) ADMINISTRATION.--The pharmaceutical expense

31

assistance program shall be administered by the agency, in

1 collaboration with the Department of Elderly Affairs and the
2 Department of Children and Family Services.

3 (a) The agency shall, by rule, establish for the
4 pharmaceutical expense assistance program eligibility
5 requirements; limits on participation; benefit limitations,
6 including copayments; a requirement for generic drug
7 substitution; and other program parameters comparable to those
8 of the Medicaid program. Individuals eligible to participate
9 in this program are not subject to the limit of four brand
10 name drugs per month per recipient as specified in s.

11 409.912(40)(a)~~409.912(38)(a)~~. There shall be no monetary
12 limit on prescription drugs purchased with discounts of less
13 than 51 percent unless the agency determines there is a risk
14 of a funding shortfall in the program. If the agency
15 determines there is a risk of a funding shortfall, the agency
16 may establish monetary limits on prescription drugs which
17 shall not be less than \$160 worth of prescription drugs per
18 month.

19
20 Reviser's note.--Amended to conform to the
21 redesignation of s. 409.912(38)(a) as s.
22 409.912(40)(a) by s. 9, ch. 2003-279, Laws of
23 Florida.

24
25 Section 53. Section 409.908, Florida Statutes, is
26 amended to read:

27 409.908 Reimbursement of Medicaid providers.--Subject
28 to specific appropriations, the agency shall reimburse
29 Medicaid providers, in accordance with state and federal law,
30 according to methodologies set forth in the rules of the
31 agency and in policy manuals and handbooks incorporated by

1 reference therein. These methodologies may include fee
2 schedules, reimbursement methods based on cost reporting,
3 negotiated fees, competitive bidding pursuant to s. 287.057,
4 and other mechanisms the agency considers efficient and
5 effective for purchasing services or goods on behalf of
6 recipients. If a provider is reimbursed based on cost
7 reporting and submits a cost report late and that cost report
8 would have been used to set a lower reimbursement rate for a
9 rate semester, then the provider's rate for that semester
10 shall be retroactively calculated using the new cost report,
11 and full payment at the recalculated rate shall be effected
12 ~~affected~~ retroactively. Medicare-granted extensions for filing
13 cost reports, if applicable, shall also apply to Medicaid cost
14 reports. Payment for Medicaid compensable services made on
15 behalf of Medicaid eligible persons is subject to the
16 availability of moneys and any limitations or directions
17 provided for in the General Appropriations Act or chapter 216.
18 Further, nothing in this section shall be construed to prevent
19 or limit the agency from adjusting fees, reimbursement rates,
20 lengths of stay, number of visits, or number of services, or
21 making any other adjustments necessary to comply with the
22 availability of moneys and any limitations or directions
23 provided for in the General Appropriations Act, provided the
24 adjustment is consistent with legislative intent.

25 (1) Reimbursement to hospitals licensed under part I
26 of chapter 395 must be made prospectively or on the basis of
27 negotiation.

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

30 1. The raising of rate reimbursement caps, excluding
31 rural hospitals.

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

3 3. Other methodologies recognized in the General
4 Appropriations Act.

5 4. Hospital inpatient rates shall be reduced by 6
6 percent effective July 1, 2001, and restored effective April
7 1, 2002.

8
9 During the years funds are transferred from the Department of
10 Health, any reimbursement supported by such funds shall be
11 subject to certification by the Department of Health that the
12 hospital has complied with s. 381.0403. The agency is
13 authorized to receive funds from state entities, including,
14 but not limited to, the Department of Health, local
15 governments, and other local political subdivisions, for the
16 purpose of making special exception payments, including
17 federal matching funds, through the Medicaid inpatient
18 reimbursement methodologies. Funds received from state
19 entities or local governments for this purpose shall be
20 separately accounted for and shall not be commingled with
21 other state or local funds in any manner. The agency may
22 certify all local governmental funds used as state match under
23 Title XIX of the Social Security Act, to the extent that the
24 identified local health care provider that is otherwise
25 entitled to and is contracted to receive such local funds is
26 the benefactor under the state's Medicaid program as
27 determined under the General Appropriations Act and pursuant
28 to an agreement between the Agency for Health Care
29 Administration and the local governmental entity. The local
30 governmental entity shall use a certification form prescribed
31 by the agency. At a minimum, the certification form shall

1 identify the amount being certified and describe the
2 relationship between the certifying local governmental entity
3 and the local health care provider. The agency shall prepare
4 an annual statement of impact which documents the specific
5 activities undertaken during the previous fiscal year pursuant
6 to this paragraph, to be submitted to the Legislature no later
7 than January 1, annually.

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

11 1. Such care provided to a Medicaid recipient under
12 age 21, in which case the only limitation is medical
13 necessity.

14 2. Renal dialysis services.

15 3. Other exceptions made by the agency.
16

17 The agency is authorized to receive funds from state entities,
18 including, but not limited to, the Department of Health, the
19 Board of Regents, local governments, and other local political
20 subdivisions, for the purpose of making payments, including
21 federal matching funds, through the Medicaid outpatient
22 reimbursement methodologies. Funds received from state
23 entities and local governments for this purpose shall be
24 separately accounted for and shall not be commingled with
25 other state or local funds in any manner.

26 (c) Hospitals that provide services to a
27 disproportionate share of low-income Medicaid recipients, or
28 that participate in the regional perinatal intensive care
29 center program under chapter 383, or that participate in the
30 statutory teaching hospital disproportionate share program may
31 receive additional reimbursement. The total amount of payment

1 for disproportionate share hospitals shall be fixed by the
2 General Appropriations Act. The computation of these payments
3 must be made in compliance with all federal regulations and
4 the methodologies described in ss. 409.911, 409.9112, and
5 409.9113.

6 (d) The agency is authorized to limit inflationary
7 increases for outpatient hospital services as directed by the
8 General Appropriations Act.

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

13 2. Unless otherwise limited or directed in the General
14 Appropriations Act, reimbursement to hospitals licensed under
15 part I of chapter 395 for the provision of swing-bed nursing
16 home services must be made on the basis of the average
17 statewide nursing home payment, and reimbursement to a
18 hospital licensed under part I of chapter 395 for the
19 provision of skilled nursing services must be made on the
20 basis of the average nursing home payment for those services
21 in the county in which the hospital is located. When a
22 hospital is located in a county that does not have any
23 community nursing homes, reimbursement must be determined by
24 averaging the nursing home payments, in counties that surround
25 the county in which the hospital is located. Reimbursement to
26 hospitals, including Medicaid payment of Medicare copayments,
27 for skilled nursing services shall be limited to 30 days,
28 unless a prior authorization has been obtained from the
29 agency. Medicaid reimbursement may be extended by the agency
30 beyond 30 days, and approval must be based upon verification
31 by the patient's physician that the patient requires

1 short-term rehabilitative and recuperative services only, in
2 which case an extension of no more than 15 days may be
3 approved. Reimbursement to a hospital licensed under part I of
4 chapter 395 for the temporary provision of skilled nursing
5 services to nursing home residents who have been displaced as
6 the result of a natural disaster or other emergency may not
7 exceed the average county nursing home payment for those
8 services in the county in which the hospital is located and is
9 limited to the period of time which the agency considers
10 necessary for continued placement of the nursing home
11 residents in the hospital.

12 (b) Subject to any limitations or directions provided
13 for in the General Appropriations Act, the agency shall
14 establish and implement a Florida Title XIX Long-Term Care
15 Reimbursement Plan (Medicaid) for nursing home care in order
16 to provide care and services in conformance with the
17 applicable state and federal laws, rules, regulations, and
18 quality and safety standards and to ensure that individuals
19 eligible for medical assistance have reasonable geographic
20 access to such care.

21 1. Changes of ownership or of licensed operator do not
22 qualify for increases in reimbursement rates associated with
23 the change of ownership or of licensed operator. The agency
24 shall amend the Title XIX Long Term Care Reimbursement Plan to
25 provide that the initial nursing home reimbursement rates, for
26 the operating, patient care, and MAR components, associated
27 with related and unrelated party changes of ownership or
28 licensed operator filed on or after September 1, 2001, are
29 equivalent to the previous owner's reimbursement rate.

30 2. The agency shall amend the long-term care
31 reimbursement plan and cost reporting system to create direct

1 care and indirect care subcomponents of the patient care
2 component of the per diem rate. These two subcomponents
3 together shall equal the patient care component of the per
4 diem rate. Separate cost-based ceilings shall be calculated
5 for each patient care subcomponent. The direct care
6 subcomponent of the per diem rate shall be limited by the
7 cost-based class ceiling, and the indirect care subcomponent
8 shall be limited by the lower of the cost-based class ceiling,
9 by the target rate class ceiling, or by the individual
10 provider target. The agency shall adjust the patient care
11 component effective January 1, 2002. The cost to adjust the
12 direct care subcomponent shall be net of the total funds
13 previously allocated for the case mix add-on. The agency shall
14 make the required changes to the nursing home cost reporting
15 forms to implement this requirement effective January 1, 2002.

16 3. The direct care subcomponent shall include salaries
17 and benefits of direct care staff providing nursing services
18 including registered nurses, licensed practical nurses, and
19 certified nursing assistants who deliver care directly to
20 residents in the nursing home facility. This excludes nursing
21 administration, MDS, and care plan coordinators, staff
22 development, and staffing coordinator.

23 4. All other patient care costs shall be included in
24 the indirect care cost subcomponent of the patient care per
25 diem rate. There shall be no costs directly or indirectly
26 allocated to the direct care subcomponent from a home office
27 or management company.

28 5. On July 1 of each year, the agency shall report to
29 the Legislature direct and indirect care costs, including
30 average direct and indirect care costs per resident per
31

1 facility and direct care and indirect care salaries and
2 benefits per category of staff member per facility.

3 6. In order to offset the cost of general and
4 professional liability insurance, the agency shall amend the
5 plan to allow for interim rate adjustments to reflect
6 increases in the cost of general or professional liability
7 insurance for nursing homes. This provision shall be
8 implemented to the extent existing appropriations are
9 available.

10

11 It is the intent of the Legislature that the reimbursement
12 plan achieve the goal of providing access to health care for
13 nursing home residents who require large amounts of care while
14 encouraging diversion services as an alternative to nursing
15 home care for residents who can be served within the
16 community. The agency shall base the establishment of any
17 maximum rate of payment, whether overall or component, on the
18 available moneys as provided for in the General Appropriations
19 Act. The agency may base the maximum rate of payment on the
20 results of scientifically valid analysis and conclusions
21 derived from objective statistical data pertinent to the
22 particular maximum rate of payment.

23 (3) Subject to any limitations or directions provided
24 for in the General Appropriations Act, the following Medicaid
25 services and goods may be reimbursed on a fee-for-service
26 basis. For each allowable service or goods furnished in
27 accordance with Medicaid rules, policy manuals, handbooks, and
28 state and federal law, the payment shall be the amount billed
29 by the provider, the provider's usual and customary charge, or
30 the maximum allowable fee established by the agency, whichever
31 amount is less, with the exception of those services or goods

1 for which the agency makes payment using a methodology based
2 on capitation rates, average costs, or negotiated fees.
3 (a) Advanced registered nurse practitioner services.
4 (b) Birth center services.
5 (c) Chiropractic services.
6 (d) Community mental health services.
7 (e) Dental services, including oral and maxillofacial
8 surgery.
9 (f) Durable medical equipment.
10 (g) Hearing services.
11 (h) Occupational therapy for Medicaid recipients under
12 age 21.
13 (i) Optometric services.
14 (j) Orthodontic services.
15 (k) Personal care for Medicaid recipients under age
16 21.
17 (l) Physical therapy for Medicaid recipients under age
18 21.
19 (m) Physician assistant services.
20 (n) Podiatric services.
21 (o) Portable X-ray services.
22 (p) Private-duty nursing for Medicaid recipients under
23 age 21.
24 (q) Registered nurse first assistant services.
25 (r) Respiratory therapy for Medicaid recipients under
26 age 21.
27 (s) Speech therapy for Medicaid recipients under age
28 21.
29 (t) Visual services.
30 (4) Subject to any limitations or directions provided
31 for in the General Appropriations Act, alternative health

1 plans, health maintenance organizations, and prepaid health
2 plans shall be reimbursed a fixed, prepaid amount negotiated,
3 or competitively bid pursuant to s. 287.057, by the agency and
4 prospectively paid to the provider monthly for each Medicaid
5 recipient enrolled. The amount may not exceed the average
6 amount the agency determines it would have paid, based on
7 claims experience, for recipients in the same or similar
8 category of eligibility. The agency shall calculate
9 capitation rates on a regional basis and, beginning September
10 1, 1995, shall include age-band differentials in such
11 calculations. Effective July 1, 2001, the cost of exempting
12 statutory teaching hospitals, specialty hospitals, and
13 community hospital education program hospitals from
14 reimbursement ceilings and the cost of special Medicaid
15 payments shall not be included in premiums paid to health
16 maintenance organizations or prepaid health care plans. Each
17 rate semester, the agency shall calculate and publish a
18 Medicaid hospital rate schedule that does not reflect either
19 special Medicaid payments or the elimination of rate
20 reimbursement ceilings, to be used by hospitals and Medicaid
21 health maintenance organizations, in order to determine the
22 Medicaid rate referred to in ss. 409.912(19) ~~409.912(17)~~,
23 409.9128(5), and 641.513(6).

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

27 (6) A provider of early and periodic screening,
28 diagnosis, and treatment services to Medicaid recipients who
29 are children under age 21 shall be reimbursed using an
30 all-inclusive rate stipulated in a fee schedule established by
31 the agency. A provider of the visual, dental, and hearing

1 components of such services shall be reimbursed the lesser of
2 the amount billed by the provider or the Medicaid maximum
3 allowable fee established by the agency.

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

9 (8) A provider of home-based or community-based
10 services rendered pursuant to a federally approved waiver
11 shall be reimbursed based on an established or negotiated rate
12 for each service. These rates shall be established according
13 to an analysis of the expenditure history and prospective
14 budget developed by each contract provider participating in
15 the waiver program, or under any other methodology adopted by
16 the agency and approved by the Federal Government in
17 accordance with the waiver. Effective July 1, 1996, privately
18 owned and operated community-based residential facilities
19 which meet agency requirements and which formerly received
20 Medicaid reimbursement for the optional intermediate care
21 facility for the mentally retarded service may participate in
22 the developmental services waiver as part of a
23 home-and-community-based continuum of care for Medicaid
24 recipients who receive waiver services.

25 (9) A provider of home health care services or of
26 medical supplies and appliances shall be reimbursed on the
27 basis of competitive bidding or for the lesser of the amount
28 billed by the provider or the agency's established maximum
29 allowable amount, except that, in the case of the rental of
30 durable medical equipment, the total rental payments may not
31 exceed the purchase price of the equipment over its expected

1 useful life or the agency's established maximum allowable
2 amount, whichever amount is less.

3 (10) A hospice shall be reimbursed through a
4 prospective system for each Medicaid hospice patient at
5 Medicaid rates using the methodology established for hospice
6 reimbursement pursuant to Title XVIII of the federal Social
7 Security Act.

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

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

16 (b) The agency shall adopt a fee schedule, subject to
17 any limitations or directions provided for in the General
18 Appropriations Act, based on a resource-based relative value
19 scale for pricing Medicaid physician services. Under this fee
20 schedule, physicians shall be paid a dollar amount for each
21 service based on the average resources required to provide the
22 service, including, but not limited to, estimates of average
23 physician time and effort, practice expense, and the costs of
24 professional liability insurance. The fee schedule shall
25 provide increased reimbursement for preventive and primary
26 care services and lowered reimbursement for specialty services
27 by using at least two conversion factors, one for cognitive
28 services and another for procedural services. The fee
29 schedule shall not increase total Medicaid physician
30 expenditures unless moneys are available, and shall be phased
31 in over a 2-year period beginning on July 1, 1994. The Agency

1 for Health Care Administration shall seek the advice of a
2 16-member advisory panel in formulating and adopting the fee
3 schedule. The panel shall consist of Medicaid physicians
4 licensed under chapters 458 and 459 and shall be composed of
5 50 percent primary care physicians and 50 percent specialty
6 care physicians.

7 (c) Notwithstanding paragraph (b), reimbursement fees
8 to physicians for providing total obstetrical services to
9 Medicaid recipients, which include prenatal, delivery, and
10 postpartum care, shall be at least \$1,500 per delivery for a
11 pregnant woman with low medical risk and at least \$2,000 per
12 delivery for a pregnant woman with high medical risk. However,
13 reimbursement to physicians working in Regional Perinatal
14 Intensive Care Centers designated pursuant to chapter 383, for
15 services to certain pregnant Medicaid recipients with a high
16 medical risk, may be made according to obstetrical care and
17 neonatal care groupings and rates established by the agency.
18 Nurse midwives licensed under part I of chapter 464 or
19 midwives licensed under chapter 467 shall be reimbursed at no
20 less than 80 percent of the low medical risk fee. The agency
21 shall by rule determine, for the purpose of this paragraph,
22 what constitutes a high or low medical risk pregnant woman and
23 shall not pay more based solely on the fact that a caesarean
24 section was performed, rather than a vaginal delivery. The
25 agency shall by rule determine a prorated payment for
26 obstetrical services in cases where only part of the total
27 prenatal, delivery, or postpartum care was performed. The
28 Department of Health shall adopt rules for appropriate
29 insurance coverage for midwives licensed under chapter 467.
30 Prior to the issuance and renewal of an active license, or
31 reactivation of an inactive license for midwives licensed

1 under chapter 467, such licensees shall submit proof of
2 coverage with each application.

3 ~~(d) For fiscal years 2001-2002 and 2002-2003 only and~~
4 ~~if necessary to meet the requirements for grants and donations~~
5 ~~for the special Medicaid payments authorized in the 2001-2002~~
6 ~~and 2002-2003 General Appropriations Acts, the agency may make~~
7 ~~special Medicaid payments to qualified Medicaid providers~~
8 ~~designated by the agency, notwithstanding any provision of~~
9 ~~this subsection to the contrary, and may use intergovernmental~~
10 ~~transfers from state entities or other governmental entities~~
11 ~~to serve as the state share of such payments.~~

12 (13) Medicare premiums for persons eligible for both
13 Medicare and Medicaid coverage shall be paid at the rates
14 established by Title XVIII of the Social Security Act. For
15 Medicare services rendered to Medicaid-eligible persons,
16 Medicaid shall pay Medicare deductibles and coinsurance as
17 follows:

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

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

24 (c) Medicaid will pay no portion of Medicare
25 deductibles and coinsurance when payment that Medicare has
26 made for the service equals or exceeds what Medicaid would
27 have paid if it had been the sole payor. The combined payment
28 of Medicare and Medicaid shall not exceed the amount Medicaid
29 would have paid had it been the sole payor. The Legislature
30 finds that there has been confusion regarding the
31 reimbursement for services rendered to dually eligible

1 Medicare beneficiaries. Accordingly, the Legislature clarifies
2 that it has always been the intent of the Legislature before
3 and after 1991 that, in reimbursing in accordance with fees
4 established by Title XVIII for premiums, deductibles, and
5 coinsurance for Medicare services rendered by physicians to
6 Medicaid eligible persons, physicians be reimbursed at the
7 lesser of the amount billed by the physician or the Medicaid
8 maximum allowable fee established by the Agency for Health
9 Care Administration, as is permitted by federal law. It has
10 never been the intent of the Legislature with regard to such
11 services rendered by physicians that Medicaid be required to
12 provide any payment for deductibles, coinsurance, or
13 copayments for Medicare cost sharing, or any expenses incurred
14 relating thereto, in excess of the payment amount provided for
15 under the State Medicaid plan for such service. This payment
16 methodology is applicable even in those situations in which
17 the payment for Medicare cost sharing for a qualified Medicare
18 beneficiary with respect to an item or service is reduced or
19 eliminated. This expression of the Legislature is in
20 clarification of existing law and shall apply to payment for,
21 and with respect to provider agreements with respect to, items
22 or services furnished on or after the effective date of this
23 act. This paragraph applies to payment by Medicaid for items
24 and services furnished before the effective date of this act
25 if such payment is the subject of a lawsuit that is based on
26 the provisions of this section, and that is pending as of, or
27 is initiated after, the effective date of this act.

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

29 1. Medicaid payments for Nursing Home Medicare part A
30 coinsurance shall be the lesser of the Medicare coinsurance
31 amount or the Medicaid nursing home per diem rate.

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

4 3. Medicaid payments for general hospital inpatient
5 services shall be limited to the Medicare deductible per spell
6 of illness. Medicaid shall make no payment toward coinsurance
7 for Medicare general hospital inpatient services.

8 4. Medicaid shall pay all deductibles and coinsurance
9 for Medicare emergency transportation services provided by
10 ambulances licensed pursuant to chapter 401.

11 (14) A provider of prescribed drugs shall be
12 reimbursed the least of the amount billed by the provider, the
13 provider's usual and customary charge, or the Medicaid maximum
14 allowable fee established by the agency, plus a dispensing
15 fee. The agency is directed to implement a variable dispensing
16 fee for payments for prescribed medicines while ensuring
17 continued access for Medicaid recipients. The variable
18 dispensing fee may be based upon, but not limited to, either
19 or both the volume of prescriptions dispensed by a specific
20 pharmacy provider, the volume of prescriptions dispensed to an
21 individual recipient, and dispensing of preferred-drug-list
22 products. The agency may increase the pharmacy dispensing fee
23 authorized by statute and in the annual General Appropriations
24 Act by \$0.50 for the dispensing of a Medicaid
25 preferred-drug-list product and reduce the pharmacy dispensing
26 fee by \$0.50 for the dispensing of a Medicaid product that is
27 not included on the preferred-drug list. The agency may
28 establish a supplemental pharmaceutical dispensing fee to be
29 paid to providers returning unused unit-dose packaged
30 medications to stock and crediting the Medicaid program for
31 the ingredient cost of those medications if the ingredient

1 costs to be credited exceed the value of the supplemental
2 dispensing fee. The agency is authorized to limit
3 reimbursement for prescribed medicine in order to comply with
4 any limitations or directions provided for in the General
5 Appropriations Act, which may include implementing a
6 prospective or concurrent utilization review program.

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

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

16 (17) A provider of targeted case management services
17 shall be reimbursed pursuant to an established fee, except
18 where the Federal Government requires a public provider be
19 reimbursed on the basis of average actual costs.

20 (18) Unless otherwise provided for in the General
21 Appropriations Act, a provider of transportation services
22 shall be reimbursed the lesser of the amount billed by the
23 provider or the Medicaid maximum allowable fee established by
24 the agency, except when the agency has entered into a direct
25 contract with the provider, or with a community transportation
26 coordinator, for the provision of an all-inclusive service, or
27 when services are provided pursuant to an agreement negotiated
28 between the agency and the provider. The agency, as provided
29 for in s. 427.0135, shall purchase transportation services
30 through the community coordinated transportation system, if
31 available, unless the agency determines a more cost-effective

1 method for Medicaid clients. Nothing in this subsection shall
2 be construed to limit or preclude the agency from contracting
3 for services using a prepaid capitation rate or from
4 establishing maximum fee schedules, individualized
5 reimbursement policies by provider type, negotiated fees,
6 prior authorization, competitive bidding, increased use of
7 mass transit, or any other mechanism that the agency considers
8 efficient and effective for the purchase of services on behalf
9 of Medicaid clients, including implementing a transportation
10 eligibility process. The agency shall not be required to
11 contract with any community transportation coordinator or
12 transportation operator that has been determined by the
13 agency, the Department of Legal Affairs Medicaid Fraud Control
14 Unit, or any other state or federal agency to have engaged in
15 any abusive or fraudulent billing activities. The agency is
16 authorized to competitively procure transportation services or
17 make other changes necessary to secure approval of federal
18 waivers needed to permit federal financing of Medicaid
19 transportation services at the service matching rate rather
20 than the administrative matching rate.

21 (19) County health department services may be
22 reimbursed a rate per visit based on total reasonable costs of
23 the clinic, as determined by the agency in accordance with
24 federal regulations under the authority of 42 C.F.R. s.
25 431.615.

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

31

1 (21) The agency shall reimburse school districts which
2 certify the state match pursuant to ss. 409.9071 and 1011.70
3 for the federal portion of the school district's allowable
4 costs to deliver the services, based on the reimbursement
5 schedule. The school district shall determine the costs for
6 delivering services as authorized in ss. 409.9071 and 1011.70
7 for which the state match will be certified. Reimbursement of
8 school-based providers is contingent on such providers being
9 enrolled as Medicaid providers and meeting the qualifications
10 contained in 42 C.F.R. s. 440.110, unless otherwise waived by
11 the federal Health Care Financing Administration. Speech
12 therapy providers who are certified through the Department of
13 Education pursuant to rule 6A-4.0176, Florida Administrative
14 Code, are eligible for reimbursement for services that are
15 provided on school premises. Any employee of the school
16 district who has been fingerprinted and has received a
17 criminal background check in accordance with Department of
18 Education rules and guidelines shall be exempt from any agency
19 requirements relating to criminal background checks.

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

26
27 Reviser's note.--The introductory paragraph to
28 the section is amended to improve clarity and
29 conform to context. Subsection (4) is amended
30 to conform to the redesignation of s.
31 409.912(17) as s. 409.912(19) by s. 9, ch.

1 2003-279, Laws of Florida. Subsection (12),
2 which relates to special Medicaid payments for
3 fiscal years 2001-2002 and 2002-2003, is
4 repealed to delete an obsolete provision.
5

6 Section 54. Subsections (1) and (2) of section
7 409.91196, Florida Statutes, are amended to read:

8 409.91196 Supplemental rebate agreements;
9 confidentiality of records and meetings.--

10 (1) Trade secrets, rebate amount, percent of rebate,
11 manufacturer's pricing, and supplemental rebates which are
12 contained in records of the Agency for Health Care
13 Administration and its agents with respect to supplemental
14 rebate negotiations and which are prepared pursuant to a
15 supplemental rebate agreement under s. 409.912(40)(a)7.
16 ~~409.912(38)(a)7.~~ are confidential and exempt from s. 119.07
17 and s. 24(a), Art. I of the State Constitution.

18 (2) Those portions of meetings of the Medicaid
19 Pharmaceutical and Therapeutics Committee at which trade
20 secrets, rebate amount, percent of rebate, manufacturer's
21 pricing, and supplemental rebates are disclosed for discussion
22 or negotiation of a supplemental rebate agreement under s.
23 409.912(40)(a)7. ~~409.912(38)(a)7.~~ are exempt from s. 286.011
24 and s. 24(b), Art. I of the State Constitution.
25

26 Reviser's note.--Amended to conform to the
27 redesignation of s. 409.912(38)(a)7. as s.
28 409.912(40)(a)7. by s. 9, ch. 2003-279, Laws of
29 Florida.
30
31

1 Section 55. Subsection (38) of section 409.912,
2 Florida Statutes, is repealed, and paragraph (c) of subsection
3 (4), paragraph (c) of subsection (21), and subsection (29) of
4 that section are amended to read:

5 409.912 Cost-effective purchasing of health care.--The
6 agency shall purchase goods and services for Medicaid
7 recipients in the most cost-effective manner consistent with
8 the delivery of quality medical care. The agency shall
9 maximize the use of prepaid per capita and prepaid aggregate
10 fixed-sum basis services when appropriate and other
11 alternative service delivery and reimbursement methodologies,
12 including competitive bidding pursuant to s. 287.057, designed
13 to facilitate the cost-effective purchase of a case-managed
14 continuum of care. The agency shall also require providers to
15 minimize the exposure of recipients to the need for acute
16 inpatient, custodial, and other institutional care and the
17 inappropriate or unnecessary use of high-cost services. The
18 agency may establish prior authorization requirements for
19 certain populations of Medicaid beneficiaries, certain drug
20 classes, or particular drugs to prevent fraud, abuse, overuse,
21 and possible dangerous drug interactions. The Pharmaceutical
22 and Therapeutics Committee shall make recommendations to the
23 agency on drugs for which prior authorization is required. The
24 agency shall inform the Pharmaceutical and Therapeutics
25 Committee of its decisions regarding drugs subject to prior
26 authorization.

27 (4) The agency may contract with:

28 (c) A federally qualified health center or an entity
29 owned by one or more federally qualified health centers or an
30 entity owned by other migrant and community health centers
31 receiving non-Medicaid financial support from the Federal

1 Government to provide health care services on a prepaid or
2 fixed-sum basis to recipients. Such prepaid health care
3 services entity must be licensed under parts I and III of
4 chapter 641, but shall be prohibited from serving Medicaid
5 recipients on a prepaid basis, until such licensure has been
6 obtained. However, such an entity is exempt from s. 641.225
7 if the entity meets the requirements specified in subsections
8 (17) and (18)~~(15) and (16)~~.

9 (21) Any entity contracting with the agency pursuant
10 to this section to provide health care services to Medicaid
11 recipients is prohibited from engaging in any of the following
12 practices or activities:

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

16 (29) The agency shall perform enrollments and
17 disenrollments for Medicaid recipients who are eligible for
18 MediPass or managed care plans. Notwithstanding the
19 prohibition contained in paragraph (21)(f)~~(19)(f)~~, managed
20 care plans may perform preenrollments of Medicaid recipients
21 under the supervision of the agency or its agents. For the
22 purposes of this section, "preenrollment" means the provision
23 of marketing and educational materials to a Medicaid recipient
24 and assistance in completing the application forms, but shall
25 not include actual enrollment into a managed care plan. An
26 application for enrollment shall not be deemed complete until
27 the agency or its agent verifies that the recipient made an
28 informed, voluntary choice. The agency, in cooperation with
29 the Department of Children and Family Services, may test new
30 marketing initiatives to inform Medicaid recipients about
31 their managed care options at selected sites. The agency shall

1 report to the Legislature on the effectiveness of such
2 initiatives. The agency may contract with a third party to
3 perform managed care plan and MediPass enrollment and
4 disenrollment services for Medicaid recipients and is
5 authorized to adopt rules to implement such services. The
6 agency may adjust the capitation rate only to cover the costs
7 of a third-party enrollment and disenrollment contract, and
8 for agency supervision and management of the managed care plan
9 enrollment and disenrollment contract.

10
11 Reviser's note.--Paragraph (4)(c), paragraph
12 (21)(c), and subsection (29) are amended to
13 conform to the redesignation of subunits of s.
14 409.912 by s. 9, ch. 2003-279, Laws of Florida.
15 Subsection (38) is repealed to delete material
16 relating to a 3-year managed care pilot program
17 that has been completed.

18
19 Section 56. Paragraph (f) of subsection (2) of section
20 409.9122, Florida Statutes, is amended to read:

21 409.9122 Mandatory Medicaid managed care enrollment;
22 programs and procedures.--

23 (2)

24 (f) When a Medicaid recipient does not choose a
25 managed care plan or MediPass provider, the agency shall
26 assign the Medicaid recipient to a managed care plan or
27 MediPass provider. Medicaid recipients who are subject to
28 mandatory assignment but who fail to make a choice shall be
29 assigned to managed care plans until an enrollment of 40
30 percent in MediPass and 60 percent in managed care plans is
31 achieved. Once this enrollment is achieved, the assignments

1 shall be divided in order to maintain an enrollment in
2 MediPass and managed care plans which is in a 40 percent and
3 60 percent proportion, respectively. Thereafter, assignment of
4 Medicaid recipients who fail to make a choice shall be based
5 proportionally on the preferences of recipients who have made
6 a choice in the previous period. Such proportions shall be
7 revised at least quarterly to reflect an update of the
8 preferences of Medicaid recipients. The agency shall
9 disproportionately assign Medicaid-eligible recipients who are
10 required to but have failed to make a choice of managed care
11 plan or MediPass, including children, and who are to be
12 assigned to the MediPass program to children's networks as
13 described in s. 409.912(4)(g)~~409.912(3)(g)~~, Children's
14 Medical Services network as defined in s. 391.021, exclusive
15 provider organizations, provider service networks, minority
16 physician networks, and pediatric emergency department
17 diversion programs authorized by this chapter or the General
18 Appropriations Act, in such manner as the agency deems
19 appropriate, until the agency has determined that the networks
20 and programs have sufficient numbers to be economically
21 operated. For purposes of this paragraph, when referring to
22 assignment, the term "managed care plans" includes health
23 maintenance organizations, exclusive provider organizations,
24 provider service networks, minority physician networks,
25 Children's Medical Services network, and pediatric emergency
26 department diversion programs authorized by this chapter or
27 the General Appropriations Act. When making assignments, the
28 agency shall take into account the following criteria:
29 1. A managed care plan has sufficient network capacity
30 to meet the need of members.

31

1 2. The managed care plan or MediPass has previously
2 enrolled the recipient as a member, or one of the managed care
3 plan's primary care providers or MediPass providers has
4 previously provided health care to the recipient.

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

9 4. The managed care plan's or MediPass primary care
10 providers are geographically accessible to the recipient's
11 residence.

12
13 Reviser's note.--Amended to conform to the
14 redesignation of s. 409.912(3)(g) as s.
15 409.912(4)(g) by s. 9, ch. 2003-279, Laws of
16 Florida.

17
18 Section 57. Paragraph (c) of subsection (3) of section
19 414.095, Florida Statutes, is amended to read:

20 414.095 Determining eligibility for temporary cash
21 assistance.--

22 (3) ELIGIBILITY FOR NONCITIZENS.--A "qualified
23 noncitizen" is an individual who is admitted to the United
24 States as a refugee under s. 207 of the Immigration and
25 Nationality Act or who is granted asylum under s. 208 of the
26 Immigration and Nationality Act; a noncitizen whose
27 deportation is withheld under s. 243(h) or s. 241(b)(3) of the
28 Immigration and Nationality Act; a noncitizen who is paroled
29 into the United States under s. 212(d)(5) of the Immigration
30 and Nationality Act, for at least 1 year; a noncitizen who is
31 granted conditional entry pursuant to s. 203(a)(7) of the

1 Immigration and Nationality Act as in effect prior to April 1,
2 1980; a Cuban or Haitian entrant; or a noncitizen who has been
3 admitted as a permanent resident. In addition, a "qualified
4 noncitizen" includes an individual who, or an individual whose
5 child or parent, has been battered or subject to extreme
6 cruelty in the United States by a spouse, a parent, or other
7 household member under certain circumstances, and has applied
8 for or received protection under the federal Violence Against
9 Women Act of 1994, Pub. L. No. 103-322, if the need for
10 benefits is related to the abuse and the batterer no longer
11 lives in the household. A "nonqualified noncitizen" is a
12 nonimmigrant noncitizen, including a tourist, business
13 visitor, foreign student, exchange visitor, temporary worker,
14 or diplomat. In addition, a "nonqualified noncitizen" includes
15 an individual paroled into the United States for less than 1
16 year. A qualified noncitizen who is otherwise eligible may
17 receive temporary cash assistance to the extent permitted by
18 federal law. The income or resources of a sponsor and the
19 sponsor's spouse shall be included in determining eligibility
20 to the maximum extent permitted by federal law.

21 (c) The department shall participate in the Systematic
22 Alien Verification for Entitlements Program (SAVE) established
23 by the United States Bureau of Citizenship and Immigration
24 Services ~~Immigration and Naturalization Service~~ in order to
25 verify the validity of documents provided by noncitizens and
26 to verify a noncitizen's eligibility.

27

28 Reviser's note.--Amended to conform to the
29 redesignation of the Immigration and
30 Naturalization Service pursuant to its transfer

31

1 to the Department of Homeland Security by s.
2 451, Pub. L. No. 107-296.

3
4 Section 58. Section 414.70, Florida Statutes, is
5 repealed.

6
7 Reviser's note.--This section created a
8 drug-screening and drug-testing program that
9 expired June 30, 2001.

10
11 Section 59. Paragraph (d) of subsection (15) of
12 section 440.02, Florida Statutes, is amended to read:

13 440.02 Definitions.--When used in this chapter, unless
14 the context clearly requires otherwise, the following terms
15 shall have the following meanings:

16 (15)

17 (d) "Employee" does not include:

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

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

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

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

31

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

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

8 (V) The independent contractor performs work or is
9 able to perform work for any entity in addition to or besides
10 the employer at his or her own election without the necessity
11 of completing an employment application or process; or

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

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

22 (I) The independent contractor performs or agrees to
23 perform specific services or work for a specific amount of
24 money and controls the means of performing the services or
25 work.

26 (II) The independent contractor incurs the principal
27 expenses related to the service or work that he or she
28 performs or agrees to perform.

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

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

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

6 (VI) The independent contractor has continuing or
7 recurring business liabilities or obligations.

8 (VII) The success or failure of the independent
9 contractor's business depends on the relationship of business
10 receipts to expenditures.

11 c. Notwithstanding anything to the contrary in this
12 subparagraph, an individual claiming to be an independent
13 contractor has the burden of proving that he or she is an
14 independent contractor for purposes of this chapter.

15 2. A real estate licensee, if that person agrees, in
16 writing, to perform for remuneration solely by way of
17 commission.

18 3. Bands, orchestras, and musical and theatrical
19 performers, including disk jockeys, performing in licensed
20 premises as defined in chapter 562, if a written contract
21 evidencing an independent contractor relationship is entered
22 into before the commencement of such entertainment.

23 4. An owner-operator of a motor vehicle who transports
24 property under a written contract with a motor carrier which
25 evidences a relationship by which the owner-operator assumes
26 the responsibility of an employer for the performance of the
27 contract, if the owner-operator is required to furnish the
28 necessary motor vehicle equipment and all costs incidental to
29 the performance of the contract, including, but not limited
30 to, fuel, taxes, licenses, repairs, and hired help; and the
31 owner-operator is paid a commission for transportation service

1 and is not paid by the hour or on some other time-measured
2 basis.

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

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

13 a. Persons who serve in private nonprofit agencies and
14 who receive no compensation other than expenses in an amount
15 less than or equivalent to the standard mileage and per diem
16 expenses provided to salaried employees in the same agency or,
17 if such agency does not have salaried employees who receive
18 mileage and per diem, then such volunteers who receive no
19 compensation other than expenses in an amount less than or
20 equivalent to the customary mileage and per diem paid to
21 salaried workers in the community as determined by the
22 department; and

23 b. Volunteers participating in federal programs
24 established under Pub. L. No. 93-113.

25 7. Unless otherwise prohibited by this chapter, any
26 officer of a corporation who elects to be exempt from this
27 chapter. Such officer is not an employee for any reason under
28 this chapter until the notice of revocation of election filed
29 pursuant to s. 440.05 is effective.

30 8. An officer of a corporation that is engaged in the
31 construction industry who elects to be exempt from the

1 provisions of this chapter, as otherwise permitted by this
2 chapter. Such officer is not an employee for any reason until
3 the notice of revocation of election filed pursuant to s.
4 440.05 is effective.

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

11 10. A taxicab, limousine, or other passenger
12 vehicle-for-hire driver who operates said vehicles pursuant to
13 a written agreement with a company which provides any
14 dispatch, marketing, insurance, communications, or other
15 services under which the driver and any fees or charges paid
16 by the driver to the company for such services are not
17 conditioned upon, or expressed as a proportion of, fare
18 revenues.

19 11. A person who performs services as a sports
20 official for an entity sponsoring an interscholastic sports
21 event or for a public entity or private, nonprofit
22 organization that sponsors an amateur sports event. For
23 purposes of this subparagraph, such a person is an independent
24 contractor. For purposes of this subparagraph, the term
25 "sports official" means any person who is a neutral
26 participant in a sports event, including, but not limited to,
27 umpires, referees, judges, linespersons, scorekeepers, or
28 timekeepers. This subparagraph does not apply to any person
29 employed by a district school board who serves as a sports
30 official as required by the employing school board or who
31

1 serves as a sports official as part of his or her
2 responsibilities during normal school hours.

3 12. Medicaid-enrolled clients under chapter 393 who
4 are excluded from the definition of employment under s.
5 443.1216(4)(d)~~443.036(21)(d)5~~ and served by Adult Day
6 Training Services under the Home and Community-Based Medicaid
7 Waiver program in a sheltered workshop setting licensed by the
8 United States Department of Labor for the purpose of training
9 and earning less than the federal hourly minimum wage.

10
11 Reviser's note.--Amended to conform to the
12 repeal of s. 443.036(21)(d)5. by s. 17, ch.
13 2003-36, Laws of Florida. Substantially similar
14 material appears in s. 443.1216(4)(d) created
15 by s. 30, ch. 2003-36.

16
17 Section 60. Paragraph (p) of subsection (5) of section
18 440.102, Florida Statutes, is amended to read:

19 440.102 Drug-free workplace program requirements.--The
20 following provisions apply to a drug-free workplace program
21 implemented pursuant to law or to rules adopted by the Agency
22 for Health Care Administration:

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

26 (p) All authorized remedial treatment, care, and
27 attendance provided by a health care provider to an injured
28 employee before medical and indemnity benefits are denied
29 under this section must be paid for by the carrier or
30 self-insurer. However, the carrier or self-insurer must have
31 given reasonable notice to all affected health care providers

1 that payment for treatment, care, and attendance provided to
2 the employee after a future date certain will be denied. A
3 health care provider, as defined in s. 440.13(1)(h)
4 ~~440.13(1)(i)~~, that refuses, without good cause, to continue
5 treatment, care, and attendance before the provider receives
6 notice of benefit denial commits a misdemeanor of the second
7 degree, punishable as provided in s. 775.082 or s. 775.083.

8
9 Reviser's note.--Amended to conform to the
10 redesignation of s. 440.13(1)(i) as s.
11 440.13(1)(h) by s. 15, ch. 2003-412, Laws of
12 Florida.

13
14 Section 61. Subsection (4) of section 440.14, Florida
15 Statutes, is amended to read:

16 440.14 Determination of pay.--

17 (4) Upon termination of the employee or upon
18 termination of the payment of fringe benefits of any employee
19 who is collecting indemnity benefits pursuant to s. 440.15(2)
20 or (3), the employer shall within 7 days of such termination
21 file a corrected 13-week wage statement reflecting the wages
22 paid and the fringe benefits that had been paid to the injured
23 employee, as provided in s. 440.02(28)~~440.02(27)~~.

24
25 Reviser's note.--Amended to conform to the
26 redesignation of s. 440.02(27) as s. 440.02(28)
27 by s. 11, ch. 2002-194, Laws of Florida.

28
29 Section 62. Paragraph (b) of subsection (3) of section
30 440.15, Florida Statutes, is amended to read:

31

1 440.15 Compensation for disability.--Compensation for
2 disability shall be paid to the employee, subject to the
3 limits provided in s. 440.12(2), as follows:

4 (3) PERMANENT IMPAIRMENT BENEFITS.--

5 (b) The three-member panel, in cooperation with the
6 department, shall establish and use a uniform permanent
7 impairment rating schedule. This schedule must be based on
8 medically or scientifically demonstrable findings as well as
9 the systems and criteria set forth in the American Medical
10 Association's Guides to the Evaluation of Permanent
11 Impairment; the Snellen Charts, published by the American
12 Medical Association Committee for Eye Injuries; and the
13 Minnesota Department of Labor and Industry Disability
14 Schedules. The schedule must be based upon objective findings.
15 The schedule shall be more comprehensive than the AMA Guides
16 to the Evaluation of Permanent Impairment and shall expand the
17 areas already addressed and address additional areas not
18 currently contained in the guides. On August 1, 1979, and
19 pending the adoption, by rule, of a permanent schedule, Guides
20 to the Evaluation of Permanent Impairment, copyright 1977,
21 1971, 1988, by the American Medical Association, shall be the
22 temporary schedule and shall be used for the purposes hereof.
23 For injuries after July 1, 1990, pending the adoption by rule
24 of a uniform disability rating agency schedule, the Minnesota
25 Department of Labor and Industry Disability Schedule shall be
26 used unless that schedule does not address an injury. In such
27 case, the Guides to the Evaluation of Permanent Impairment by
28 the American Medical Association shall be used. Determination
29 of permanent impairment under this schedule must be made by a
30 physician licensed under chapter 458, a doctor of osteopathic
31 medicine licensed under chapters 458 and 459, a chiropractic

1 physician licensed under chapter 460, a podiatric physician
2 licensed under chapter 461, an optometrist licensed under
3 chapter 463, or a dentist licensed under chapter 466, as
4 appropriate considering the nature of the injury. No other
5 persons are authorized to render opinions regarding the
6 existence of or the extent of permanent impairment.

7
8 Reviser's note.--Amended to improve clarity and
9 facilitate correct interpretation.

10
11 Section 63. Paragraph (b) of subsection (3) and
12 paragraph (h) of subsection (4) of section 440.25, Florida
13 Statutes, are amended to read:

14 440.25 Procedures for mediation and hearings.--

15 (3) Such mediation conference shall be conducted
16 informally and does not require the use of formal rules of
17 evidence or procedure. Any information from the files,
18 reports, case summaries, mediator's notes, or other
19 communications or materials, oral or written, relating to a
20 mediation conference under this section obtained by any person
21 performing mediation duties is privileged and confidential and
22 may not be disclosed without the written consent of all
23 parties to the conference. Any research or evaluation effort
24 directed at assessing the mediation program activities or
25 performance must protect the confidentiality of such
26 information. Each party to a mediation conference has a
27 privilege during and after the conference to refuse to
28 disclose and to prevent another from disclosing communications
29 made during the conference whether or not the contested issues
30 are successfully resolved. This subsection and paragraphs
31 (4)(a) and (b) shall not be construed to prevent or inhibit

1 the discovery or admissibility of any information that is
2 otherwise subject to discovery or that is admissible under
3 applicable law or rule of procedure, except that any conduct
4 or statements made during a mediation conference or in
5 negotiations concerning the conference are inadmissible in any
6 proceeding under this chapter.

7 (b) With respect to any private mediation, if the
8 parties agree or if mediators are not available under
9 paragraph (a), pursuant to notice from the judge of
10 compensation claims, to conduct the required mediation within
11 the period specified in this section, the parties shall hold a
12 mediation conference at the carrier's expense within the
13 130-day period set for mediation. The mediation conference
14 shall be conducted by a mediator certified under s. 44.106. If
15 the parties do not agree upon a mediator within 10 days after
16 the date of the order, the claimant shall notify the judge in
17 writing and the judge shall appoint a mediator under this
18 paragraph ~~subparagraph~~ within 7 days. In the event both
19 parties agree, the results of the mediation conference shall
20 be binding and neither party shall have a right to appeal the
21 results. In the event either party refuses to agree to the
22 results of the mediation conference, the results of the
23 mediation conference as well as the testimony, witnesses, and
24 evidence presented at the conference shall not be admissible
25 at any subsequent proceeding on the claim. The mediator shall
26 not be called in to testify or give deposition to resolve any
27 claim for any hearing before the judge of compensation claims.
28 The employer may be represented by an attorney at the
29 mediation conference if the employee is also represented by an
30 attorney at the mediation conference.

31 (4)

1 (h) To further expedite dispute resolution and to
2 enhance the self-executing features of the system, those
3 petitions filed in accordance with s. 440.192 that involve a
4 claim for benefits of \$5,000 or less shall, in the absence of
5 compelling evidence to the contrary, be presumed to be
6 appropriate for expedited resolution under this paragraph; and
7 any other claim filed in accordance with s. 440.192, upon the
8 written agreement of both parties and application by either
9 party, may similarly be resolved under this paragraph. A claim
10 in a petition of ~~or~~ \$5,000 or less for medical benefits only
11 or a petition for reimbursement for mileage for medical
12 purposes shall, in the absence of compelling evidence to the
13 contrary, be resolved through the expedited dispute resolution
14 process provided in this paragraph. For purposes of expedited
15 resolution pursuant to this paragraph, the Deputy Chief Judge
16 shall make provision by rule or order for expedited and
17 limited discovery and expedited docketing in such cases. At
18 least 15 days prior to hearing, the parties shall exchange and
19 file with the judge of compensation claims a pretrial outline
20 of all issues, defenses, and witnesses on a form adopted by
21 the Deputy Chief Judge; provided, in no event shall such
22 hearing be held without 15 days' written notice to all
23 parties. No pretrial hearing shall be held and no mediation
24 scheduled unless requested by a party. The judge of
25 compensation claims shall limit all argument and presentation
26 of evidence at the hearing to a maximum of 30 minutes, and
27 such hearings shall not exceed 30 minutes in length. Neither
28 party shall be required to be represented by counsel. The
29 employer or carrier may be represented by an adjuster or other
30 qualified representative. The employer or carrier and any
31 witness may appear at such hearing by telephone. The rules of

1 evidence shall be liberally construed in favor of allowing
2 introduction of evidence.

3

4 Reviser's note.--Paragraph (3)(b) is amended to
5 conform to the redesignation of subparagraph 2.
6 as paragraph (b) by s. 25, ch. 2003-412, Laws
7 of Florida. Paragraph (4)(h) is amended to
8 facilitate correct interpretation.

9

10 Section 64. Subsection (3) of section 440.33, Florida
11 Statutes, is amended to read:

12 440.33 Powers of judges of compensation claims.--

13 (3) Before adjudicating a claim for permanent total
14 disability benefits, the judge of compensation claims may
15 request an evaluation pursuant to s. 440.491(6) ~~440.49(1)(a)~~
16 for the purpose of assisting the judge of compensation claims
17 in the determination of whether there is a reasonable
18 probability that, with appropriate training or education, the
19 employee may be rehabilitated to the extent that such employee
20 can achieve suitable gainful employment and whether it is in
21 the best interest of the employee to undertake such training
22 or education.

23

24 Reviser's note.--Amended to conform to the
25 repeal of s. 440.49(1), relating to
26 rehabilitation, by s. 43, ch. 93-415, Laws of
27 Florida, and the enactment of similar language
28 in s. 440.491(6) by s. 44, ch. 93-415.

29

30 Section 65. Paragraph (a) of subsection (1) of section
31 440.385, Florida Statutes, is amended to read:

1 440.385 Florida Self-Insurers Guaranty Association,
2 Incorporated.--

3 (1) CREATION OF ASSOCIATION.--

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

24 Reviser's note.--Amended to conform to the
25 redesignation of s. 440.02(23)(a) as s.
26 440.02(24)(a) by s. 11, ch. 2002-194, Laws of
27 Florida.
28

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

1 440.45 Office of the Judges of Compensation Claims.--

2 (1)

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

7 (2)

8 (c) Each judge of compensation claims shall be
9 appointed for a term of 4 years, but during the term of office
10 may be removed by the Governor for cause. Prior to the
11 expiration of a judge's term of office, the statewide
12 nominating commission shall review the judge's conduct and
13 determine whether the judge's performance is satisfactory.
14 Effective July 1, 2002, in determining whether a judge's
15 performance is satisfactory, the commission shall consider the
16 extent to which the judge has met the requirements of this
17 chapter, including, but not limited to, the requirements of
18 ss. 440.25(1) and (4)(a)-(e)~~440.25(1) and (4)(a)-(f)~~,
19 440.34(2), and 440.442. If the judge's performance is deemed
20 satisfactory, the commission shall report its finding to the
21 Governor no later than 6 months prior to the expiration of the
22 judge's term of office. The Governor shall review the
23 commission's report and may reappoint the judge for an
24 additional 4-year term. If the Governor does not reappoint the
25 judge, the Governor shall inform the commission. The judge
26 shall remain in office until the Governor has appointed a
27 successor judge in accordance with paragraphs (a) and (b). If
28 a vacancy occurs during a judge's unexpired term, the
29 statewide nominating commission does not find the judge's
30 performance is satisfactory, or the Governor does not

31

1 reappoint the judge, the Governor shall appoint a successor
2 judge for a term of 4 years in accordance with paragraph (b).

3
4 Reviser's note.--Paragraph (1)(b) is amended to
5 delete an obsolete provision relating to the
6 term of the Chief Judge of Compensation Claims.
7 Paragraph (2)(c) is amended to conform to the
8 repeal of s. 440.25(4)(f) by s. 25, ch.
9 2003-412, Laws of Florida.

10
11 Section 67. Paragraph (a) of subsection (6) of section
12 440.491, Florida Statutes, is amended to read:

13 440.491 Reemployment of injured workers;
14 rehabilitation.--

15 (6) TRAINING AND EDUCATION.--

16 (a) Upon referral of an injured employee by the
17 carrier, or upon the request of an injured employee, the
18 department shall conduct a training and education screening to
19 determine whether it should refer the employee for a
20 vocational evaluation and, if appropriate, approve training
21 and education or other vocational services for the employee.
22 The department may not approve formal training and education
23 programs unless it determines, after consideration of the
24 reemployment assessment, pertinent reemployment status reviews
25 or reports, and such other relevant factors as it prescribes
26 by rule, that the reemployment plan is likely to result in
27 return to suitable gainful employment. The department is
28 authorized to expend moneys from the Workers' Compensation
29 Administration Trust Fund, established by s. 440.50, to secure
30 appropriate training and education at a community college as
31 designated in s. 1000.21(3)~~established under part III of~~

1 ~~chapter 240~~ or at a vocational-technical school established
2 under s. 1001.44 ~~230.63~~, or to secure other vocational
3 services when necessary to satisfy the recommendation of a
4 vocational evaluator. As used in this paragraph, "appropriate
5 training and education" includes securing a general education
6 diploma (GED), if necessary. The department shall establish
7 training and education standards pertaining to employee
8 eligibility, course curricula and duration, and associated
9 costs.

10
11 Reviser's note.--Amended to conform to the
12 repeal of part III of chapter 240 by s. 1058,
13 ch. 2002-387, Laws of Florida, and the
14 enactment of similar material at part III of
15 chapter 1001, and the repeal of s. 230.63 by s.
16 1058, ch. 2002-387, and the creation of similar
17 material at s. 1001.44.

18
19 Section 68. Section 440.515, Florida Statutes, is
20 amended to read:

21 440.515 Reports from self-insurers;
22 confidentiality.--The department shall maintain the reports
23 filed in accordance with former s. 440.51(6)(b) as
24 confidential and exempt from the provisions of s. 119.07(1),
25 and such reports shall be released only for bona fide research
26 or educational purposes or after receipt of consent from the
27 employer.

28
29 Reviser's note.--Amended to conform to the
30 repeal of s. 440.51(6)(b) by s. 5, ch.
31 2002-262, Laws of Florida.

1 Section 69. Subsection (3) of section 440.60, Florida
2 Statutes, is amended to read:

3 440.60 Application of laws.--

4 (3) All acts or proceedings performed by or on behalf
5 of the former Division of Workers' Compensation of the
6 Department of Labor and Employment Security or the employer,
7 or in which the division or the employer was a party under s.
8 440.15(1) and (3) between October 1, 1974, and July 10, 1987,
9 are ratified and validated in all respects if such acts or
10 proceedings would have been valid if chapter 87-330, Laws of
11 Florida, had been in effect at the time such acts or
12 proceedings were performed.

13
14 Reviser's note.--Amended to conform to the fact
15 that the Division of Workers' Compensation of
16 the Department of Labor and Employment Security
17 no longer exists.

18
19 Section 70. Subsection (2) of section 443.1215,
20 Florida Statutes, is amended to read:

21 443.1215 Employers.--

22 (2)(a) In determining whether an employing unit for
23 which service, other than domestic service, is also performed
24 is an employer under paragraph (1)(a)~~(a)~~, paragraph (1)(b)
25 ~~(b)~~, paragraph (1)(c)~~(c)~~, or subparagraph (1)(d)1.~~(d)1.~~, the
26 wages earned or the employment of an employee performing
27 domestic service may not be taken into account.

28 (b) In determining whether an employing unit for which
29 service, other than agricultural labor, is also performed is
30 an employer under paragraph (1)(a)~~(a)~~, paragraph (1)(b) ~~(b)~~,
31 paragraph (1)(c)~~(c)~~, or subparagraph (1)(d)2.~~(d)1.~~, the

1 wages earned or the employment of an employee performing
2 service in agricultural labor may not be taken into account.
3 If an employing unit is determined to be an employer of
4 agricultural labor, the employing unit is considered an
5 employer for purposes of subsection (1).

6
7 Reviser's note.--Amended to clarify that the
8 cited paragraphs are within subsection (1), not
9 subsection (2). Paragraph (2)(b) is also
10 amended to correct an incorrect reference to
11 "subparagraph (d)1." that was correct in the
12 previous version of this material (in s.
13 443.036, 2002 Florida Statutes) and to conform
14 to context.

15
16 Section 71. Section 455.2125, Florida Statutes, is
17 amended to read:

18 455.2125 Consultation with postsecondary education
19 boards prior to adoption of changes to training
20 requirements.--Any state agency or board that has jurisdiction
21 over the regulation of a profession or occupation shall
22 consult with the Commission for Independent Education State
23 ~~Board of Independent Colleges and Universities, the State~~
24 ~~Board of Nonpublic Career Education~~, the Board of Regents, and
25 the State Board of Community Colleges prior to adopting any
26 changes to training requirements relating to entry into the
27 profession or occupation. This consultation must allow the
28 educational board to provide advice regarding the impact of
29 the proposed changes in terms of the length of time necessary
30 to complete the training program and the fiscal impact of the
31 changes. The educational board must be consulted only when an

1 institution offering the training program falls under its
2 jurisdiction.

3
4 Reviser's note.--Amended to improve clarity and
5 facilitate correct interpretation. Section
6 246.031, which created the State Board of
7 Independent Colleges and Universities, was
8 repealed by s. 1058, ch. 2002-387, Laws of
9 Florida. The Commission for Independent
10 Education, established in s. 1005.21, regulates
11 independent postsecondary institutions under s.
12 1005.22. Section 246.205, which established the
13 State Board of Nonpublic Career Education, was
14 repealed by s. 1058, ch. 2002-387.

15
16 Section 72. Section 456.028, Florida Statutes, is
17 amended to read:

18 456.028 Consultation with postsecondary education
19 boards prior to adoption of changes to training
20 requirements.--Any state agency or board that has jurisdiction
21 over the regulation of a profession or occupation shall
22 consult with the Commission for Independent Education State
23 ~~Board of Independent Colleges and Universities, the State~~
24 ~~Board of Nonpublic Career Education~~, the Board of Regents, and
25 the State Board of Community Colleges prior to adopting any
26 changes to training requirements relating to entry into the
27 profession or occupation. This consultation must allow the
28 educational board to provide advice regarding the impact of
29 the proposed changes in terms of the length of time necessary
30 to complete the training program and the fiscal impact of the
31 changes. The educational board must be consulted only when an

1 institution offering the training program falls under its
2 jurisdiction.

3
4 Reviser's note.--Amended to improve clarity and
5 facilitate correct interpretation. Section
6 246.031, which created the State Board of
7 Independent Colleges and Universities, was
8 repealed by s. 1058, ch. 2002-387, Laws of
9 Florida. The Commission for Independent
10 Education, established in s. 1005.21, regulates
11 independent postsecondary institutions under s.
12 1005.22. Section 246.205, which established the
13 State Board of Nonpublic Career Education, was
14 repealed by s. 1058, ch. 2002-387.

15
16 Section 73. Paragraph (a) of subsection (2) of section
17 456.048, Florida Statutes, is amended to read:

18 456.048 Financial responsibility requirements for
19 certain health care practitioners.--

20 (2) The board or department may grant exemptions upon
21 application by practitioners meeting any of the following
22 criteria:

23 (a) Any person licensed under chapter 457, chapter
24 460, chapter 461, s. 464.012, chapter 466, or chapter 467 who
25 practices exclusively as an officer, employee, or agent of the
26 Federal Government or of the state or its agencies or its
27 subdivisions. For the purposes of this subsection, an agent
28 of the state, its agencies, or its subdivisions is a person
29 who is eligible for coverage under any self-insurance or
30 insurance program authorized by the provisions of s.

31

1 768.28(16)~~768.28(15)~~ or who is a volunteer under s.
2 110.501(1).

3
4 Reviser's note.--Amended to conform to the
5 redesignation of s. 768.28(15) as s. 768.28(16)
6 by s. 67, ch. 2003-416, Laws of Florida.

7
8 Section 74. Subsection (1) of section 456.051, Florida
9 Statutes, is amended to read:

10 456.051 Reports of professional liability actions;
11 bankruptcies; Department of Health's responsibility to
12 provide.--

13 (1) The report of a claim or action for damages for
14 personal injury which is required to be provided to the
15 Department of Health under s. 456.049 or s. 627.912 is public
16 information except for the name of the claimant or injured
17 person, which remains confidential as provided in s. 55-
18 ~~456.049(2)(d)~~ and 627.912(2)(e). The Department of Health
19 shall, upon request, make such report available to any person.
20 The department shall make such report available as a part of
21 the practitioner's profile within 30 calendar days after
22 receipt.

23
24 Reviser's note.--Amended to conform to the
25 repeal of s. 456.049(2)(d) by s. 16, ch.
26 2003-416, Laws of Florida.

27
28 Section 75. Paragraphs (a) and (f) of subsection (5)
29 of section 458.320, Florida Statutes, are amended to read:

30 458.320 Financial responsibility.--
31

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

3 (a) Any person licensed under this chapter who
4 practices medicine exclusively as an officer, employee, or
5 agent of the Federal Government or of the state or its
6 agencies or its subdivisions. For the purposes of this
7 subsection, an agent of the state, its agencies, or its
8 subdivisions is a person who is eligible for coverage under
9 any self-insurance or insurance program authorized by the
10 provisions of s. 768.28(16)~~768.28(15)~~.

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

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

16 2. The licensee has either retired from the practice
17 of medicine or maintains a part-time practice of no more than
18 1,000 patient contact hours per year.

19 3. The licensee has had no more than two claims for
20 medical malpractice resulting in an indemnity exceeding
21 \$25,000 within the previous 5-year period.

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

26 5. The licensee has not been subject within the last
27 10 years of practice to license revocation or suspension for
28 any period of time; probation for a period of 3 years or
29 longer; or a fine of \$500 or more for a violation of this
30 chapter or the medical practice act of another jurisdiction.

31 The regulatory agency's acceptance of a physician's

1 | relinquishment of a license, stipulation, consent order, or
2 | other settlement, offered in response to or in anticipation of
3 | the filing of administrative charges against the physician's
4 | license, constitutes action against the physician's license
5 | for the purposes of this paragraph.

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

9 | 7. The licensee must submit biennially to the
10 | department certification stating compliance with the
11 | provisions of this paragraph. The licensee must, upon request,
12 | demonstrate to the department information verifying compliance
13 | with this paragraph.

14 |

15 | A licensee who meets the requirements of this paragraph must
16 | post notice in the form of a sign prominently displayed in the
17 | reception area and clearly noticeable by all patients or
18 | provide a written statement to any person to whom medical
19 | services are being provided. The sign or statement must read
20 | as follows ~~that~~: "Under Florida law, physicians are generally
21 | required to carry medical malpractice insurance or otherwise
22 | demonstrate financial responsibility to cover potential claims
23 | for medical malpractice. However, certain part-time physicians
24 | who meet state requirements are exempt from the financial
25 | responsibility law. YOUR DOCTOR MEETS THESE REQUIREMENTS AND
26 | HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This
27 | notice is provided pursuant to Florida law."

28 |

29 | Reviser's note.--Paragraph (5)(a) is amended to
30 | conform to the redesignation of s. 768.28(15)
31 | as s. 768.28(16) by s. 67, ch. 2003-416, Laws

1 of Florida. Paragraph (5)(f) is amended to
2 improve clarity and facilitate correct
3 interpretation.

4
5 Section 76. Paragraph (b) of subsection (7) of section
6 458.347, Florida Statutes, is amended to read:

7 458.347 Physician assistants.--

8 (7) PHYSICIAN ASSISTANT LICENSURE.--

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

12 a. Has completed the application form and remitted a
13 nonrefundable application fee not to exceed \$500 and an
14 examination fee not to exceed \$300, plus the actual cost to
15 the department to provide the examination. The examination fee
16 is refundable if the applicant is found to be ineligible to
17 take the examination. The department shall not require the
18 applicant to pass a separate practical component of the
19 examination. For examinations given after July 1, 1998,
20 competencies measured through practical examinations shall be
21 incorporated into the written examination through a
22 multiple-choice format. The department shall translate the
23 examination into the native language of any applicant who
24 requests and agrees to pay all costs of such translation,
25 provided that the translation request is filed with the board
26 office no later than 9 months before the scheduled examination
27 and the applicant remits translation fees as specified by the
28 department no later than 6 months before the scheduled
29 examination, and provided that the applicant demonstrates to
30 the department the ability to communicate orally in basic
31 English. If the applicant is unable to pay translation costs,

1 the applicant may take the next available examination in
2 English if the applicant submits a request in writing by the
3 application deadline and if the applicant is otherwise
4 eligible under this section. To demonstrate the ability to
5 communicate orally in basic English, a passing score or grade
6 is required, as determined by the department or organization
7 that developed it, on the test for spoken English (TSE) by the
8 Educational Testing Service (ETS), the test of English as a
9 foreign language (TOEFL) by ETS, a high school or college
10 level English course, or the English examination for
11 citizenship, Bureau of Citizenship and Immigration Services
12 ~~Immigration and Naturalization Service~~. A notarized copy of an
13 Educational Commission for Foreign Medical Graduates (ECFMG)
14 certificate may also be used to demonstrate the ability to
15 communicate in basic English; and

16 b.(I) Is an unlicensed physician who graduated from a
17 foreign medical school listed with the World Health
18 Organization who has not previously taken and failed the
19 examination of the National Commission on Certification of
20 Physician Assistants and who has been certified by the Board
21 of Medicine as having met the requirements for licensure as a
22 medical doctor by examination as set forth in s. 458.311(1),
23 (3), (4), and (5), with the exception that the applicant is
24 not required to have completed an approved residency of at
25 least 1 year and the applicant is not required to have passed
26 the licensing examination specified under s. 458.311 or hold a
27 valid, active certificate issued by the Educational Commission
28 for Foreign Medical Graduates; was eligible and made initial
29 application for certification as a physician assistant in this
30 state between July 1, 1990, and June 30, 1991; and was a
31 resident of this state on July 1, 1990, or was licensed or

1 certified in any state in the United States as a physician
2 assistant on July 1, 1990; or
3 (II) Completed all coursework requirements of the
4 Master of Medical Science Physician Assistant Program offered
5 through the Florida College of Physician's Assistants prior to
6 its closure in August of 1996. Prior to taking the
7 examination, such applicant must successfully complete any
8 clinical rotations that were not completed under such program
9 prior to its termination and any additional clinical rotations
10 with an appropriate physician assistant preceptor, not to
11 exceed 6 months, that are determined necessary by the council.
12 The boards shall determine, based on recommendations from the
13 council, the facilities under which such incomplete or
14 additional clinical rotations may be completed and shall also
15 determine what constitutes successful completion thereof,
16 provided such requirements are comparable to those established
17 by accredited physician assistant programs. This
18 sub-sub-subparagraph is repealed July 1, 2001.

19 2. The department may grant temporary licensure to an
20 applicant who meets the requirements of subparagraph 1.
21 Between meetings of the council, the department may grant
22 temporary licensure to practice based on the completion of all
23 temporary licensure requirements. All such administratively
24 issued licenses shall be reviewed and acted on at the next
25 regular meeting of the council. A temporary license expires 30
26 days after receipt and notice of scores to the licenseholder
27 from the first available examination specified in subparagraph
28 1. following licensure by the department. An applicant who
29 fails the proficiency examination is no longer temporarily
30 licensed, but may apply for a one-time extension of temporary
31 licensure after reapplying for the next available examination.

1 Extended licensure shall expire upon failure of the
2 licenseholder to sit for the next available examination or
3 upon receipt and notice of scores to the licenseholder from
4 such examination.

5 3. Notwithstanding any other provision of law, the
6 examination specified pursuant to subparagraph 1. shall be
7 administered by the department only five times. Applicants
8 certified by the board for examination shall receive at least
9 6 months' notice of eligibility prior to the administration of
10 the initial examination. Subsequent examinations shall be
11 administered at 1-year intervals following the reporting of
12 the scores of the first and subsequent examinations. For the
13 purposes of this paragraph, the department may develop,
14 contract for the development of, purchase, or approve an
15 examination that adequately measures an applicant's ability to
16 practice with reasonable skill and safety. The minimum passing
17 score on the examination shall be established by the
18 department, with the advice of the board. Those applicants
19 failing to pass that examination or any subsequent examination
20 shall receive notice of the administration of the next
21 examination with the notice of scores following such
22 examination. Any applicant who passes the examination and
23 meets the requirements of this section shall be licensed as a
24 physician assistant with all rights defined thereby.

25
26 Reviser's note.--Amended to conform to the
27 redesignation of the Immigration and
28 Naturalization Service pursuant to its transfer
29 to the Department of Homeland Security by s.
30 451, Pub. L. No. 107-296.

31

1 Section 77. Paragraph (a) of subsection (5) of section
2 459.0085, Florida Statutes, is amended to read:

3 459.0085 Financial responsibility.--

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

6 (a) Any person licensed under this chapter who
7 practices medicine exclusively as an officer, employee, or
8 agent of the Federal Government or of the state or its
9 agencies or its subdivisions. For the purposes of this
10 subsection, an agent of the state, its agencies, or its
11 subdivisions is a person who is eligible for coverage under
12 any self-insurance or insurance program authorized by the
13 provisions of s. 768.28(16)~~768.28(15)~~.

14
15 Reviser's note.--Amended to conform to the
16 redesignation of s. 768.28(15) as s. 768.28(16)
17 by s. 67, ch. 2003-416, Laws of Florida.

18
19 Section 78. Paragraph (j) of subsection (1) of section
20 475.01, Florida Statutes, is amended to read:

21 475.01 Definitions.--

22 (1) As used in this part:

23 (j) "Sales associate" means a person who performs any
24 act specified in the definition of "broker," but who performs
25 such act under the direction, control, or management of
26 another person. A sales associate ~~salesperson~~ renders a
27 professional service and is a professional within the meaning
28 of s. 95.11(4)(a).

1 Reviser's note.--Amended to conform to s. 22,
2 ch. 2003-164, Laws of Florida, which
3 redesignated salespersons as sales associates.
4

5 Section 79. Paragraph (c) of subsection (2), paragraph
6 (c) of subsection (3), and paragraph (c) of subsection (4) of
7 section 475.278, Florida Statutes, are amended to read:

8 475.278 Authorized brokerage relationships;
9 presumption of transaction brokerage; required disclosures.--

10 (2) TRANSACTION BROKER RELATIONSHIP.--

11 (c) Contents of disclosure.--The required notice given
12 under paragraph (b) must include the following information in
13 the following form:

14
15 IMPORTANT NOTICE

16
17 FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES PROVIDE THIS
18 NOTICE TO POTENTIAL SELLERS AND BUYERS OF REAL ESTATE.

19
20 You should not assume that any real estate broker or sales
21 associate ~~salesperson~~ represents you unless you agree to
22 engage a real estate licensee in an authorized brokerage
23 relationship, either as a single agent or as a transaction
24 broker. You are advised not to disclose any information you
25 want to be held in confidence until you make a decision on
26 representation.

27
28 TRANSACTION BROKER NOTICE

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

4

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

8

1. Dealing honestly and fairly;

9

2. Accounting for all funds;

10

3. Using skill, care, and diligence in the

11

transaction;

12

4. Disclosing all known facts that materially affect

13

the value of residential real property and are not readily

14

observable to the buyer;

15

5. Presenting all offers and counteroffers in a timely

16

manner, unless a party has previously directed the licensee

17

otherwise in writing;

18

6. Limited confidentiality, unless waived in writing

19

by a party. This limited confidentiality will prevent

20

disclosure that the seller will accept a price less than the

21

asking or listed price, that the buyer will pay a price

22

greater than the price submitted in a written offer, of the

23

motivation of any party for selling or buying property, that a

24

seller or buyer will agree to financing terms other than those

25

offered, or of any other information requested by a party to

26

remain confidential; and

27

7. Any additional duties that are entered into by this

28

or by separate written agreement.

29

30 Limited representation means that a buyer or seller is not

31

responsible for the acts of the licensee. Additionally,

1 parties are giving up their rights to the undivided loyalty of
2 the licensee. This aspect of limited representation allows a
3 licensee to facilitate a real estate transaction by assisting
4 both the buyer and the seller, but a licensee will not work to
5 represent one party to the detriment of the other party when
6 acting as a transaction broker to both parties.

7
8
9
10 Date Signature
11
12
13 Signature
14

15 This paragraph expires July 1, 2008.

16 (3) SINGLE AGENT RELATIONSHIP.--

17 (c) Contents of disclosure.--

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

21
22 IMPORTANT NOTICE
23
24 FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES PROVIDE THIS
25 NOTICE TO POTENTIAL SELLERS AND BUYERS OF REAL ESTATE.

26
27 You should not assume that any real estate broker or sales
28 associate ~~salesperson~~ represents you unless you agree to
29 engage a real estate licensee in an authorized brokerage
30 relationship, either as a single agent or as a transaction
31 broker. You are advised not to disclose any information you

1 want to be held in confidence until you make a decision on
2 representation.

3
4 SINGLE AGENT NOTICE

5
6 FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES OPERATING AS
7 SINGLE AGENTS DISCLOSE TO BUYERS AND SELLERS THEIR DUTIES.

8
9 As a single agent, ...(insert name of Real Estate
10 Entity and its Associates)... owe to you the following duties:

- 11 1. Dealing honestly and fairly;
- 12 2. Loyalty;
- 13 3. Confidentiality;
- 14 4. Obedience;
- 15 5. Full disclosure;
- 16 6. Accounting for all funds;
- 17 7. Skill, care, and diligence in the transaction;
- 18 8. Presenting all offers and counteroffers in a timely
19 manner, unless a party has previously directed the licensee
20 otherwise in writing; and
- 21 9. Disclosing all known facts that materially affect
22 the value of residential real property and are not readily
23 observable.

24
25
26
27 Date Signature

28
29 2. Transition disclosure.--To gain the principal's
30 written consent to a change in relationship, a licensee must
31 use the following disclosure:

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

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CONSENT TO TRANSITION TO
TRANSACTION BROKER

FLORIDA LAW ALLOWS REAL ESTATE LICENSEES WHO REPRESENT A BUYER OR SELLER AS A SINGLE AGENT TO CHANGE FROM A SINGLE AGENT RELATIONSHIP TO A TRANSACTION BROKERAGE RELATIONSHIP IN ORDER FOR THE LICENSEE TO ASSIST BOTH PARTIES IN A REAL ESTATE TRANSACTION BY PROVIDING A LIMITED FORM OF REPRESENTATION TO BOTH THE BUYER AND THE SELLER. THIS CHANGE IN RELATIONSHIP CANNOT OCCUR WITHOUT YOUR PRIOR WRITTEN CONSENT.

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;
6. Limited confidentiality, unless waived in writing by a party. This limited confidentiality will prevent disclosure that the seller will accept a price less than the asking or listed price, that the buyer will pay a price greater than the price submitted in a written offer, of the motivation of any party for selling or buying property, that a

1 seller or buyer will agree to financing terms other than those
2 offered, or of any other information requested by a party to
3 remain confidential; and

4 7. Any additional duties that are entered into by this
5 or by separate written agreement.

6
7 Limited representation means that a buyer or seller is not
8 responsible for the acts of the licensee. Additionally,
9 parties are giving up their rights to the undivided loyalty of
10 the licensee. This aspect of limited representation allows a
11 licensee to facilitate a real estate transaction by assisting
12 both the buyer and the seller, but a licensee will not work to
13 represent one party to the detriment of the other party when
14 acting as a transaction broker to both parties.

15
16I agree that my agent may assume the role and
17 duties of a transaction broker. [must be initialed or signed]

18 (4) NO BROKERAGE RELATIONSHIP.--

19 (c) Contents of disclosure.--The notice required under
20 paragraph (b) must include the following information in the
21 following form:

22
23 IMPORTANT NOTICE

24
25 FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES PROVIDE THIS
26 NOTICE TO POTENTIAL SELLERS AND BUYERS OF REAL ESTATE.

27
28 You should not assume that any real estate broker or sales
29 associate ~~salesperson~~ represents you unless you agree to
30 engage a real estate licensee in an authorized brokerage
31 relationship, either as a single agent or as a transaction

1 broker. You are advised not to disclose any information you
2 want to be held in confidence until you decide on
3 representation.

4
5 NO BROKERAGE RELATIONSHIP NOTICE
6

7 FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES WHO HAVE NO
8 BROKERAGE RELATIONSHIP WITH A POTENTIAL SELLER OR BUYER
9 DISCLOSE THEIR DUTIES TO SELLERS AND BUYERS.
10

11 As a real estate licensee who has no brokerage
12 relationship with you, ...(insert name of Real Estate Entity
13 and its Associates)... owe to you the following duties:
14

- 15 1. Dealing honestly and fairly;
- 16 2. Disclosing all known facts that materially affect
17 the value of residential real property which are not readily
18 observable to the buyer.
- 19 3. Accounting for all funds entrusted to the licensee.
20

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

22
23
24 Reviser's note.--Amended to conform to s. 22,
25 ch. 2003-164, Laws of Florida, which
26 redesignated salespersons as sales associates.
27

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

31 475.611 Definitions.--

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

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

7 (2) Wherever the word "operate" or "operating" appears
8 in this part with respect to a registered trainee ~~assistant~~
9 appraiser, licensed appraiser, or certified appraiser; in any
10 order, rule, or regulation of the board; in any pleading,
11 indictment, or information under this part; in any court
12 action or proceeding; or in any order or judgment of a court,
13 it shall be deemed to mean the commission of one or more acts
14 described in this part as constituting or defining a
15 registered trainee appraiser, licensed appraiser, or certified
16 appraiser, not including, however, any of the exceptions
17 stated therein. A single act is sufficient to bring a person
18 within the meaning of this subsection, and each act, if
19 prohibited herein, constitutes a separate offense.

20
21 Reviser's note.--Amended to conform to the
22 redesignation of registered assistant
23 appraisers as registered trainee appraisers by
24 s. 3, ch. 2003-164, Laws of Florida.

25
26 Section 81. Subsection (1) of section 475.6221,
27 Florida Statutes, is amended to read:

28 475.6221 Employment of registered trainee real estate
29 appraisers.--

30 (1) A registered trainee real estate appraiser must
31 perform appraisal services under the direct supervision of a

1 licensed or certified appraiser who is designated as the
2 primary supervisory appraiser. The primary supervisory
3 appraiser may also designate additional licensed or certified
4 appraisers as secondary supervisory appraisers. A secondary
5 supervisory appraiser must be affiliated with the same firm or
6 business as the primary supervisory appraiser and the primary
7 or secondary supervisory appraiser must have the same business
8 address as the registered trainee ~~assistant~~ real estate
9 appraiser. The primary supervisory appraiser must notify the
10 Division of Real Estate of the name and address of any primary
11 and secondary supervisory appraiser for whom the registered
12 trainee will perform appraisal services, and must also notify
13 the division within 10 days after terminating such
14 relationship. Termination of the relationship with a primary
15 supervisory appraiser automatically terminates the
16 relationship with the secondary supervisory appraiser.

17

18 Reviser's note.--Amended to conform to the
19 redesignation of registered assistant
20 appraisers as registered trainee appraisers by
21 s. 3, ch. 2003-164, Laws of Florida.

22

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

25 487.046 Application; licensure.--

26 (2) If the department finds the applicant qualified in
27 the classification for which the applicant has applied, and if
28 the applicant applying for a license to engage in aerial
29 application of pesticides has met all of the requirements of
30 the Federal Aviation Administration ~~Agency~~ and the Department
31 of Transportation of this state to operate the equipment

1 described in the application and has shown proof of liability
2 insurance or posted a surety bond in an amount to be set forth
3 by rule of the department, the department shall issue a
4 certified applicator's license, limited to the classifications
5 for which the applicant is qualified. The license shall expire
6 as required by rules promulgated under this chapter, unless it
7 has been revoked or suspended by the department prior to
8 expiration, for cause as provided in this chapter. The license
9 or authorization card issued by the department verifying
10 licensure shall be kept on the person of the licensee while
11 performing work as a licensed applicator.

12

13 Reviser's note.--Amended to conform to the
14 correct title of the United State Federal
15 Aviation Administration.

16

17 Section 83. Paragraph (f) of subsection (1) of section
18 493.6106, Florida Statutes, is amended to read:

19 493.6106 License requirements; posting.--

20 (1) Each individual licensed by the department must:

21 (f) Be a citizen or legal resident alien of the United
22 States or have been granted authorization to seek employment
23 in this country by the United States Bureau of Citizenship and
24 Immigration Services ~~Immigration and Naturalization Service.~~

25

26 Reviser's note.--Amended to conform to the
27 redesignation of the Immigration and
28 Naturalization Service pursuant to its transfer
29 to the Department of Homeland Security by s.
30 451, Pub. L. No. 107-296.

31

1 Section 84. Section 499.007, Florida Statutes, is
2 reenacted to read:

3 499.007 Misbranded drug or device.--A drug or device
4 is misbranded:

5 (1) If its labeling is in any way false or misleading.

6 (2) Unless, if in package form, it bears a label
7 containing:

8 (a) The name and place of business of the
9 manufacturer, repackager, or distributor of the finished
10 dosage form of the drug. For the purpose of this paragraph,
11 the finished dosage form of a medicinal drug is that form of
12 the drug which is, or is intended to be, dispensed or
13 administered to the patient and requires no further
14 manufacturing or processing other than packaging,
15 reconstitution, and labeling; and

16 (b) An accurate statement of the quantity of the
17 contents in terms of weight, measure, or numerical count;
18 however, under this section, reasonable variations are
19 permitted, and the department shall establish by rule
20 exemptions for small packages.

21 (3) If any word, statement, or other information
22 required by or under ss. 499.001-499.081 to appear on the
23 label or labeling is not prominently placed thereon with such
24 conspicuousness as compared with other words, statements,
25 designs, or devices in the labeling, and in such terms, as to
26 render the word, statement, or other information likely to be
27 read and understood under customary conditions of purchase and
28 use.

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

1 (a) The common or usual name of the drug, if any; and

2 (b) In case it is fabricated from two or more
3 ingredients, the common or usual name and quantity of each
4 active ingredient.

5 (5) Unless its labeling bears:

6 (a) Adequate directions for use; and

7 (b) Adequate warnings against use in those
8 pathological conditions in which its use may be dangerous to
9 health or against use by children if its use may be dangerous
10 to health, or against unsafe dosage or methods or duration of
11 administration or application, in such manner and form as are
12 necessary for the protection of users.

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

17 (7) If it has been found by the department to be a
18 drug liable to deterioration, unless it is packaged in such
19 form and manner, and its label bears a statement of such
20 precautions, as the department by rule requires as necessary
21 to protect the public health. Such rule may not be
22 established for any drug recognized in an official compendium
23 until the department has informed the appropriate body charged
24 with the revision of such compendium of the need for such
25 packaging or labeling requirements and that body has failed
26 within a reasonable time to prescribe such requirements.

27 (8) If it is:

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

30 (b) An imitation of another drug; or

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

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

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

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

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

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

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

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

19
20 however, this subsection does not apply to any drug or class
21 of drugs exempted by regulations adopted under s. 507(c) or
22 (d) of the federal act.

23 (12) If it is a drug intended for use by humans which
24 is a habit-forming drug or which, because of its toxicity or
25 other potentiality for harmful effect, or the method of its
26 use, or the collateral measures necessary to its use, is not
27 safe for use except under the supervision of a practitioner
28 licensed by law to administer such drugs; or which is limited
29 by an effective application under s. 505 of the federal act to
30 use under the professional supervision of a practitioner

31

1 licensed by law to prescribe such drug, unless it is dispensed
2 only:

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

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

8 (c) By refilling any such written or oral
9 prescription, if such refilling is authorized by the
10 prescriber either in the original prescription or by oral
11 order which is reduced promptly to writing and filled by the
12 pharmacist.

13

14 This subsection does not relieve any person from any
15 requirement prescribed by law with respect to controlled
16 substances as defined in the applicable federal and state
17 laws.

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

21 (a) "Caution: Federal Law Prohibits Dispensing
22 Without Prescription";

23 (b) "Rx Only";

24 (c) The prescription symbol followed by the word
25 "Only"; or

26 (d) "Caution: State Law Prohibits Dispensing Without
27 Prescription."

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

31

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

6
7 A drug dispensed by filling or refilling a written or oral
8 prescription of a practitioner licensed by law to prescribe
9 such drug is exempt from the requirements of this section,
10 except subsections (1), (8), (10), and (11) and the packaging
11 requirements of subsections (6) and (7), if the drug bears a
12 label that contains the name and address of the dispenser or
13 seller, the prescription number and the date the prescription
14 was written or filled, the name of the prescriber and the name
15 of the patient, and the directions for use and cautionary
16 statements. This exemption does not apply to any drug
17 dispensed in the course of the conduct of a business of
18 dispensing drugs pursuant to diagnosis by mail or to any drug
19 dispensed in violation of subsection (12). The department
20 may, by rule, exempt drugs subject to ss. 499.062-499.064 from
21 subsection (12) if compliance with that subsection is not
22 necessary to protect the public health, safety, and welfare.

23
24 Reviser's note.--Section 10, ch. 2003-155, Laws
25 of Florida, amended subsection (2) without
26 publishing the flush left language at the end
27 of the section. Absent affirmative evidence of
28 legislative intent to repeal the flush left
29 language at the end of the section, the section
30 is reenacted to confirm that the omission was
31 not intended.

1 Section 85. Subsection (3) of section 499.01, Florida
2 Statutes, is amended to read:

3 499.01 Permits; applications; renewal; general
4 requirements.--

5 (3) Notwithstanding subsection (7), a permitted person
6 in good standing may change the type of permit issued to that
7 person by completing a new application for the requested
8 permit, paying the amount of the difference in the permit fees
9 if the fee for the new permit is more than the fee for the
10 original permit, and meeting the applicable permitting
11 conditions for the new permit type. The new permit expires on
12 the expiration date of the original permit being changed;
13 however, a new permit for a prescription drug wholesaler, an
14 out-of-state prescription drug wholesaler, or a retail
15 pharmacy drug wholesaler shall expire on the expiration date
16 of the original permit or 1 year after the date of issuance of
17 the new permit, whichever is earlier. A refund may not be
18 issued if the fee for the new permit is less than the fee that
19 was paid for the original permit.

20
21 Reviser's note.--Amended to facilitate correct
22 interpretation.

23
24 Section 86. Paragraph (d) of subsection (6) of section
25 499.0121, Florida Statutes, is amended to read:

26 499.0121 Storage and handling of prescription drugs;
27 recordkeeping.--The department shall adopt rules to implement
28 this section as necessary to protect the public health,
29 safety, and welfare. Such rules shall include, but not be
30 limited to, requirements for the storage and handling of

31

1 prescription drugs and for the establishment and maintenance
2 of prescription drug distribution records.

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

6 (d)1. Each person who is engaged in the wholesale
7 distribution of a prescription drug, and who is not an
8 authorized distributor of record for the drug manufacturer's
9 products, must provide to each wholesale distributor of such
10 drug, before the sale is made to such wholesale distributor, a
11 written statement under oath identifying each previous sale of
12 the drug back to the last authorized distributor of record,
13 the lot number of the drug, and the sales invoice number of
14 the invoice evidencing the sale of the drug. The written
15 statement must accompany the drug to the next wholesale
16 distributor. The department shall adopt rules relating to the
17 requirements of this written statement. This paragraph does
18 not apply to a manufacturer unless the manufacturer is
19 performing the manufacturing operation of repackaging
20 prescription drugs.

21 2. Each wholesale distributor of prescription drugs
22 must maintain separate and distinct from other required
23 records all statements that are required under subparagraph 1.
24 and paragraph (e).

25 3. Each manufacturer of a prescription drug sold in
26 this state must maintain at its corporate offices a current
27 list of authorized distributors and must make such list
28 available to the department upon request.

29 4. Each manufacturer shall file a written list of all
30 of the manufacturer's authorized distributors of record with
31 the department. A manufacturer shall notify the department not

1 later than 10 days after any change to the list. The
2 department shall publish a list of all authorized distributors
3 of record on its website.

4 5. For the purposes of this subsection, the term
5 "authorized distributors of record" means a wholesale
6 distributor with whom a manufacturer has established an
7 ongoing relationship to distribute the manufacturer's
8 products. Effective March 1, 2004, an ongoing relationship is
9 deemed to exist when a wholesale distributor, including any
10 affiliated group, as defined in s. 1504 of the Internal
11 Revenue Code, of which the wholesale distributor is a member:

12 a. Is listed on the manufacturer's current list of
13 authorized distributors of record.

14 b. Annually purchases not less than 90 percent of all
15 of its purchases of a manufacturer's prescription drug
16 products, based on dollar volume, directly from that
17 manufacturer and has total annual prescription drug sales of
18 \$100 million or more.

19 c. Has reported to the department pursuant to s.
20 499.012(3)(g)2.~~499.012(2)(g)2.~~ that the wholesale distributor
21 has total annual prescription drug sales of \$100 million or
22 more, and has a verifiable account number issued by the
23 manufacturer authorizing the wholesale distributor to purchase
24 the manufacturer's drug products directly from that
25 manufacturer and that wholesale distributor makes not fewer
26 than 12 purchases of that manufacturer's drug products
27 directly from the manufacturer using said verifiable account
28 number in 12 months. The provisions of this sub-subparagraph
29 apply with respect to a manufacturer that fails to file a copy
30 of the manufacturer's list of authorized distributors of
31 record with the department by July 1, 2003; that files a list

1 of authorized distributors of record which contains fewer than
2 10 wholesale distributors permitted in this state, excluding
3 the wholesale distributors described in sub-subparagraph b.;
4 or that, as a result of changes to the list of authorized
5 distributors of record filed with the department, has fewer
6 than 10 wholesale distributors permitted in this state as
7 authorized distributors of record, excluding the wholesale
8 distributors described in sub-subparagraph b.

9
10 A wholesale distributor that satisfies the requirements of
11 sub-subparagraph b. or sub-subparagraph c. shall submit to the
12 department documentation substantiating its qualification
13 pursuant to sub-subparagraph b. or sub-subparagraph c. The
14 department shall add those wholesale distributors that the
15 department has determined have met the requirements of
16 sub-subparagraph b. or sub-subparagraph c. to the list of
17 authorized distributors of record on the department's website.

18 6. This paragraph expires July 1, 2006.

19
20 Reviser's note.--Amended to correct an apparent
21 error. Section 499.012(2)(g)2. does not exist,
22 and s. 499.012(3)(g)2. contains contextually
23 consistent material.

24
25 Section 87. Paragraph (b) of subsection (2) of section
26 499.0122, Florida Statutes, is amended to read:

27 499.0122 Medical oxygen and veterinary legend drug
28 retail establishments; definitions, permits, general
29 requirements.--

30 (2)

31

1 (b) The department shall adopt rules relating to
2 information required from each retail establishment pursuant
3 to s. 499.01(4)~~499.01(2)~~, including requirements for
4 prescriptions or orders.

5
6 Reviser's note.--Amended to conform to the
7 redesignation of s. 499.01(2) as s. 499.01(4)
8 by s. 12, ch. 2003-155, Laws of Florida.

9
10 Section 88. Paragraph (a) of subsection (1) and
11 subsection (3) of section 499.015, Florida Statutes, are
12 amended to read:

13 499.015 Registration of drugs, devices, and cosmetics;
14 issuance of certificates of free sale.--

15 (1)(a) Except for those persons exempted from the
16 definition in s. 499.003(28)~~499.003(21)~~, any person who
17 manufactures, packages, repackages, labels, or relabels a
18 drug, device, or cosmetic in this state must register such
19 drug, device, or cosmetic biennially with the department; pay
20 a fee in accordance with the fee schedule provided by s.
21 499.041; and comply with this section. The registrant must
22 list each separate and distinct drug, device, or cosmetic at
23 the time of registration.

24 (3) Except for those persons exempted from the
25 definition in s. 499.003(28)~~499.003(21)~~, a person may not
26 sell any product that he or she has failed to register in
27 conformity with this section. Such failure to register
28 subjects such drug, device, or cosmetic product to seizure and
29 condemnation as provided in ss. 499.062-499.064, and subjects
30 such person to the penalties and remedies provided in ss.
31 499.001-499.081.

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

5
6 Section 89. Subsection (1) of section 499.03, Florida
7 Statutes, is amended to read:

8 499.03 Possession of new drugs or legend drugs without
9 prescriptions unlawful; exemptions and exceptions.--

10 (1) A person may not possess, or possess with intent
11 to sell, dispense, or deliver, any habit-forming, toxic,
12 harmful, or new drug subject to s. 499.003(29) ~~499.003(22)~~, or
13 legend drug as defined in s. 499.003(25) ~~499.003(19)~~, unless
14 the possession of the drug has been obtained by a valid
15 prescription of a practitioner licensed by law to prescribe
16 the drug. However, this section does not apply to the delivery
17 of such drugs to persons included in any of the classes named
18 in this subsection, or to the agents or employees of such
19 persons, for use in the usual course of their businesses or
20 practices or in the performance of their official duties, as
21 the case may be; nor does this section apply to the possession
22 of such drugs by those persons or their agents or employees
23 for such use:

24 (a) A licensed pharmacist or any person under the
25 licensed pharmacist's supervision while acting within the
26 scope of the licensed pharmacist's practice;

27 (b) A licensed practitioner authorized by law to
28 prescribe legend drugs or any person under the licensed
29 practitioner's supervision while acting within the scope of
30 the licensed practitioner's practice;

31

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

3 (d) A licensed hospital or other institution that
4 procures such drugs for lawful administration or dispensing by
5 practitioners;

6 (e) An officer or employee of a federal, state, or
7 local government; or

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

11
12 Reviser's note.--Amended to conform to the
13 redesignation of s. 499.003(19) as s.
14 499.003(25) and s. 499.003(22) as s.
15 499.003(29) by s. 3, ch. 2003-155, Laws of
16 Florida.

17
18 Section 90. Paragraph (g) of subsection (1) of section
19 499.05, Florida Statutes, is amended to read:

20 499.05 Rules.--

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

23 (g) Inspections and investigations conducted under s.
24 499.051, and the identification of information claimed to be a
25 trade secret and exempt from the public records law as
26 provided in s. 499.051(7)~~499.051(5)~~.

27
28 Reviser's note.--Amended to conform to the
29 redesignation of s. 499.051(5) as s. 499.051(7)
30 by s. 21, ch. 2003-155, Laws of Florida.

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

3 504.011 Short title.--This chapter part shall be known
4 and may be cited as the "Produce Labeling Act of 1979."

5
6 Reviser's note.--Amended to conform to the
7 arrangement of chapter 504, which is not
8 divided into parts.

9
10 Section 92. Section 504.014, Florida Statutes, is
11 amended to read:

12 504.014 Enforcement.--The Department of Agriculture
13 and Consumer Services shall be responsible for enforcing the
14 provisions of this chapter part.

15
16 Reviser's note.--Amended to conform to the
17 arrangement of chapter 504, which is not
18 divided into parts.

19
20 Section 93. Subsection (9) of section 517.021, Florida
21 Statutes, is amended to read:

22 517.021 Definitions.--When used in this chapter,
23 unless the context otherwise indicates, the following terms
24 have the following respective meanings:

25 (9) "Federal covered adviser" means a person who is
26 registered or required to be registered under s. 203 of the
27 Investment Advisers Act of 1940. The term "federal covered
28 adviser" does not include any person who is excluded from the
29 definition of investment adviser under subparagraphs

30 (13)(b)1.-8~~(12)(b)1.-8~~.

31

1 Reviser's note.--Amended to conform to the
2 redesignation of subsection (12) as subsection
3 (13) by s. 583, ch. 2003-261, Laws of Florida.
4

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

7 538.18 Definitions.--As used in this part, the term:
8 (5) "Personal identification card" means a driver's
9 license or identification card issued by the Department of
10 Highway Safety and Motor Vehicles under s. 322.03 or s.
11 322.051, or a similar card issued by another state, a military
12 identification card, a passport, or an appropriate work
13 authorization issued by the United States Bureau of
14 Citizenship and Immigration Services ~~Immigration and~~
15 ~~Naturalization Service~~.

16
17 Reviser's note.--Amended to conform to the
18 redesignation of the Immigration and
19 Naturalization Service pursuant to its transfer
20 to the Department of Homeland Security by s.
21 451, Pub. L. No. 107-296.
22

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

25 552.40 Administrative remedy for alleged damage due to
26 the use of explosives in connection with construction
27 materials mining activities.--

28 (1) A person may initiate an administrative proceeding
29 to recover damages resulting from the use of explosives in
30 connection with construction materials mining activities by
31 filing a petition with the Division of Administrative Hearings

1 on a form provided by it ~~the division~~ and accompanied by a
2 filing fee of \$100 within 180 days after the occurrence of the
3 alleged damage. If the petitioner submits an affidavit stating
4 that the petitioner's annual income is less than 150 percent
5 of the applicable federal poverty guideline published in the
6 Federal Register by the United States Department of Health and
7 Human Services, the \$100 filing fee must be waived.

8 (3) Within 5 business days after the Division of
9 Administrative Hearings receives a petition, it ~~the division~~
10 shall issue and serve on the petitioner and the respondent an
11 initial order that assigns the case to a specific
12 administrative law judge and provides general information
13 regarding the practice and procedure before the Division of
14 Administrative Hearings. The initial order must advise that a
15 summary hearing is available upon the agreement of the parties
16 under subsection (6) and must briefly describe the expedited
17 time sequences, limited discovery, and final order provisions
18 of the summary procedure. The initial order must also contain
19 a statement advising the petitioner and the respondent that a
20 mandatory, nonbinding mediation is required before a summary
21 administrative hearing or a formal administrative hearing may
22 be held.

23
24 Reviser's note.--Amended to improve clarity and
25 facilitate correct interpretation.

26
27 Section 96. Subsection (9) of section 565.02, Florida
28 Statutes, is amended to read:

29 565.02 License fees; vendors; clubs; caterers; and
30 others.--

31

1 (9) It is the finding of the Legislature that
2 passenger vessels engaged exclusively in foreign commerce are
3 susceptible to a distinct and separate classification for
4 purposes of the sale of alcoholic beverages under the Beverage
5 Law. Upon the filing of an application and payment of an
6 annual fee of \$1,100, the director is authorized to issue a
7 permit authorizing the operator, or, if applicable, his or her
8 concessionaire, of a passenger vessel which has cabin-berth
9 capacity for at least 75 passengers, and which is engaged
10 exclusively in foreign commerce, to sell alcoholic beverages
11 on the vessel for consumption on board only:

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

15 (b) At any time while the vessel is located in Florida
16 territorial waters and is in transit to or from international
17 waters.

18
19 One such permit shall be required for each such vessel and
20 shall name the vessel for which it is issued. No license shall
21 be required or tax levied by any municipality or county for
22 the privilege of selling beverages for consumption on board
23 such vessels. The beverages so sold may be purchased outside
24 the state by the permittee, and the same shall not be
25 considered as imported for the purposes of s. 561.14(3) solely
26 because of such sale. The permittee is not required to obtain
27 its beverages from licensees under the Beverage Law, but it
28 shall keep a strict account of all such beverages sold within
29 this state and shall make monthly reports to the division on
30 forms prepared and furnished by the division. A permittee who
31 sells on board the vessel beverages withdrawn from United

1 States Bureau of Customs and Border Protection ~~Customs Service~~
2 bonded storage on board the vessel may satisfy such accounting
3 requirement by supplying the division with copies of the
4 appropriate United States Bureau of Customs and Border
5 Protection ~~Customs Service~~ forms evidencing such withdrawals
6 as importations under United States customs laws. Such
7 permittee shall pay to the state an excise tax for beverages
8 sold pursuant to this section, if such excise tax has not
9 previously been paid, in an amount equal to the tax which
10 would be required to be paid on such sales by a licensed
11 manufacturer or distributor. A vendor holding such permit
12 shall pay the tax monthly to the division at the same time he
13 or she furnishes the required report. Such report shall be
14 filed on or before the 15th day of each month for the sales
15 occurring during the previous calendar month.

16

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

22

23 Section 97. Subsection (1) of section 601.48, Florida
24 Statutes, is amended to read:

25

601.48 Grading processed citrus products.--

26

(1) If ~~such~~ processed citrus products meet the
27 requirements of the two highest grades as established by the
28 Department of Citrus or, at the option of the processor, the
29 two highest grades established by the United States Department
30 of Agriculture, the processor shall have the privilege, ~~in~~
31 ~~lieu of the grade declaration requirements of subsection (1),~~

1 of using labels, brands, or trademarks properly registered
2 with the Department of Citrus, as provided in subsection (2)
3 ~~(3)~~, to represent state or U.S. grades.

4
5 Reviser's note.--Amended to conform to the
6 repeal of former subsection (1), relating to
7 inspection and grading of processed citrus
8 products, by s. 52, ch. 2001-279, Laws of
9 Florida, and to the redesignation of former
10 subsection (3) as subsection (2) to conform to
11 that repeal.

12
13 Section 98. Subsection (1) of section 607.1331,
14 Florida Statutes, is amended to read:

15 607.1331 Court costs and counsel fees.--

16 (1) The court in an appraisal proceeding ~~commenced~~
17 ~~under s. 607.1330~~ shall determine all costs of the proceeding,
18 including the reasonable compensation and expenses of
19 appraisers appointed by the court. The court shall assess the
20 costs against the corporation, except that the court may
21 assess costs against all or some of the shareholders demanding
22 appraisal, in amounts the court finds equitable, to the extent
23 the court finds such shareholders acted arbitrarily,
24 vexatiously, or not in good faith with respect to the rights
25 provided by this chapter.

26
27 Reviser's note.--Amended to facilitate correct
28 interpretation. Section 607.1330 was deleted
29 from House Bill 1623 before it was passed.
30 House Bill 1623 became ch. 2003-283, Laws of
31 Florida.

1 Section 99. Paragraph (a) of subsection (3) of section
2 607.1407, Florida Statutes, is amended to read:

3 607.1407 Unknown claims against dissolved
4 corporation.--A dissolved corporation or successor entity, as
5 defined in s. 607.1406(15), may choose to execute one of the
6 following procedures to resolve payment of unknown claims.

7 (3) If the dissolved corporation or successor entity
8 complies with subsection (1) or subsection (2), the claim of
9 each of the following claimants is barred unless the claimant
10 commences a proceeding to enforce the claim against the
11 dissolved corporation within 4 years after the filing date:

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

17
18 Reviser's note.--Amended to correct an apparent
19 error and facilitate correct interpretation.

20 Section 607.1456(10) does not exist; s.
21 607.1406(10) relates to claims against
22 dissolved corporations.

23
24 Section 100. Paragraph (a) of subsection (1) of
25 section 624.123, Florida Statutes, is amended to read:

26 624.123 Certain international health insurance
27 policies; exemption from code.--

28 (1) International health insurance policies and
29 applications may be solicited and sold in this state at any
30 international airport to a resident of a foreign country. Such
31 international health insurance policies shall be solicited and

1 sold only by a licensed health insurance agent and
2 underwritten only by an admitted insurer. For purposes of this
3 subsection:

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

8
9 Reviser's note.--Amended to conform to the
10 redesignation of the United States Customs
11 Service pursuant to its transfer to the
12 Department of Homeland Security by s. 403, Pub.
13 L. No. 107-296.

14
15 Section 101. Subsection (1) of section 624.307,
16 Florida Statutes, is amended to read:

17 624.307 General powers; duties.--

18 (1) The department and office shall enforce the
19 provisions of this code and shall execute the duties imposed
20 upon them ~~it~~ by this code, within the respective jurisdiction
21 of each, as provided by law.

22
23 Reviser's note.--Amended to improve clarity and
24 facilitate correct interpretation.

25
26 Section 102. Subsection (8) of section 624.430,
27 Florida Statutes, is amended to read:

28 624.430 Withdrawal of insurer or discontinuance of
29 writing certain kinds or lines of insurance.--

30 (8) Notwithstanding subsection (7), any insurer
31 desiring to surrender its certificate of authority, withdraw

1 from this state, or discontinue the writing of any one or
2 multiple kinds or lines of insurance in this state is expected
3 to have availed itself of all reasonably available
4 reinsurance. Reasonably available reinsurance shall include
5 unrealized reinsurance, which is defined as reinsurance
6 recoverable on known losses incurred and due under valid
7 reinsurance contracts that have not been identified in the
8 normal course of business and have not been reported in
9 financial statements filed with the Office of Insurance
10 ~~Insurer~~ Regulation. Within 90 days after surrendering its
11 certificate of authority, withdrawing from this state, or
12 discontinuing the writing of any one or multiple kinds or
13 lines of insurance in this state, the insurer shall certify to
14 the Director of the Office of Insurance ~~Insurer~~ Regulation
15 that the insurer has engaged an independent third party to
16 search for unrealized reinsurance, and that the insurer has
17 made all relevant books and records available to such third
18 party. The compensation to such third party may be a
19 percentage of unrealized reinsurance identified and collected.

20
21 Reviser's note.--Amended to improve clarity and
22 facilitate correct interpretation and to
23 conform to the correct title of the Office of
24 Insurance Regulation established in s. 20.121.

25
26 Section 103. Section 624.461, Florida Statutes, is
27 amended to read:

28 624.461 Definition.--For the purposes of the Florida
29 Insurance Code, "self-insurance fund" means both commercial
30 self-insurance funds organized under s. 624.462 and group
31 self-insurance funds organized under s. 624.4621. The term

1 "self-insurance fund" does not include a governmental
2 self-insurance pool created under s. 768.28(16) ~~768.28(15)~~.

3
4 Reviser's note.--Amended to conform to the
5 redesignation of s. 768.28(15) as s. 768.28(16)
6 by s. 67, ch. 2003-416, Laws of Florida.

7
8 Section 104. Subsection (6) of section 624.462,
9 Florida Statutes, is amended to read:

10 624.462 Commercial self-insurance funds.--

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

14
15 Reviser's note.--Amended to conform to the
16 redesignation of s. 768.28(15) as s. 768.28(16)
17 by s. 67, ch. 2003-416, Laws of Florida.

18
19 Section 105. Paragraph (b) of subsection (5) of
20 section 624.509, Florida Statutes, is amended to read:

21 624.509 Premium tax; rate and computation.--

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

27 (b) The term "employees" does not include independent
28 contractors or any person whose duties require that the person
29 hold a valid license under the Florida Insurance Code, except
30 persons defined in s. 626.015(1), (14), and (16) ~~626.015(1),~~
31 ~~(15), and (17)~~.

1 Reviser's note.--Amended to conform to the
2 redesignation of subunits within s. 626.015 by
3 the reviser incident to compiling the 2003
4 Florida Statutes.

5
6 Section 106. Paragraph (a) of subsection (1) of
7 section 626.175, Florida Statutes, is amended to read:

8 626.175 Temporary licensing.--

9 (1) The department may issue a nonrenewable temporary
10 license for a period not to exceed 6 months authorizing
11 appointment of a general lines insurance agent or a life
12 agent, or an industrial fire or burglary agent, subject to the
13 conditions described in this section. The fees paid for a
14 temporary license and appointment shall be as specified in s.
15 624.501. Fees paid shall not be refunded after a temporary
16 license has been issued.

17 (a) An applicant for a temporary license must be:

18 1. A natural person at least 18 years of age.

19 2. A United States citizen or legal alien who

20 possesses work authorization from the United States Bureau of
21 Citizenship and Immigration Services ~~Immigration and~~
22 ~~Naturalization Service~~.

23
24 Reviser's note.--Amended to conform to the
25 redesignation of the Immigration and
26 Naturalization Service pursuant to its transfer
27 to the Department of Homeland Security by s.
28 451, Pub. L. No. 107-296.

29
30 Section 107. Paragraph (b) of subsection (3) of
31 section 626.371, Florida Statutes, is amended to read:

1 626.371 Payment of fees, taxes for appointment period
2 without appointment.--

3 (3)

4 (b) Failure to timely renew an appointment by an
5 appointing entity prior to the expiration date of the
6 appointment shall result in the appointing entity being
7 assessed late filing ~~filling~~, continuation, and reinstatement
8 fees as prescribed in s. 624.501. Such fees must be paid by
9 the appointing entity and cannot be charged back to the
10 appointee.

11
12 Reviser's note.--Amended to improve clarity and
13 facilitate correct interpretation.

14
15 Section 108. Paragraph (b) of subsection (1) of
16 section 626.731, Florida Statutes, is amended to read:

17 626.731 Qualifications for general lines agent's
18 license.--

19 (1) The department shall not grant or issue a license
20 as general lines agent to any individual found by it to be
21 untrustworthy or incompetent or who does not meet each of the
22 following qualifications:

23 (b) The applicant is a United States citizen or legal
24 alien who possesses work authorization from the United States
25 Bureau of Citizenship and Immigration Services ~~Immigration and~~
26 ~~Naturalization Service~~ and is a bona fide resident of this
27 state. An individual who is a bona fide resident of this state
28 shall be deemed to meet the residence requirement of this
29 paragraph, notwithstanding the existence at the time of
30 application for license of a license in his or her name on the
31 records of another state as a resident licensee of such other

1 state, if the applicant furnishes a letter of clearance
2 satisfactory to the department that the resident licenses have
3 been canceled or changed to a nonresident basis and that he or
4 she is in good standing.

5
6 Reviser's note.--Amended to conform to the
7 redesignation of the Immigration and
8 Naturalization Service pursuant to its transfer
9 to the Department of Homeland Security by s.
10 451, Pub. L. No. 107-296.

11
12 Section 109. Section 626.7315, Florida Statutes, is
13 amended to read:

14 626.7315 Prohibition against the unlicensed
15 transaction of general lines insurance.--With respect to any
16 line of authority as defined in s. 626.015(5) ~~626.015(6)~~, no
17 individual shall, unless licensed as a general lines agent:

18 (1) Solicit insurance or procure applications
19 therefor;

20 (2) In this state, receive or issue a receipt for any
21 money on account of or for any insurer, or receive or issue a
22 receipt for money from other persons to be transmitted to any
23 insurer for a policy, contract, or certificate of insurance or
24 any renewal thereof, even though the policy, certificate, or
25 contract is not signed by him or her as agent or
26 representative of the insurer, except as provided in s.
27 626.0428(1);

28 (3) Directly or indirectly represent himself or
29 herself to be an agent of any insurer or as an agent, to
30 collect or forward any insurance premium, or to solicit,
31 negotiate, effect, procure, receive, deliver, or forward,

1 directly or indirectly, any insurance contract or renewal
2 thereof or any endorsement relating to an insurance contract,
3 or attempt to effect the same, of property or insurable
4 business activities or interests, located in this state;

5 (4) In this state, engage or hold himself or herself
6 out as engaging in the business of analyzing or abstracting
7 insurance policies or of counseling or advising or giving
8 opinions, other than as a licensed attorney at law, relative
9 to insurance or insurance contracts, for fee, commission, or
10 other compensation, other than as a salaried bona fide
11 full-time employee so counseling and advising his or her
12 employer relative to the insurance interests of the employer
13 and of the subsidiaries or business affiliates of the
14 employer;

15 (5) In any way, directly or indirectly, make or cause
16 to be made, or attempt to make or cause to be made, any
17 contract of insurance for or on account of any insurer;

18 (6) Solicit, negotiate, or in any way, directly or
19 indirectly, effect insurance contracts, if a member of a
20 partnership or association, or a stockholder, officer, or
21 agent of a corporation which holds an agency appointment from
22 any insurer; or

23 (7) Receive or transmit applications for suretyship,
24 or receive for delivery bonds founded on applications
25 forwarded from this state, or otherwise procure suretyship to
26 be effected by a surety insurer upon the bonds of persons in
27 this state or upon bonds given to persons in this state.

28

29 Reviser's note.--Amended to conform to the
30 redesignation of subunits within s. 626.015 by

31

1 the reviser incident to compiling the 2003
2 Florida Statutes.

3
4 Section 110. Paragraph (a) of subsection (2) of
5 section 626.7351, Florida Statutes, is amended to read:

6 626.7351 Qualifications for customer representative's
7 license.--The department shall not grant or issue a license as
8 customer representative to any individual found by it to be
9 untrustworthy or incompetent, or who does not meet each of the
10 following qualifications:

11 (2)(a) The applicant is a United States citizen or
12 legal alien who possesses work authorization from the United
13 States Bureau of Citizenship and Immigration Services
14 ~~Immigration and Naturalization Service~~ and is a bona fide
15 resident of this state and will actually reside in the state
16 at least 6 months out of the year. An individual who is a bona
17 fide resident of this state shall be deemed to meet the
18 residence requirements of this subsection, notwithstanding the
19 existence at the time of application for license of a license
20 in his or her name on the records of another state as a
21 resident licensee of the other state, if the applicant
22 furnishes a letter of clearance satisfactory to the department
23 that the resident licenses have been canceled or changed to a
24 nonresident basis and that he or she is in good standing.

25
26 Reviser's note.--Amended to conform to the
27 redesignation of the Immigration and
28 Naturalization Service pursuant to its transfer
29 to the Department of Homeland Security by s.
30 451, Pub. L. No. 107-296.

31

1 Section 111. Paragraph (c) of subsection (1) of
2 section 626.7355, Florida Statutes, is amended to read:

3 626.7355 Temporary license as customer representative
4 pending examination.--

5 (1) The department shall issue a temporary customer
6 representative's license with respect to a person who has
7 applied for such license upon finding that the person:

8 (c) Is a United States citizen or legal alien who
9 possesses work authorization from the United States Bureau of
10 Citizenship and Immigration Services ~~Immigration and~~
11 ~~Naturalization Service~~ and is a bona fide resident of this
12 state or is a resident of another state sharing a common
13 boundary with this state. An individual who is a bona fide
14 resident of this state shall be deemed to meet the residence
15 requirement of this paragraph, notwithstanding the existence
16 at the time of application for license, of a license in his or
17 her name on the records of another state as a resident
18 licensee of such other state, if the applicant furnishes a
19 letter of clearance satisfactory to the department that his or
20 her resident licenses have been canceled or changed to a
21 nonresident basis and that he or she is in good standing.

22
23 Reviser's note.--Amended to conform to the
24 redesignation of the Immigration and
25 Naturalization Service pursuant to its transfer
26 to the Department of Homeland Security by s.
27 451, Pub. L. No. 107-296.

28
29 Section 112. Subsection (2) of section 626.7845,
30 Florida Statutes, is amended to read:

1 626.7845 Prohibition against unlicensed transaction of
2 life insurance.--

3 (2) Except as provided in s. 626.112(6), with respect
4 to any line of authority specified in s. 626.015(10)
5 ~~626.015(11)~~, no individual shall, unless licensed as a life
6 agent:

7 (a) Solicit insurance or annuities or procure
8 applications; or

9 (b) In this state, engage or hold himself or herself
10 out as engaging in the business of analyzing or abstracting
11 insurance policies or of counseling or advising or giving
12 opinions to persons relative to insurance or insurance
13 contracts other than:

14 1. As a consulting actuary advising an insurer; or

15 2. As to the counseling and advising of labor unions,
16 associations, trustees, employers, or other business entities,
17 the subsidiaries and affiliates of each, relative to their
18 interests and those of their members or employees under
19 insurance benefit plans.

20

21 Reviser's note.--Amended to conform to the
22 redesignation of subunits within s. 626.015 by
23 the reviser incident to compiling the 2003
24 Florida Statutes.

25

26 Section 113. Paragraph (b) of subsection (1) of
27 section 626.785, Florida Statutes, is amended to read:

28 626.785 Qualifications for license.--

29 (1) The department shall not grant or issue a license
30 as life agent to any individual found by it to be

31

1 untrustworthy or incompetent, or who does not meet the
2 following qualifications:

3 (b) Must be a United States citizen or legal alien who
4 possesses work authorization from the United States Bureau of
5 Citizenship and Immigration Services ~~Immigration and~~
6 ~~Naturalization Service~~ and a bona fide resident of this state.

7
8 Reviser's note.--Amended to conform to the
9 redesignation of the Immigration and
10 Naturalization Service pursuant to its transfer
11 to the Department of Homeland Security by s.
12 451, Pub. L. No. 107-296.

13
14 Section 114. Section 626.8305, Florida Statutes, is
15 amended to read:

16 626.8305 Prohibition against the unlicensed
17 transaction of health insurance.--Except as provided in s.
18 626.112(6), with respect to any line of authority specified in
19 s. 626.015(6)~~626.015(7)~~, no individual shall, unless licensed
20 as a health agent:

21 (1) Solicit insurance or procure applications; or
22 (2) In this state, engage or hold himself or herself
23 out as engaging in the business of analyzing or abstracting
24 insurance policies or of counseling or advising or giving
25 opinions to persons relative to insurance contracts other
26 than:

27 (a) As a consulting actuary advising insurers; or
28 (b) As to the counseling and advising of labor unions,
29 associations, trustees, employers, or other business entities,
30 the subsidiaries and affiliates of each, relative to their

31

1 interests and those of their members or employees under
2 insurance benefit plans.

3

4 Reviser's note.--Amended to conform to the
5 redesignation of subunits within s. 626.015 by
6 the reviser incident to compiling the 2003
7 Florida Statutes.

8

9 Section 115. Paragraph (b) of subsection (1) of
10 section 626.831, Florida Statutes, is amended to read:

11 626.831 Qualifications for license.--

12 (1) The department shall not grant or issue a license
13 as health agent as to any individual found by it to be
14 untrustworthy or incompetent, or who does not meet the
15 following qualifications:

16 (b) Must be a United States citizen or legal alien who
17 possesses work authorization from the United States Bureau of
18 Citizenship and Immigration Services ~~Immigration and~~
19 ~~Naturalization Service~~ and a bona fide resident of this state.

20

21 Reviser's note.--Amended to conform to the
22 redesignation of the Immigration and
23 Naturalization Service pursuant to its transfer
24 to the Department of Homeland Security by s.
25 451, Pub. L. No. 107-296.

26

27 Section 116. Subsection (2) of section 626.8414,
28 Florida Statutes, is amended to read:

29 626.8414 Qualifications for examination.--The
30 department must authorize any natural person to take the

31

1 examination for the issuance of a license as a title insurance
2 agent if the person meets all of the following qualifications:

3 (2) The applicant must be a United States citizen or
4 legal alien who possesses work authorization from the United
5 States Bureau of Citizenship and Immigration Services
6 ~~Immigration and Naturalization Service~~ and a bona fide
7 resident of this state. A person meets the residency
8 requirement of this subsection, notwithstanding the existence
9 at the time of application for license of a license in the
10 applicant's name on the records of another state as a resident
11 licensee of such other state, if the applicant furnishes a
12 letter of clearance satisfactory to the department that the
13 resident licenses have been canceled or changed to a
14 nonresident basis and that the applicant is in good standing.

15
16 Reviser's note.--Amended to conform to the
17 redesignation of the Immigration and
18 Naturalization Service pursuant to its transfer
19 to the Department of Homeland Security by s.
20 451, Pub. L. No. 107-296.

21
22 Section 117. Paragraph (b) of subsection (1) of
23 section 626.865, Florida Statutes, is amended to read:

24 626.865 Public adjuster's qualifications, bond.--

25 (1) The office shall issue a license to an applicant
26 for a public adjuster's license upon determining that the
27 applicant has paid the applicable fees specified in s. 624.501
28 and possesses the following qualifications:

29 (b) Is a United States citizen or legal alien who
30 possesses work authorization from the United States Bureau of
31

1 Citizenship and Immigration Services ~~Immigration and~~
2 ~~Naturalization Service~~ and a bona fide resident of this state.

3
4 Reviser's note.--Amended to conform to the
5 redesignation of the Immigration and
6 Naturalization Service pursuant to its transfer
7 to the Department of Homeland Security by s.
8 451, Pub. L. No. 107-296.

9
10 Section 118. Subsection (2) of section 626.866,
11 Florida Statutes, is amended to read:

12 626.866 Independent adjuster's qualifications.--The
13 office shall issue a license to an applicant for an
14 independent adjuster's license upon determining that the
15 applicable license fee specified in s. 624.501 has been paid
16 and that the applicant possesses the following qualifications:

17 (2) Is a United States citizen or legal alien who
18 possesses work authorization from the United States Bureau of
19 Citizenship and Immigration Services ~~Immigration and~~
20 ~~Naturalization Service~~ and a bona fide resident of this state.

21
22 Reviser's note.--Amended to conform to the
23 redesignation of the Immigration and
24 Naturalization Service pursuant to its transfer
25 to the Department of Homeland Security by s.
26 451, Pub. L. No. 107-296.

27
28 Section 119. Subsection (2) of section 626.867,
29 Florida Statutes, is amended to read:

30 626.867 Company employee adjuster's
31 qualifications.--The office shall issue a license to an

1 applicant for a company employee adjuster's license upon
2 determining that the applicable license fee specified in s.
3 624.501 has been paid and that the applicant possesses the
4 following qualifications:

5 (2) Is a United States citizen or legal alien who
6 possesses work authorization from the United States Bureau of
7 Citizenship and Immigration Services ~~Immigration and~~
8 ~~Naturalization Service~~ and a bona fide resident of this state.

9
10 Reviser's note.--Amended to conform to the
11 redesignation of the Immigration and
12 Naturalization Service pursuant to its transfer
13 to the Department of Homeland Security by s.
14 451, Pub. L. No. 107-296.

15
16 Section 120. Subsection (1) of section 626.874,
17 Florida Statutes, is amended to read:

18 626.874 Catastrophe or emergency adjusters.--
19 (1) In the event of a catastrophe or emergency, the
20 office may issue a license, for the purposes and under the
21 conditions which it shall fix and for the period of emergency
22 as it shall determine, to persons who are residents or
23 nonresidents of this state, who are at least 18 years of age,
24 who are United States citizens or legal aliens who possess
25 work authorization from the United States Bureau of
26 Citizenship and Immigration Services ~~Immigration and~~
27 ~~Naturalization Service~~, and who are not licensed adjusters
28 under this part but who have been designated and certified to
29 it as qualified to act as adjusters by independent resident
30 adjusters or by an authorized insurer or by a licensed general
31 lines agent to adjust claims, losses, or damages under

1 policies or contracts of insurance issued by such insurers.
2 The fee for the license shall be as provided in s.
3 624.501(12)(c).

4
5 Reviser's note.--Amended to conform to the
6 redesignation of the Immigration and
7 Naturalization Service pursuant to its transfer
8 to the Department of Homeland Security by s.
9 451, Pub. L. No. 107-296.

10
11 Section 121. Paragraph (f) of subsection (7) of
12 section 626.9916, Florida Statutes, is amended to read:

13 626.9916 Viatical settlement broker license required;
14 application for license.--

15 (7) Upon the filing of a sworn application and the
16 payment of the license fee and all other applicable fees under
17 this act, the department shall investigate each applicant and
18 may issue the applicant a license if the department finds that
19 the applicant:

20 (f) If a natural person, is at least 18 years of age
21 and a United States citizen or legal alien who possesses work
22 authorization from the United States Bureau of Citizenship and
23 Immigration Services ~~Immigration and Naturalization Service~~.

24
25 Reviser's note.--Amended to conform to the
26 redesignation of the Immigration and
27 Naturalization Service pursuant to its transfer
28 to the Department of Homeland Security by s.
29 451, Pub. L. No. 107-296.

30
31

1 Section 122. Subparagraph 15. of paragraph (c) of
2 subsection (6) of section 627.351, Florida Statutes, is
3 amended to read:

4 627.351 Insurance risk apportionment plans.--

5 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

6 (c) The plan of operation of the corporation:

7 15. Must provide that the corporation appoint as its
8 licensed agents only those agents who also hold an appointment
9 as defined in s. 626.015(3)~~626.104~~ with an insurer who at the
10 time of the agent's initial appointment by the corporation is
11 authorized to write and is actually writing personal lines
12 residential property coverage, commercial residential property
13 coverage, or commercial nonresidential property coverage
14 within the state.

15
16 Reviser's note.--Amended to conform to the
17 repeal of s. 626.104 by s. 72, ch. 2002-206,
18 Laws of Florida, and the creation of s.
19 626.015, relating to similar subject matter, by
20 s. 4, ch. 2002-206.

21
22 Section 123. Paragraph (b) of subsection (3) of
23 section 627.733, Florida Statutes, is amended to read:

24 627.733 Required security.--

25 (3) Such security shall be provided:

26 (b) By any other method authorized by s. 324.031(2),
27 (3), or (4) and approved by the Department of Highway Safety
28 and Motor Vehicles as affording security equivalent to that
29 afforded by a policy of insurance or by self-insuring as
30 authorized by s. 768.28(16)~~768.28(15)~~. The person filing such
31

1 security shall have all of the obligations and rights of an
2 insurer under ss. 627.730-627.7405.

3
4 Reviser's note.--Amended to conform to the
5 redesignation of s. 768.28(15) as s. 768.28(16)
6 by s. 67, ch. 2003-416, Laws of Florida.

7
8 Section 124. Paragraph (b) of subsection (5) of
9 section 627.736, Florida Statutes, is amended to read:

10 627.736 Required personal injury protection benefits;
11 exclusions; priority; claims.--

12 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

13 (b)1. An insurer or insured is not required to pay a
14 claim or charges:

15 a. Made by a broker or by a person making a claim on
16 behalf of a broker;

17 b. For any service or treatment that was not lawful at
18 the time rendered;

19 c. To any person who knowingly submits a false or
20 misleading statement relating to the claim or charges;

21 d. With respect to a bill or statement that does not
22 substantially meet the applicable requirements of paragraph
23 (d);

24 e. For any treatment or service that is upcoded, or
25 that is unbundled when such treatment or services should be
26 bundled, in accordance with paragraph (d). To facilitate
27 prompt payment of lawful services, an insurer may change codes
28 that it determines to have been improperly or incorrectly
29 upcoded or unbundled, and may make payment based on the
30 changed codes, without affecting the right of the provider to
31 dispute the change by the insurer, provided that before doing

1 so, the insurer must contact the health care provider and
2 discuss the reasons for the insurer's change and the health
3 care provider's reason for the coding, or make a reasonable
4 good faith effort to do so, as documented in the insurer's
5 file; and

6 f. For medical services or treatment billed by a
7 physician and not provided in a hospital unless such services
8 are rendered by the physician or are incident to his or her
9 professional services and are included on the physician's
10 bill, including documentation verifying that the physician is
11 responsible for the medical services that were rendered and
12 billed.

13 2. Charges for medically necessary cephalic
14 thermograms, peripheral thermograms, spinal ultrasounds,
15 extremity ultrasounds, video fluoroscopy, and surface
16 electromyography shall not exceed the maximum reimbursement
17 allowance for such procedures as set forth in the applicable
18 fee schedule or other payment methodology established pursuant
19 to s. 440.13.

20 3. Allowable amounts that may be charged to a personal
21 injury protection insurance insurer and insured for medically
22 necessary nerve conduction testing when done in conjunction
23 with a needle electromyography procedure and both are
24 performed and billed solely by a physician licensed under
25 chapter 458, chapter 459, chapter 460, or chapter 461 who is
26 also certified by the American Board of Electrodiagnostic
27 Medicine or by a board recognized by the American Board of
28 Medical Specialties or the American Osteopathic Association or
29 who holds diplomate status with the American Chiropractic
30 Neurology Board or its predecessors shall not exceed 200
31 percent of the allowable amount under the participating

1 physician fee schedule of Medicare Part B for year 2001, for
2 the area in which the treatment was rendered, adjusted
3 annually on August 1 to reflect the prior calendar year's
4 changes in the annual Medical Care Item of the Consumer Price
5 Index for All Urban Consumers in the South Region as
6 determined by the Bureau of Labor Statistics of the United
7 States Department of Labor.

8 4. Allowable amounts that may be charged to a personal
9 injury protection insurance insurer and insured for medically
10 necessary nerve conduction testing that does not meet the
11 requirements of subparagraph 3. shall not exceed the
12 applicable fee schedule or other payment methodology
13 established pursuant to s. 440.13.

14 5. Effective upon this act becoming a law and before
15 November 1, 2001, allowable amounts that may be charged to a
16 personal injury protection insurance insurer and insured for
17 magnetic resonance imaging services shall not exceed 200
18 percent of the allowable amount under Medicare Part B for year
19 2001, for the area in which the treatment was rendered.
20 Beginning November 1, 2001, allowable amounts that may be
21 charged to a personal injury protection insurance insurer and
22 insured for magnetic resonance imaging services shall not
23 exceed 175 percent of the allowable amount under the
24 participating physician fee schedule of Medicare Part B for
25 year 2001, for the area in which the treatment was rendered,
26 adjusted annually on August 1 to reflect the prior calendar
27 year's changes in the annual Medical Care Item of the Consumer
28 Price Index for All Urban Consumers in the South Region as
29 determined by the Bureau of Labor Statistics of the United
30 States Department of Labor for the 12-month period ending June
31 30 of that year, except that allowable amounts that may be

1 charged to a personal injury protection insurance insurer and
2 insured for magnetic resonance imaging services provided in
3 facilities accredited by the Accreditation Association for
4 Ambulatory Health Care, the American College of Radiology, or
5 the Joint Commission on Accreditation of Healthcare
6 Organizations shall not exceed 200 percent of the allowable
7 amount under the participating physician fee schedule of
8 Medicare Part B for year 2001, for the area in which the
9 treatment was rendered, adjusted annually on August 1 to
10 reflect the prior calendar year's changes in the annual
11 Medical Care Item of the Consumer Price Index for All Urban
12 Consumers in the South Region as determined by the Bureau of
13 Labor Statistics of the United States Department of Labor for
14 the 12-month period ending June 30 of that year. This
15 paragraph does not apply to charges for magnetic resonance
16 imaging services and nerve conduction testing for inpatients
17 and emergency services and care as defined in chapter 395
18 rendered by facilities licensed under chapter 395.

19 6. The Department of Health, in consultation with the
20 appropriate professional licensing boards, shall adopt, by
21 rule, a list of diagnostic tests deemed not to be medically
22 necessary for use in the treatment of persons sustaining
23 bodily injury covered by personal injury protection benefits
24 under this section. The initial list shall be adopted by
25 January 1, 2004, and shall be revised from time to time as
26 determined by the Department of Health, in consultation with
27 the respective professional licensing boards. Inclusion of a
28 test on the list of invalid diagnostic tests shall be based on
29 lack of demonstrated medical value and a level of general
30 acceptance by the relevant provider community and shall not be
31 dependent for results entirely upon subjective patient

1 response. Notwithstanding its inclusion on a fee schedule in
2 this subsection, an insurer or insured is not required to pay
3 any charges or reimburse claims for any invalid diagnostic
4 test as determined by the Department of Health.

5
6 Reviser's note.--Amended to improve clarity.

7
8 Section 125. Subsection (4) of section 627.832,
9 Florida Statutes, is amended to read:

10 627.832 Grounds for refusal, suspension, or revocation
11 of license.--

12 (4) Every license issued hereunder shall remain in
13 force and effect until it has been surrendered, revoked, or
14 suspended or expires in accordance with the provisions of this
15 part; but the office may reinstate a suspended license or to
16 issue a new license to a licensee whose license has been
17 revoked, if no fact or condition then exists which clearly
18 would have warranted office refusal originally to issue such
19 license under this part.

20
21 Reviser's note.--Amended to improve clarity and
22 correct sentence construction.

23
24 Section 126. Section 628.6012, Florida Statutes, is
25 amended to read:

26 628.6012 Premiums written; restrictions.--Assessable
27 mutual insurers shall be subject to a cap on net annual
28 premiums on the same basis and in the same manner as provided
29 in former s. 624.469 as to commercial self-insurance funds.
30 For an assessable mutual that has converted from a commercial
31 self-insurance fund, the first 6 full calendar years of its

1 operation as set forth in former s. 624.469 shall be computed
2 from the date of its certificate of authority as a commercial
3 self-insurance fund.

4
5 Reviser's note.--Amended to conform to the
6 repeal of s. 624.469 by s. 17, ch. 2003-2, Laws
7 of Florida.

8
9 Section 127. Subsection (2) of section 628.6013,
10 Florida Statutes, is amended to read:

11 628.6013 Converted self-insurance fund; trade
12 association; board of directors.--

13 (2) An assessable mutual insurer formed by the
14 conversion of a commercial self-insurance fund pursuant to
15 former s. 624.463 or by the conversion of a group
16 self-insurer's fund organized under s. 624.4621 shall be
17 endorsed at the time of conversion by a statewide
18 not-for-profit trade association, industry association, or
19 professional association of employers or professionals which
20 has a constitution or bylaws, which is incorporated under the
21 laws of this state, and which has been organized for purposes
22 other than that of obtaining or providing insurance and
23 operated in good faith for a continuous period of 1 year. The
24 association shall not be liable for any actions of the
25 insurer, nor shall it require the establishment or enforcement
26 of any policy of the insurer. Fees, services, and other
27 aspects of the relationship between the association and the
28 insurer must be reasonable and are subject to contractual
29 agreement.

1 Reviser's note.--Amended to conform to the
2 repeal of s. 624.463 by s. 17, ch. 2003-2, Laws
3 of Florida, and s. 1978, ch. 2003-261, Laws of
4 Florida.

5
6 Section 128. Paragraph (d) of subsection (2) of
7 section 631.57, Florida Statutes, is amended to read:

8 631.57 Powers and duties of the association.--

9 (2) The association may:

10 (d) Negotiate and become a party to such contracts as
11 are necessary to carry out the purpose of this part. ~~Without~~
12 ~~limiting the generality of the foregoing, the association may~~
13 ~~enter into such contracts with a municipality as are necessary~~
14 ~~in order for the municipality to issue bonds under s.~~
15 ~~166.111(2). In connection with the issuance of such bonds and~~
16 ~~the entering into of the necessary contracts, the association~~
17 ~~may agree to such terms and conditions as it deems necessary~~
18 ~~and proper.~~

19
20 Reviser's note.--Amended to conform to the
21 repeal of s. 166.111(2) by s. 159, ch.
22 2003-261, Laws of Florida.

23
24 Section 129. Subsection (1) of section 631.60, Florida
25 Statutes, is amended to read:

26 631.60 Effect of paid claims.--

27 (1) Any person recovering under this part shall be
28 deemed to have assigned her or his rights under the policy to
29 the association to the extent of the person's recovery from
30 the association, regardless of whether such recovery is
31 received directly from the association or through payments

1 made from the proceeds of bonds issued under former s.
2 166.111(2). Every insured or claimant seeking the protection
3 of this part shall cooperate with the association to the same
4 extent as such person would have been required to cooperate
5 with the insolvent insurer. The association shall have no
6 cause of action against the insured of the insolvent insurer
7 for any sums it has paid out except such causes of action as
8 the insolvent insurer would have had if such sums had been
9 paid by the insolvent insurer. In the case of an insolvent
10 insurer operating on a plan with assessment liability,
11 payments of claims of the association shall not operate to
12 reduce the liability of insureds to the receiver, liquidator,
13 or statutory successor for unpaid assessments.

14

15 Reviser's note.--Amended to conform to the
16 repeal of s. 166.111(2) by s. 159, ch.
17 2003-261, Laws of Florida.

18

19 Section 130. Section 636.0145, Florida Statutes, is
20 amended to read:

21 636.0145 Certain entities contracting with
22 Medicaid.--Notwithstanding the requirements of s.
23 409.912(4)(b)~~409.912(3)(b)~~, an entity that is providing
24 comprehensive inpatient and outpatient mental health care
25 services to certain Medicaid recipients in Hillsborough,
26 Highlands, Hardee, Manatee, and Polk Counties through a
27 capitated, prepaid arrangement pursuant to the federal waiver
28 provided for in s. 409.905(5) must become licensed under
29 chapter 636 by December 31, 1998. Any entity licensed under
30 this chapter which provides services solely to Medicaid

31

1 recipients under a contract with Medicaid shall be exempt from
2 ss. 636.017, 636.018, 636.022, 636.028, and 636.034.

3
4 Reviser's note.--Amended to conform to the
5 redesignation of s. 409.912(3) as s. 409.912(4)
6 by s. 9, ch. 2003-279, Laws of Florida.

7
8 Section 131. Subsection (3) of section 636.029,
9 Florida Statutes, is amended to read:

10 636.029 Construction and relationship with other
11 laws.--

12 (3) The department and office are vested with all
13 powers granted to them ~~it~~ under the insurance code with
14 respect to the investigation of any violation of this act
15 within their respective regulatory jurisdictions.

16
17 Reviser's note.--Amended to improve clarity and
18 facilitate correct interpretation.

19
20 Section 132. Section 636.052, Florida Statutes, is
21 amended to read:

22 636.052 Civil remedy.--In any civil action brought to
23 enforce the terms and conditions of a prepaid limited health
24 service organization contract, the prevailing party is
25 entitled to recover reasonable attorney's fees and court
26 costs. This section does not authorize a civil action against
27 the office or its employees or against the Agency for Health
28 Care Administration, its employees, or the secretary ~~director~~
29 of that agency.

1 Reviser's note.--Amended to conform to the
2 redesignation of the Director of Health Care
3 Administration as the Secretary of Health Care
4 Administration by s. 2, ch. 2000-305, Laws of
5 Florida.

6
7 Section 133. Paragraph (j) of subsection (1) of
8 section 641.21, Florida Statutes, is amended to read:

9 641.21 Application for certificate.--

10 (1) Before any entity may operate a health maintenance
11 organization, it shall obtain a certificate of authority from
12 the office. The office shall accept and shall begin its review
13 of an application for a certificate of authority anytime after
14 an organization has filed an application for a health care
15 provider certificate pursuant to part III of this chapter.
16 However, the office may not issue a certificate of authority
17 to any applicant which does not possess a valid health care
18 provider certificate issued by the agency. Each application
19 for a certificate shall be on such form as the commission
20 shall prescribe, shall be verified by the oath of two officers
21 of the corporation and properly notarized, and shall be
22 accompanied by the following:

23 (j) Such additional reasonable data, financial
24 statements, and other pertinent information as the commission
25 ~~commissioner~~ or office requires with respect to the
26 determination that the applicant can provide the services to
27 be offered.

28
29 Reviser's note.--Amended to facilitate correct
30 interpretation and to conform to context.

31

1 Section 134. Subsection (3) of section 641.225,
2 Florida Statutes, is amended to read:

3 641.225 Surplus requirements.--

4 (3)(a) An entity providing prepaid capitated services
5 which is authorized under s. 409.912(4)(a) ~~409.912(3)(a)~~ and
6 which applies for a certificate of authority is subject to the
7 minimum surplus requirements set forth in subsection (1),
8 unless the entity is backed by the full faith and credit of
9 the county in which it is located.

10 (b) An entity providing prepaid capitated services
11 which is authorized under s. 409.912(4)(b) or (c)
12 ~~409.912(3)(b) or (c)~~, and which applies for a certificate of
13 authority is subject to the minimum surplus requirements set
14 forth in s. 409.912.

15
16 Reviser's note.--Amended to conform to the
17 redesignation of s. 409.912(3) as s. 409.912(4)
18 by s. 9, ch. 2003-279, Laws of Florida.

19
20 Section 135. Paragraph (d) of subsection (3) of
21 section 641.31, Florida Statutes, is amended to read:

22 641.31 Health maintenance contracts.--

23 (3)

24 (d) Any change in rates charged for the contract must
25 be filed with the office not less than 30 days in advance of
26 the effective date. At the expiration of such 30 days, the
27 rate filing shall be deemed approved unless prior to such time
28 the filing has been affirmatively approved or disapproved by
29 order of the office. The approval of the filing by the office
30 constitutes a waiver of any unexpired portion of such waiting
31 period. The office may extend by not more than an additional

1 15 days the period within which it may so affirmatively
2 approve or disapprove any such filing, by giving notice of
3 such extension before expiration of the initial 30-day period.
4 At the expiration of any such period as so extended, and in
5 the absence of such prior affirmative approval or disapproval,
6 any such filing shall be deemed approved. This paragraph does
7 not apply to group health contracts effectuated and delivered
8 in this state, insuring groups of 51 or more persons, except
9 for Medicare supplement insurance, long-term care insurance,
10 and any coverage under which the increase in claims costs over
11 the lifetime of the contract due to advancing age or duration
12 is prefunded ~~refunded~~ in the premium.

13

14 Reviser's note.--Amended to facilitate correct
15 interpretation and to conform to context.

16

17 Section 136. Subsection (4) of section 641.386,
18 Florida Statutes, is amended to read:

19 641.386 Agent licensing and appointment required;
20 exceptions.--

21 (4) All agents and health maintenance organizations
22 shall comply with and be subject to the applicable provisions
23 of ss. 641.309 and 409.912(21)~~409.912(19)~~, and all companies
24 and entities appointing agents shall comply with s. 626.451,
25 when marketing for any health maintenance organization
26 licensed pursuant to this part, including those organizations
27 under contract with the Agency for Health Care Administration
28 to provide health care services to Medicaid recipients or any
29 private entity providing health care services to Medicaid
30 recipients pursuant to a prepaid health plan contract with the
31 Agency for Health Care Administration.

1 Reviser's note.--Amended to conform to the
2 redesignation of s. 409.912(19) as s.
3 409.912(21) by s. 9, ch. 2003-279, Laws of
4 Florida.

5
6 Section 137. Paragraph (b) of subsection (2) of
7 section 648.34, Florida Statutes, is amended to read:

8 648.34 Bail bond agents; qualifications.--

9 (2) To qualify as a bail bond agent, it must
10 affirmatively appear at the time of application and throughout
11 the period of licensure that the applicant has complied with
12 the provisions of s. 648.355 and has obtained a temporary
13 license pursuant to such section and:

14 (b) The applicant is a United States citizen or legal
15 alien who possesses work authorization from the United States
16 Bureau of Citizenship and Immigration Services ~~Immigration and~~
17 ~~Naturalization Service~~ and is a resident of this state. An
18 individual who is a resident of this state shall be deemed to
19 meet the residence requirement of this paragraph,
20 notwithstanding the existence, at the time of application for
21 license, of a license in the applicant's name on the records
22 of another state as a resident licensee of such other state,
23 if the applicant furnishes a letter of clearance satisfactory
24 to the department that his or her resident licenses have been
25 canceled or changed to a nonresident basis and that he or she
26 is in good standing.

27
28 Reviser's note.--Amended to conform to the
29 redesignation of the Immigration and
30 Naturalization Service pursuant to its transfer
31

1 to the Department of Homeland Security by s.
2 451, Pub. L. No. 107-296.

3
4 Section 138. Paragraph (b) of subsection (1) of
5 section 648.355, Florida Statutes, is amended to read:

6 648.355 Temporary limited license as limited surety
7 agent or professional bail bond agent; pending examination.--

8 (1) The department may, in its discretion, issue a
9 temporary license as a limited surety agent or professional
10 bail bond agent, subject to the following conditions:

11 (b) The applicant is a United States citizen or legal
12 alien who possesses work authorization from the United States
13 Bureau of Citizenship and Immigration Services ~~Immigration and~~
14 ~~Naturalization Service~~ and is a resident of this state. An
15 individual who is a resident of this state shall be deemed to
16 meet the residence requirement of this paragraph,
17 notwithstanding the existence, at the time of application for
18 temporary license, of a license in the individual's name on
19 the records of another state as a resident licensee of such
20 other state, if the applicant furnishes a letter of clearance
21 satisfactory to the department that the individual's resident
22 licenses have been canceled or changed to a nonresident basis
23 and that the individual is in good standing.

24
25 Reviser's note.--Amended to conform to the
26 redesignation of the Immigration and
27 Naturalization Service pursuant to its transfer
28 to the Department of Homeland Security by s.
29 451, Pub. L. No. 107-296.

30
31

1 Section 139. Subsection (4) of section 648.45, Florida
2 Statutes, is amended to read:

3 648.45 Actions against a licensee; suspension or
4 revocation of eligibility to hold a license.--

5 (4) Any licensee found to have violated s.
6 648.44(1)(b), (d), or (i)~~648.44(1)(b), (c), or (h)~~shall, at
7 a minimum, be suspended for a period of 3 months. A greater
8 penalty, including revocation, shall be imposed if there is a
9 willful or repeated violation of s. 648.44(1)(b), (d), or (i)
10 ~~648.44(1)(b), (c), or (h)~~, or the licensee has committed other
11 violations of this chapter.

12
13 Reviser's note.--Amended to conform to the
14 redesignation of s. 648.44(1)(c) and (h) as s.
15 648.44(1)(d) and (i) by s. 21, ch. 2002-260,
16 Laws of Florida.

17
18 Section 140. Subsection (2) of section 651.013,
19 Florida Statutes, is amended to read:

20 651.013 Chapter exclusive; applicability of other
21 laws.--

22 (2) In addition to other applicable provisions cited
23 in this chapter, the office has the authority granted under
24 ss. 624.302 and 624.303 ~~624.302-624.305~~, 624.308-624.312,
25 624.319(1)-(3), 624.320-624.321, 624.324, and 624.34 of the
26 Florida Insurance Code to regulate providers of continuing
27 care.

28
29 Reviser's note.--Amended to conform to the
30 repeal of s. 624.305 by s. 1978, ch. 2003-261,
31 Laws of Florida.

1 Section 141. Section 657.001, Florida Statutes, is
2 amended to read:

3 657.001 Short title.--This chapter part may be cited
4 as the "Florida Credit Union Act."

5
6 Reviser's note.--Amended to conform to the
7 arrangement of chapter 657, which is not
8 divided into parts.

9
10 Section 142. Section 657.002, Florida Statutes, is
11 amended to read:

12 657.002 Definitions.--As used in this chapter part:

13 (1) "Capital" means shares, deposits, and equity.

14 (2) "Central credit union" means a credit union the
15 membership of which includes, but is not limited to, other
16 credit unions, members of credit unions, credit union
17 employees, employees of organizations serving credit unions,
18 and the families of such members.

19 (3) "Corporate credit union" means any central credit
20 union organized pursuant to any state or federal act for the
21 purpose of serving other credit unions.

22 (4) "The corporation" means the Florida Credit Union
23 Guaranty Corporation, Inc.

24 (5) "Correspondent" means that person designated on an
25 application to organize a credit union as the person to whom
26 all correspondence regarding the application should be sent.

27 (6) "Credit union" means any cooperative society
28 organized pursuant to this chapter part.

29 (7) "Deposits" means that portion of the capital paid
30 into the credit union by members on which a contractual rate
31 of interest will be paid.

1 (8) "Equity" means undivided earnings, reserves, and
2 allowance for loan losses.

3 (9) "Foreign credit union" means a credit union
4 organized and operating under the laws of another state.

5 (10) "Immediate family" means parents, children,
6 spouse, or surviving spouse of the member, or any other
7 relative by blood, marriage, or adoption.

8 (11) "Limited field of membership" means the defined
9 group of persons designated as eligible for membership in the
10 credit union who:

11 (a) Have a similar profession, occupation, or formal
12 association with an identifiable purpose; or

13 (b) Reside within an identifiable neighborhood,
14 community, rural district, or county; or

15 (c) Are employed by a common employer; or

16 (d) Are employed by the credit union; and

17

18 members of the immediate family of persons within such group.

19 (12) "Shares" means that portion of the capital paid
20 into the credit union by members on which dividends may be
21 paid.

22 (13) "Unimpaired capital" means capital which is not
23 impaired by losses that exceed applicable reserves.

24

25 Reviser's note.--Amended to conform to the
26 arrangement of chapter 657, which is not
27 divided into parts.

28

29 Section 143. Paragraph (e) of subsection (7) of
30 section 657.021, Florida Statutes, is amended to read:

31 657.021 Board of directors; executive committee.--

1 (7) The board of directors must exercise the following
2 duties which are nondelegable:

3 (e) Adequately provide for reserves as required by
4 this chapter part or by rules or order of the commission or
5 office or as otherwise determined necessary by the board.

6
7 Reviser's note.--Amended to conform to the
8 arrangement of chapter 657, which is not
9 divided into parts.

10
11 Section 144. Subsection (4) of section 657.026,
12 Florida Statutes, is amended to read:

13 657.026 Supervisory or audit committee.--

14 (4) The supervisory or audit committee shall notify
15 the board of directors, the office, and, as applicable, either
16 the corporation or the National Credit Union Administration of
17 any violation of this chapter part, any violation of the
18 certificate of authorization or bylaws of the credit union, or
19 any practice of the credit union deemed by the supervisory or
20 audit committee to be unsafe, unsound, or unauthorized.

21
22 For the purposes of this subsection, two-thirds of the members
23 of the supervisory or audit committee constitutes a quorum.

24
25 Reviser's note.--Amended to conform to the
26 arrangement of chapter 657, which is not
27 divided into parts.

28
29 Section 145. Subsections (13) and (16) of section
30 657.031, Florida Statutes, are amended to read:

1 657.031 Powers.--A credit union shall have the power
2 to:

3 (13) Invest funds, as provided in this chapter ~~part~~.

4 (16) Hold membership in central credit unions or
5 corporate credit unions organized under this chapter ~~part~~ or
6 under any other state or federal acts and membership in
7 associations and organizations of credit unions.

8
9 Reviser's note.--Amended to conform to the
10 arrangement of chapter 657, which is not
11 divided into parts.

12
13 Section 146. Paragraph (a) of subsection (1) of
14 section 657.039, Florida Statutes, is amended to read:

15 657.039 Loan powers; extension of credit to directors,
16 officers, committee members, and certain employees.--

17 (1) A credit union may extend credit to its officers,
18 directors, credit manager, members of its supervisory, audit,
19 and credit committees, and any other person authorized to
20 approve extensions of credit, provided:

21 (a) The extension of credit complies with all
22 requirements under this chapter ~~part~~ with respect to credit
23 extended to other borrowers and is not on terms more favorable
24 than those extended to other borrowers.

25
26 Reviser's note.--Amended to conform to the
27 arrangement of chapter 657, which is not
28 divided into parts.

29
30 Section 147. Section 657.066, Florida Statutes, is
31 amended to read:

1 657.066 Conversion from state credit union to federal
2 credit union and conversely.--Any credit union organized under
3 this chapter part may convert into a federal credit union and
4 any federal credit union may convert into a credit union
5 organized pursuant to this chapter part upon approval of the
6 authority under the supervision of which the converted credit
7 union will operate and upon compliance with applicable laws.

8 (1) Any action by the board of directors proposing
9 conversion shall be by resolution and shall require the
10 affirmative vote of an absolute majority of the board of
11 directors. Upon adoption of a resolution relating to
12 conversion, a copy of the resolution shall be mailed to each
13 member, together with a notice setting forth the time,
14 location, and purpose of a meeting of the membership which
15 shall be held not less than 10 nor more than 30 days following
16 the mailing of the notice.

17 (2) A ballot allowing an affirmative or negative vote
18 on the proposed conversion shall also be mailed to each
19 member. Any ballot received by the credit union prior to the
20 meeting called to consider the conversion shall be counted
21 along with the votes cast at the meeting. Each member shall
22 have but one vote. A majority of the votes cast by the
23 members shall be required to approve the conversion.

24 (3) Within 10 days after the approval of the
25 membership, the board of directors shall cause to be
26 transmitted to the authority under the supervision of which
27 the converted credit union will operate a copy of the
28 resolution adopted by the board of directors and approved by
29 the membership.

30 (4) Upon the written approval of the authority under
31 the supervision of which the converting credit union is to

1 operate, the converting credit union shall become a credit
2 union under this chapter or under the laws of the United
3 States, as the case may be, and thereupon all assets shall
4 become the property of the converted credit union, subject to
5 all existing liabilities against the credit union. All shares
6 and deposits shall remain intact. Any federal credit union
7 seeking to convert to a state-chartered credit union shall pay
8 a nonrefundable filing fee of \$500. The office may conduct an
9 examination of any converting federal credit union before
10 approving the conversion and the converting credit union shall
11 pay a nonrefundable examination fee as provided in s.
12 655.411(1)(b).

13 (5) Every conversion must be completed within 90 days
14 after the approval of the authority under the supervision of
15 which the converted credit union will operate. Upon receiving
16 its certificate of authorization or charter from the authority
17 under the supervision of which the converted credit union will
18 operate, the old certificate of authorization or charter shall
19 be returned to the proper authority and shall be canceled.

20 (6) In consummation of the conversion, the old credit
21 union may execute, acknowledge, and deliver to the newly
22 chartered credit union the instruments of transfer necessary
23 to accomplish the transfer of any property and all right,
24 title, and interest therein.

25
26 Reviser's note.--Amended to conform to the
27 arrangement of chapter 657, which is not
28 divided into parts.
29
30
31

1 Section 148. Paragraph (a) of subsection (2) and
2 subsection (4) of section 657.068, Florida Statutes, are
3 amended to read:

4 657.068 Central credit unions.--

5 (2) Membership in a central credit union shall be
6 limited to:

7 (a) Credit unions organized and operating under this
8 chapter part or any other credit union act;

9 (4) A central credit union shall have all the powers
10 of any credit union organized under this chapter part and
11 shall have the following powers, notwithstanding any
12 limitations or restrictions herein:

13 (a) A central credit union may make loans to other
14 credit unions, purchase shares of and make deposits in other
15 credit unions, and obtain or acquire the assets and
16 liabilities of any credit union operating in this state which
17 liquidates, provided such assets are otherwise eligible for
18 investment by the acquiring credit union.

19 (b) A central credit union may invest in and grant
20 loans to associations of credit unions, central funds of
21 credit unions, or organizations chartered to provide services
22 to credit unions.

23
24 Reviser's note.--Amended to conform to the
25 arrangement of chapter 657, which is not
26 divided into parts.

27
28 Section 149. Section 679.338, Florida Statutes, is
29 amended to read:

30 679.338 Priority of security interest or agricultural
31 lien perfected by filed financing statement providing certain

1 incorrect information.--If a security interest or agricultural
2 lien is perfected by a filed financing statement providing
3 information described in s. 679.516(2)(d) ~~679.516(2)(e)~~ which
4 is incorrect at the time the financing statement is filed:

5 (1) The security interest or agricultural lien is
6 subordinate to a conflicting perfected security interest in
7 the collateral to the extent that the holder of the
8 conflicting security interest gives value in reasonable
9 reliance upon the incorrect information; and

10 (2) A purchaser, other than a secured party, of the
11 collateral takes free of the security interest or agricultural
12 lien to the extent that, in reasonable reliance upon the
13 incorrect information, the purchaser gives value and, in the
14 case of chattel paper, documents, goods, instruments, or a
15 security certificate, receives delivery of the collateral.

16
17 Reviser's note.--Amended to conform to the
18 redesignation of s. 679.516(2)(e) as s.
19 679.516(2)(d) by s. 11, ch. 2002-242, Laws of
20 Florida.

21
22 Section 150. Subsection (3) of section 679.520,
23 Florida Statutes, is amended to read:

24 679.520 Acceptance and refusal to accept record.--

25 (3) A filed financing statement satisfying s.
26 679.5021(1) and (2) is effective, even if the filing office is
27 required to refuse to accept it for filing under subsection
28 (1). However, s. 679.338 applies to a filed financing
29 statement providing information described in s. 679.516(2)(d)
30 ~~679.516(2)(e)~~ which is incorrect at the time the financing
31 statement is filed.

1 Reviser's note.--Amended to conform to the
2 redesignation of s. 679.516(2)(e) as s.
3 679.516(2)(d) by s. 11, ch. 2002-242, Laws of
4 Florida.

5
6 Section 151. Paragraph (b) of subsection (2) of
7 section 732.2025, Florida Statutes, is amended to read:
8 732.2025 Definitions.--As used in ss.
9 732.2025-732.2155, the term:
10 (2) "Elective share trust" means a trust where:
11 (b) The trust is subject to the provisions of former
12 s. 738.12 or the surviving spouse has the right under the
13 terms of the trust or state law to require the trustee either
14 to make the property productive or to convert it within a
15 reasonable time; and

16
17 Reviser's note.--Amended to improve clarity and
18 facilitate correct interpretation. Section
19 738.12 was repealed by s. 2, ch. 2002-42, Laws
20 of Florida.

21
22 Section 152. Subsection (1) of section 741.04, Florida
23 Statutes, is amended to read:

24 741.04 Marriage license issued.--
25 (1) No county court judge or clerk of the circuit
26 court in this state shall issue a license for the marriage of
27 any person unless there shall be first presented and filed
28 with him or her an affidavit in writing, signed by both
29 parties to the marriage, providing the social security numbers
30 or any other available identification numbers of each party,
31 made and subscribed before some person authorized by law to

1 administer an oath, reciting the true and correct ages of such
2 parties; unless both such parties shall be over the age of 18
3 years, except as provided in s. 741.0405; and unless one party
4 is a male and the other party is a female. Pursuant to the
5 federal Personal Responsibility and Work Opportunity
6 Reconciliation Act of 1996, each party is required to provide
7 his or her social security number in accordance with this
8 section. The state has a compelling interest in promoting not
9 only marriage but also responsible parenting, which may
10 include the payment of child support. Any person who has been
11 issued a social security number shall provide that number.
12 Disclosure of social security numbers or other identification
13 numbers obtained through this requirement shall be limited to
14 the purpose of administration of the Title IV-D program for
15 child support enforcement. Any person who is not a citizen of
16 the United States may provide either a social security number
17 or an alien registration number if one has been issued by the
18 United States Bureau of Citizenship and Immigration Services
19 ~~Immigration and Naturalization Service~~. Any person who is not
20 a citizen of the United States and who has not been issued a
21 social security number or an alien registration number is
22 encouraged to provide another form of identification. Nothing
23 in this subsection shall be construed to mean that a county
24 court judge or clerk of the circuit court in this state shall
25 not issue a marriage license to individuals who are not
26 citizens of the United States if one or both of the parties
27 are unable to provide a social security number, alien
28 registration number, or other identification number.

29

30 Reviser's note.--Amended to conform to the
31 redesignation of the Immigration and

1 Naturalization Service pursuant to its transfer
2 to the Department of Homeland Security by s.
3 451, Pub. L. No. 107-296.
4

5 Section 153. Paragraph (a) of subsection (5) of
6 section 766.102, Florida Statutes, is amended to read:
7 766.102 Medical negligence; standards of recovery;
8 expert witness.--

9 (5) A person may not give expert testimony concerning
10 the prevailing professional standard of care unless that
11 person is a licensed health care provider and meets the
12 following criteria:

13 (a) If the health care provider against whom or on
14 whose behalf the testimony is offered is a specialist, the
15 expert witness must:

16 1. Specialize in the same specialty as the health care
17 provider against whom or on whose behalf the testimony is
18 offered; or specialize in a similar specialty that includes
19 the evaluation, diagnosis, or treatment of the medical
20 condition that is the subject of the claim and have prior
21 experience treating similar patients; and

22 2. Have devoted professional time during the 3 years
23 immediately preceding the date of the occurrence that is the
24 basis for the action to:

25 a. The active clinical practice of, or consulting with
26 respect to, the same or similar specialty that includes the
27 evaluation, diagnosis, or treatment of the medical condition
28 that is the subject of the claim and have prior experience
29 treating similar patients;
30
31

1 b. Instruction of students in an accredited health
2 professional school or accredited residency or clinical
3 research program in the same or similar specialty; or

4 c. A clinical research program that is affiliated with
5 an accredited health professional school or accredited
6 residency or clinical research program in the same or similar
7 specialty ~~speciality~~.

8
9 Reviser's note.--Amended to improve clarity and
10 facilitate correct interpretation.

11
12 Section 154. Subsections (2) and (3) of section
13 766.203, Florida Statutes, are amended to read:

14 766.203 Presuit investigation of medical negligence
15 claims and defenses by prospective parties.--

16 (2) PRESUIT INVESTIGATION BY CLAIMANT.--Prior to
17 issuing notification of intent to initiate medical negligence
18 litigation pursuant to s. 766.106, the claimant shall conduct
19 an investigation to ascertain that there are reasonable
20 grounds to believe that:

21 (a) Any named defendant in the litigation was
22 negligent in the care or treatment of the claimant; and

23 (b) Such negligence resulted in injury to the
24 claimant.

25
26 Corroboration of reasonable grounds to initiate medical
27 negligence litigation shall be provided by the claimant's
28 submission of a verified written medical expert opinion from a
29 medical expert as defined in s. 766.202(6)~~766.202(5)~~, at the
30 time the notice of intent to initiate litigation is mailed,
31

1 which statement shall corroborate reasonable grounds to
2 support the claim of medical negligence.

3 (3) PRESUIT INVESTIGATION BY PROSPECTIVE
4 DEFENDANT.--Prior to issuing its response to the claimant's
5 notice of intent to initiate litigation, during the time
6 period for response authorized pursuant to s. 766.106, the
7 prospective defendant or the defendant's insurer or
8 self-insurer shall conduct an investigation as provided in s.
9 766.106(3) to ascertain whether there are reasonable grounds
10 to believe that:

11 (a) The defendant was negligent in the care or
12 treatment of the claimant; and

13 (b) Such negligence resulted in injury to the
14 claimant.

15
16 Corroboration of lack of reasonable grounds for medical
17 negligence litigation shall be provided with any response
18 rejecting the claim by the defendant's submission of a
19 verified written medical expert opinion from a medical expert
20 as defined in s. 766.202(6)~~766.202(5)~~, at the time the
21 response rejecting the claim is mailed, which statement shall
22 corroborate reasonable grounds for lack of negligent injury
23 sufficient to support the response denying negligent injury.

24
25 Reviser's note.--Amended to conform to the
26 redesignation of s. 766.202(5) as s. 766.202(6)
27 by s. 58, ch. 2003-416, Laws of Florida.

28
29 Section 155. Paragraph (a) of subsection (5) of
30 section 766.206, Florida Statutes, is amended to read:

1 766.206 Presuit investigation of medical negligence
2 claims and defenses by court.--

3 (5)(a) If the court finds that the corroborating
4 written medical expert opinion attached to any notice of claim
5 or intent or to any response rejecting a claim lacked
6 reasonable investigation or that the medical expert submitting
7 the opinion did not meet the expert witness qualifications as
8 set forth in s. 766.102(5)~~766.202(5)~~, the court shall report
9 the medical expert issuing such corroborating opinion to the
10 Division of Medical Quality Assurance or its designee. If
11 such medical expert is not a resident of the state, the
12 division shall forward such report to the disciplining
13 authority of that medical expert.

14
15 Reviser's note.--Amended to improve clarity and
16 facilitate correct interpretation. Section
17 766.202(5) defines the term "investigation."
18 Section 766.102(5) provides criteria for
19 persons giving expert testimony concerning the
20 prevailing professional standard of care.

21
22 Section 156. Paragraph (c) of subsection (4) of
23 section 766.209, Florida Statutes, is amended to read:

24 766.209 Effects of failure to offer or accept
25 voluntary binding arbitration.--

26 (4) If the claimant rejects a defendant's offer to
27 enter voluntary binding arbitration:

28 (c) Damages for future economic losses shall be
29 awarded to be paid by periodic payments pursuant to s.
30 766.202(9)~~766.202(8)~~, and shall be offset by future
31 collateral source payments.

1 Reviser's note.--Amended to conform to the
2 redesignation of s. 766.202(8) as s. 766.202(9)
3 by s. 58, ch. 2003-416, Laws of Florida.
4

5 Section 157. Paragraph (b) of subsection (6) of
6 section 787.03, Florida Statutes, is amended to read:

7 787.03 Interference with custody.--
8 (6)

9 (b) In order to gain the exemption conferred by
10 paragraph (a), a person who takes a child pursuant to this
11 subsection must:

12 1. Within 10 days after taking the child, make a
13 report to the sheriff's office or state attorney's office for
14 the county in which the child resided at the time he or she
15 was taken, which report must include the name of the person
16 taking the child, the current address and telephone number of
17 the person and child, and the reasons the child was taken.

18 2. Within a reasonable time after taking the child,
19 commence a custody proceeding that is consistent with the
20 federal Parental Kidnapping Prevention Act, 28 U.S.C. s.
21 1738A, or the Uniform Child Custody Jurisdiction and
22 Enforcement Act, ss. 61.501-61.542 Act, ss. 61.1302-61.1348.

23 3. Inform the sheriff's office or state attorney's
24 office for the county in which the child resided at the time
25 he or she was taken of any change of address or telephone
26 number of the person and child.
27

28 Reviser's note.--Amended to conform to the
29 repeal of the Uniform Child Custody
30 Jurisdiction Act, ss. 61.1302-61.1348, by s. 7,
31 ch. 2002-65, Laws of Florida, and the creation

1 of the Uniform Child Custody Jurisdiction and
2 Enforcement Act, ss. 61.501-61.542, by s. 5,
3 ch. 2002-65.
4

5 Section 158. Section 790.061, Florida Statutes, is
6 amended to read:

7 790.061 Judges and justices; exceptions from licensure
8 provisions.--A county court judge, circuit court judge,
9 district court of appeal judge, justice of the supreme court,
10 federal district court judge, or federal court of appeals
11 judge serving in this state is not required to comply with the
12 provisions of s. 790.06 in order to receive a license to carry
13 a concealed weapon or firearm, except that any such justice or
14 judge must comply with the provisions of s. 790.06(2)(h). The
15 Department of Agriculture and Consumer Services ~~State~~ shall
16 issue a license to carry a concealed weapon or firearm to any
17 such justice or judge upon demonstration of competence of the
18 justice or judge pursuant to s. 790.06(2)(h).
19

20 Reviser's note.--Amended to conform to the
21 transfer of functions relating to licensure of
22 weapons from the Department of State to the
23 Department of Agriculture and Consumer Services
24 by s. 1, ch. 2002-295, Laws of Florida.
25

26 Section 159. Section 817.566, Florida Statutes, is
27 amended to read:

28 817.566 Misrepresentation of association with, or
29 academic standing at, postsecondary educational
30 institution.--Any person who, with intent to defraud,
31 misrepresents his or her association with, or academic

1 standing or other progress at, any postsecondary educational
2 institution by falsely making, altering, simulating, or
3 forging a document, degree, certificate, diploma, award,
4 record, letter, transcript, form, or other paper; or any
5 person who causes or procures such a misrepresentation; or any
6 person who utters and publishes or otherwise represents such a
7 document, degree, certificate, diploma, award, record, letter,
8 transcript, form, or other paper as true, knowing it to be
9 false, is guilty of a misdemeanor of the first degree,
10 punishable as provided in s. 775.082 or s. 775.083.

11 Individuals who present a religious academic degree from any
12 college, university, seminary, or institution which is not
13 licensed by the Commission for Independent Education State
14 ~~Board of Independent Colleges and Universities~~ or which is not
15 exempt pursuant to the provisions of s. 246.085 shall disclose
16 the religious nature of the degree upon presentation.

17

18 Reviser's note.--Amended to improve clarity and
19 facilitate correct interpretation. Section
20 246.031, which created the State Board of
21 Independent Colleges and Universities, was
22 repealed by s. 1058, ch. 2002-387, Laws of
23 Florida. The Commission for Independent
24 Education, established in s. 1005.21, regulates
25 independent postsecondary institutions under s.
26 1005.22.

27

28 Section 160. Paragraph (d) of subsection (1) of
29 section 817.567, Florida Statutes, is amended to read:

30 817.567 Making false claims of academic degree or
31 title.--

1 (1) No person in the state may claim, either orally or
2 in writing, to possess an academic degree, as defined in s.
3 1005.02, or the title associated with said degree, unless the
4 person has, in fact, been awarded said degree from an
5 institution that is:

6 (d) Licensed by the Commission for Independent
7 Education ~~State Board of Independent Colleges and Universities~~
8 pursuant to ss. 1005.01-1005.38 or exempt from licensure
9 pursuant to s. 246.085; or

10
11 Reviser's note.--Amended to improve clarity and
12 facilitate correct interpretation. Section
13 246.031, which created the State Board of
14 Independent Colleges and Universities, was
15 repealed by s. 1058, ch. 2002-387, Laws of
16 Florida. The Commission for Independent
17 Education, established in s. 1005.21, regulates
18 independent postsecondary institutions under s.
19 1005.22.

20
21 Section 161. Paragraph (a) of subsection (1) of
22 section 895.02, Florida Statutes, is amended to read:

23 895.02 Definitions.--As used in ss. 895.01-895.08, the
24 term:

25 (1) "Racketeering activity" means to commit, to
26 attempt to commit, to conspire to commit, or to solicit,
27 coerce, or intimidate another person to commit:

28 (a) Any crime which is chargeable by indictment or
29 information under the following provisions of the Florida
30 Statutes:

- 1 1. Section 210.18, relating to evasion of payment of
2 cigarette taxes.
- 3 2. Section 403.727(3)(b), relating to environmental
4 control.
- 5 3. Section 414.39, relating to public assistance
6 fraud.
- 7 4. Section 409.920, relating to Medicaid provider
8 fraud.
- 9 5. Section 440.105 or s. 440.106, relating to workers'
10 compensation.
- 11 6. Sections 499.0051, 499.0052, 499.0053, 499.00545
12 ~~499.0054~~, and 499.0691, relating to crimes involving
13 contraband and adulterated drugs.
- 14 7. Part IV of chapter 501, relating to telemarketing.
- 15 8. Chapter 517, relating to sale of securities and
16 investor protection.
- 17 9. Section 550.235, s. 550.3551, or s. 550.3605,
18 relating to dogracing and horseracing.
- 19 10. Chapter 550, relating to jai alai frontons.
- 20 11. Chapter 552, relating to the manufacture,
21 distribution, and use of explosives.
- 22 12. Chapter 560, relating to money transmitters, if
23 the violation is punishable as a felony.
- 24 13. Chapter 562, relating to beverage law enforcement.
- 25 14. Section 624.401, relating to transacting insurance
26 without a certificate of authority, s. 624.437(4)(c)1.,
27 relating to operating an unauthorized multiple-employer
28 welfare arrangement, or s. 626.902(1)(b), relating to
29 representing or aiding an unauthorized insurer.
- 30 15. Section 655.50, relating to reports of currency
31 transactions, when such violation is punishable as a felony.

- 1 16. Chapter 687, relating to interest and usurious
2 practices.
- 3 17. Section 721.08, s. 721.09, or s. 721.13, relating
4 to real estate timeshare plans.
- 5 18. Chapter 782, relating to homicide.
- 6 19. Chapter 784, relating to assault and battery.
- 7 20. Chapter 787, relating to kidnapping.
- 8 21. Chapter 790, relating to weapons and firearms.
- 9 22. Section 796.03, s. 796.04, s. 796.05, or s.
10 796.07, relating to prostitution.
- 11 23. Chapter 806, relating to arson.
- 12 24. Section 810.02(2)(c), relating to specified
13 burglary of a dwelling or structure.
- 14 25. Chapter 812, relating to theft, robbery, and
15 related crimes.
- 16 26. Chapter 815, relating to computer-related crimes.
- 17 27. Chapter 817, relating to fraudulent practices,
18 false pretenses, fraud generally, and credit card crimes.
- 19 28. Chapter 825, relating to abuse, neglect, or
20 exploitation of an elderly person or disabled adult.
- 21 29. Section 827.071, relating to commercial sexual
22 exploitation of children.
- 23 30. Chapter 831, relating to forgery and
24 counterfeiting.
- 25 31. Chapter 832, relating to issuance of worthless
26 checks and drafts.
- 27 32. Section 836.05, relating to extortion.
- 28 33. Chapter 837, relating to perjury.
- 29 34. Chapter 838, relating to bribery and misuse of
30 public office.
- 31 35. Chapter 843, relating to obstruction of justice.

1 36. Section 847.011, s. 847.012, s. 847.013, s.
2 847.06, or s. 847.07, relating to obscene literature and
3 profanity.

4 37. Section 849.09, s. 849.14, s. 849.15, s. 849.23,
5 or s. 849.25, relating to gambling.

6 38. Chapter 874, relating to criminal street gangs.

7 39. Chapter 893, relating to drug abuse prevention and
8 control.

9 40. Chapter 896, relating to offenses related to
10 financial transactions.

11 41. Sections 914.22 and 914.23, relating to tampering
12 with a witness, victim, or informant, and retaliation against
13 a witness, victim, or informant.

14 42. Sections 918.12 and 918.13, relating to tampering
15 with jurors and evidence.

16
17 Reviser's note.--Amended to conform to the
18 redesignation of s. 499.0054 as s. 499.00545 by
19 the reviser incident to compiling the 2003
20 Florida Statutes.

21
22 Section 162. Paragraph (c) of subsection (3) of
23 section 921.0022, Florida Statutes, is reenacted, and
24 paragraph (j) of that subsection is amended to read:

25 921.0022 Criminal Punishment Code; offense severity
26 ranking chart.--

27 (3) OFFENSE SEVERITY RANKING CHART

28
29 Florida Felony
30 Statute Degree Description

31

1			(c) LEVEL 3
2	119.10(3)	3rd	Unlawful use of confidential
3			information from police reports.
4	316.066(3)		
5	(d)-(f)	3rd	Unlawfully obtaining or using
6			confidential crash reports.
7	316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
8	316.1935(2)	3rd	Fleeing or attempting to elude
9			law enforcement officer in marked
10			patrol vehicle with siren and
11			lights activated.
12	319.30(4)	3rd	Possession by junkyard of motor
13			vehicle with identification
14			number plate removed.
15	319.33(1)(a)	3rd	Alter or forge any certificate of
16			title to a motor vehicle or
17			mobile home.
18	319.33(1)(c)	3rd	Procure or pass title on stolen
19			vehicle.
20	319.33(4)	3rd	With intent to defraud, possess,
21			sell, etc., a blank, forged, or
22			unlawfully obtained title or
23			registration.
24	327.35(2)(b)	3rd	Felony BUI.
25	328.05(2)	3rd	Possess, sell, or counterfeit
26			fictitious, stolen, or fraudulent
27			titles or bills of sale of
28			vessels.
29	328.07(4)	3rd	Manufacture, exchange, or possess
30			vessel with counterfeit or wrong
31			ID number.

1	370.12(1)(e)5.	3rd	Taking, disturbing, mutilating,
2			destroying, causing to be
3			destroyed, transferring, selling,
4			offering to sell, molesting, or
5			harassing marine turtles, marine
6			turtle eggs, or marine turtle
7			nests in violation of the Marine
8			Turtle Protection Act.
9	370.12(1)(e)6.	3rd	Soliciting to commit or
10			conspiring to commit a violation
11			of the Marine Turtle Protection
12			Act.
13	376.302(5)	3rd	Fraud related to reimbursement
14			for cleanup expenses under the
15			Inland Protection Trust Fund.
16	400.903(3)	3rd	Operating a clinic without a
17			license or filing false license
18			application or other required
19			information.
20	440.105(3)(b)	3rd	Receipt of fee or consideration
21			without approval by judge of
22			compensation claims.
23	440.1051(3)	3rd	False report of workers'
24			compensation fraud or retaliation
25			for making such a report.
26	501.001(2)(b)	2nd	Tampers with a consumer product
27			or the container using materially
28			false/misleading information.
29	624.401(4)(a)	3rd	Transacting insurance without a
30			certificate of authority.
31			

1	624.401(4)(b)1.	3rd	Transacting insurance without a
2			certificate of authority; premium
3			collected less than \$20,000.
4	626.902(1)		
5	(a) & (b)	3rd	Representing an unauthorized
6			insurer.
7	697.08	3rd	Equity skimming.
8	790.15(3)	3rd	Person directs another to
9			discharge firearm from a vehicle.
10	796.05(1)	3rd	Live on earnings of a prostitute.
11	806.10(1)	3rd	Maliciously injure, destroy, or
12			interfere with vehicles or
13			equipment used in firefighting.
14	806.10(2)	3rd	Interferes with or assaults
15			firefighter in performance of
16			duty.
17	810.09(2)(c)	3rd	Trespass on property other than
18			structure or conveyance armed
19			with firearm or dangerous weapon.
20	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
21			less than \$10,000.
22	812.0145(2)(c)	3rd	Theft from person 65 years of age
23			or older; \$300 or more but less
24			than \$10,000.
25	815.04(4)(b)	2nd	Computer offense devised to
26			defraud or obtain property.
27	817.034(4)(a)3.	3rd	Engages in scheme to defraud
28			(Florida Communications Fraud
29			Act), property valued at less
30			than \$20,000.
31	817.233	3rd	Burning to defraud insurer.

1	817.234(8)		
2	(b)-(c)	3rd	Unlawful solicitation of persons
3			involved in motor vehicle
4			accidents.
5	817.234(11)(a)	3rd	Insurance fraud; property value
6			less than \$20,000.
7	817.236	3rd	Filing a false motor vehicle
8			insurance application.
9	817.2361	3rd	Creating, marketing, or
10			presenting a false or fraudulent
11			motor vehicle insurance card.
12	817.413(2)	3rd	Sale of used goods as new.
13	817.505(4)	3rd	Patient brokering.
14	828.12(2)	3rd	Tortures any animal with intent
15			to inflict intense pain, serious
16			physical injury, or death.
17	831.28(2)(a)	3rd	Counterfeiting a payment
18			instrument with intent to defraud
19			or possessing a counterfeit
20			payment instrument.
21	831.29	2nd	Possession of instruments for
22			counterfeiting drivers' licenses
23			or identification cards.
24	838.021(3)(b)	3rd	Threatens unlawful harm to public
25			servant.
26	843.19	3rd	Injure, disable, or kill police
27			dog or horse.
28	860.15(3)	3rd	Overcharging for repairs and
29			parts.
30	870.01(2)	3rd	Riot; inciting or encouraging.
31			

1	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
2			cannabis (or other s.
3			893.03(1)(c), (2)(c)1., (2)(c)2.,
4			(2)(c)3., (2)(c)5., (2)(c)6.,
5			(2)(c)7., (2)(c)8., (2)(c)9.,
6			(3), or (4) drugs).
7	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
8			893.03(1)(c), (2)(c)1., (2)(c)2.,
9			(2)(c)3., (2)(c)5., (2)(c)6.,
10			(2)(c)7., (2)(c)8., (2)(c)9.,
11			(3), or (4) drugs within 1,000
12			feet of university.
13	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s.
14			893.03(1)(c), (2)(c)1., (2)(c)2.,
15			(2)(c)3., (2)(c)5., (2)(c)6.,
16			(2)(c)7., (2)(c)8., (2)(c)9.,
17			(3), or (4) drugs within 1,000
18			feet of public housing facility.
19	893.13(6)(a)	3rd	Possession of any controlled
20			substance other than felony
21			possession of cannabis.
22	893.13(7)(a)8.	3rd	Withhold information from
23			practitioner regarding previous
24			receipt of or prescription for a
25			controlled substance.
26	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
27			controlled substance by fraud,
28			forgery, misrepresentation, etc.
29	893.13(7)(a)10.	3rd	Affix false or forged label to
30			package of controlled substance.
31			

1	893.13(7)(a)11.	3rd	Furnish false or fraudulent
2			material information on any
3			document or record required by
4			chapter 893.
5	893.13(8)(a)1.	3rd	Knowingly assist a patient, other
6			person, or owner of an animal in
7			obtaining a controlled substance
8			through deceptive, untrue, or
9			fraudulent representations in or
10			related to the practitioner's
11			practice.
12	893.13(8)(a)2.	3rd	Employ a trick or scheme in the
13			practitioner's practice to assist
14			a patient, other person, or owner
15			of an animal in obtaining a
16			controlled substance.
17	893.13(8)(a)3.	3rd	Knowingly write a prescription
18			for a controlled substance for a
19			fictitious person.
20	893.13(8)(a)4.	3rd	Write a prescription for a
21			controlled substance for a
22			patient, other person, or an
23			animal if the sole purpose of
24			writing the prescription is a
25			monetary benefit for the
26			practitioner.
27	918.13(1)(a)	3rd	Alter, destroy, or conceal
28			investigation evidence.
29	944.47		
30	(1)(a)1.-2.	3rd	Introduce contraband to
31			correctional facility.

1	944.47(1)(c)	2nd	Possess contraband while upon the
2			grounds of a correctional
3			institution.
4	985.3141	3rd	Escapes from a juvenile facility
5			(secure detention or residential
6			commitment facility).
7			(j) LEVEL 10
8	<u>499.00545</u> 499.0054	1st	Sale or purchase of contraband
9			legend drugs resulting in death.
10	782.04(2)	1st,PBL	Unlawful killing of human; act is
11			homicide, unpremeditated.
12	787.01(1)(a)3.	1st,PBL	Kidnapping; inflict bodily harm
13			upon or terrorize victim.
14	787.01(3)(a)	Life	Kidnapping; child under age 13,
15			perpetrator also commits
16			aggravated child abuse, sexual
17			battery, or lewd or lascivious
18			battery, molestation, conduct, or
19			exhibition.
20	782.07(3)	1st	Aggravated manslaughter of a
21			child.
22	794.011(3)	Life	Sexual battery; victim 12 years
23			or older, offender uses or
24			threatens to use deadly weapon or
25			physical force to cause serious
26			injury.
27	876.32	1st	Treason against the state.

28
29 Reviser's note.--Paragraph (3)(c) is as
30 published in s. 3, ch. 2003-59; s. 2, ch.
31 2003-95; s. 8, ch. 2003-148; and s. 13, ch.

1 2003-411, Laws of Florida. The amendment by s.
2 36, ch. 2003-412, Laws of Florida, inserted an
3 unintended uncoded change of the felony degree
4 for violations of s. 893.13(1)(f)2. from "2nd"
5 to "3rd." The actual felony degree for
6 violations of s. 893.13(1)(f)2. specified in
7 that subparagraph is "2nd." Paragraph (3)(j) is
8 amended to conform to the redesignation of s.
9 499.0054 as s. 499.00545 by the reviser
10 incident to compiling the 2003 Florida
11 Statutes.

12
13 Section 163. Paragraph (b) of subsection (1) of
14 section 921.0024, Florida Statutes, is amended to read:

15 921.0024 Criminal Punishment Code; worksheet
16 computations; scoresheets.--

17 (1)

18 (b) WORKSHEET KEY:

19
20 Legal status points are assessed when any form of legal status
21 existed at the time the offender committed an offense before
22 the court for sentencing. Four (4) sentence points are
23 assessed for an offender's legal status.

24
25 Community sanction violation points are assessed when a
26 community sanction violation is before the court for
27 sentencing. Six (6) sentence points are assessed for each
28 community sanction violation, and each successive community
29 sanction violation; however, if the community sanction
30 violation includes a new felony conviction before the
31 sentencing court, twelve (12) community sanction violation

1 points are assessed for such violation, and for each
2 successive community sanction violation involving a new felony
3 conviction. Multiple counts of community sanction violations
4 before the sentencing court shall not be a basis for
5 multiplying the assessment of community sanction violation
6 points.

7
8 Prior serious felony points: If the offender has a primary
9 offense or any additional offense ranked in level 8, level 9,
10 or level 10, and one or more prior serious felonies, a single
11 assessment of 30 points shall be added. For purposes of this
12 section, a prior serious felony is an offense in the
13 offender's prior record that is ranked in level 8, level 9, or
14 level 10 under s. 921.0022 or s. 921.0023 and for which the
15 offender is serving a sentence of confinement, supervision, or
16 other sanction or for which the offender's date of release
17 from confinement, supervision, or other sanction, whichever is
18 later, is within 3 years before the date the primary offense
19 or any additional offense was committed.

20
21 Prior capital felony points: If the offender has one or more
22 prior capital felonies in the offender's criminal record,
23 points shall be added to the subtotal sentence points of the
24 offender equal to twice the number of points the offender
25 receives for the primary offense and any additional offense. A
26 prior capital felony in the offender's criminal record is a
27 previous capital felony offense for which the offender has
28 entered a plea of nolo contendere or guilty or has been found
29 guilty; or a felony in another jurisdiction which is a capital
30 felony in that jurisdiction, or would be a capital felony if
31 the offense were committed in this state.

1
2 Possession of a firearm, semiautomatic firearm, or machine
3 gun: If the offender is convicted of committing or attempting
4 to commit any felony other than those enumerated in s.
5 775.087(2) while having in his or her possession: a firearm as
6 defined in s. 790.001(6), an additional 18 sentence points are
7 assessed; or if the offender is convicted of committing or
8 attempting to commit any felony other than those enumerated in
9 s. 775.087(3) while having in his or her possession a
10 semiautomatic firearm as defined in s. 775.087(3) or a machine
11 gun as defined in s. 790.001(9), an additional 25 sentence
12 points are assessed.

13

14 Sentencing multipliers:

15

16 Drug trafficking: If the primary offense is drug trafficking
17 under s. 893.135, the subtotal sentence points are multiplied,
18 at the discretion of the court, for a level 7 or level 8
19 offense, by 1.5. The state attorney may move the sentencing
20 court to reduce or suspend the sentence of a person convicted
21 of a level 7 or level 8 offense, if the offender provides
22 substantial assistance as described in s. 893.135(4).

23

24 Law enforcement protection: If the primary offense is a
25 violation of the Law Enforcement Protection Act under s.
26 775.0823(2), the subtotal sentence points are multiplied by
27 2.5. If the primary offense is a violation of s. 775.0823(3),
28 (4), (5), (6), (7), or (8), the subtotal sentence points are
29 multiplied by 2.0. If the primary offense is a violation of s.
30 784.07(3) or s. 775.0875(1), or of the Law Enforcement

31

1 Protection Act under s. 775.0823(9) or (10), the subtotal
2 sentence points are multiplied by 1.5.

3

4 Grand theft of a motor vehicle: If the primary offense is
5 grand theft of the third degree involving a motor vehicle and
6 in the offender's prior record, there are three or more grand
7 thefts of the third degree involving a motor vehicle, the
8 subtotal sentence points are multiplied by 1.5.

9

10 Offense related to a criminal street gang: If the offender is
11 convicted of the primary offense and committed that offense
12 for the purpose of benefiting, promoting, or furthering the
13 interests of a criminal street gang as prohibited under s.
14 874.04, the subtotal sentence points are multiplied by 1.5.

15

16 Domestic violence in the presence of a child: If the offender
17 is convicted of the primary offense and the primary offense is
18 a crime of domestic violence, as defined in s. 741.28, which
19 was committed in the presence of a child under 16 years of age
20 who is a family or household member as defined in s. 741.28(3)
21 ~~741.28(2)~~with the victim or perpetrator, the subtotal
22 sentence points are multiplied by 1.5.

23

24 Reviser's note.--Amended to conform to the
25 redesignation of s. 741.28(2) as s. 741.28(3)
26 by s. 9, ch. 2002-55, Laws of Florida, and to
27 conform to the term as defined there.

28

29 Section 164. Paragraph (b) of subsection (2) of
30 section 943.171, Florida Statutes, is amended to read:

31

1 943.171 Basic skills training in handling domestic
2 violence cases.--

3 (2) As used in this section, the term:

4 (b) "Household member" has the meaning set forth in s.
5 741.28(3)~~741.28(4)~~.

6
7 Reviser's note.--Amended to improve clarity and
8 facilitate correct interpretation. The term
9 "household member" is defined in s. 741.28(3).

10
11 Section 165. Effective July 1, 2004, subsection (3) of
12 section 985.203, Florida Statutes, as amended by s. 139, ch.
13 2003-402, Laws of Florida, is amended to read:

14 985.203 Right to counsel.--

15 (3) An indigent child with nonindigent parents or
16 legal guardian may have counsel appointed pursuant to s.
17 27.52(3)(d)~~27.52(2)(d)~~if the parents or legal guardian have
18 willfully refused to obey the court order to obtain counsel
19 for the child and have been punished by civil contempt and
20 then still have willfully refused to obey the court order.
21 Costs of representation are hereby imposed as provided by ss.
22 27.52(3)(d)~~27.52(2)(d)~~and 938.29.

23
24 Reviser's note.--Amended to conform to the
25 redesignation of s. 27.52(2)(d) as s.
26 27.52(3)(d) by s. 16, ch. 2003-402, Laws of
27 Florida.

28
29 Section 166. Subsection (4) of section 1003.52,
30 Florida Statutes, is amended to read:

1 1003.52 Educational services in Department of Juvenile
2 Justice programs.--

3 (4) Educational services shall be provided at times of
4 the day most appropriate for the juvenile justice program.
5 School programming in juvenile justice detention, commitment,
6 and rehabilitation programs shall be made available by the
7 local school district during the juvenile justice school year,
8 as defined in s. 1003.01(11)~~1003.01(12)~~.

9
10 Reviser's note.--Amended to improve clarity and
11 facilitate correct interpretation. Reference to
12 the juvenile justice school year may be found
13 in s. 1003.01(11).

14
15 Section 167. Subsection (4) of section 1007.27,
16 Florida Statutes, is amended to read:

17 1007.27 Articulated acceleration mechanisms.--
18 (4) It is the intent of the Legislature to provide
19 articulated acceleration mechanisms for students who are in
20 home education programs, as defined in s. 1002.01 ~~1003.01(11)~~,
21 consistent with the educational opportunities available to
22 public and private secondary school students. Home education
23 students may participate in dual enrollment, career and
24 technical dual enrollment, early admission, and credit by
25 examination. Credit earned by home education students through
26 dual enrollment shall apply toward the completion of a home
27 education program that meets the requirements of s. 1002.41.

28
29 Reviser's note.--Amended to improve clarity and
30 facilitate correct interpretation. The term

31

1 "home education program" is defined in s.
2 1002.01.

3
4 Section 168. Subsection (1) of section 1009.29,
5 Florida Statutes, is amended to read:

6 1009.29 Increased fees for funding financial aid
7 program.--

8 (1) Student tuition and registration fees at each
9 state university and community college shall include up to
10 \$4.68 per quarter, or \$7.02 per semester, per full-time
11 student, or the per-student credit hour equivalents of such
12 amounts. The fees provided for by this section shall be
13 adjusted from time to time, as necessary, to comply with the
14 debt service coverage requirements of the student loan revenue
15 bonds issued pursuant to s. 1009.79. If the Division of Bond
16 Finance of the State Board of Education and the Commissioner
17 of Education determine that such fees are no longer required
18 as security for revenue bonds issued pursuant to ss.
19 1009.78-1009.88, moneys previously collected pursuant to this
20 section which are held in escrow, after administrative
21 expenses have been met and up to \$150,000 has been used to
22 establish a financial aid data processing system for the state
23 universities incorporating the necessary features to meet the
24 needs of all eleven ~~nine~~ universities for application through
25 disbursement processing, shall be reallocated to the
26 generating institutions to be used for student financial aid
27 programs, including, but not limited to, scholarships and
28 grants for educational purposes. Upon such determination, such
29 fees shall no longer be assessed and collected.

30
31

1 Reviser's note.--Amended to improve clarity and
2 facilitate correct interpretation. Section
3 1000.21(6) lists 11 institutions as state
4 universities.
5

6 Section 169. Subsection (2) of section 1011.60,
7 Florida Statutes, is amended to read:
8 1011.60 Minimum requirements of the Florida Education
9 Finance Program.--Each district which participates in the
10 state appropriations for the Florida Education Finance Program
11 shall provide evidence of its effort to maintain an adequate
12 school program throughout the district and shall meet at least
13 the following requirements:

14 (2) MINIMUM TERM.--Operate all schools for a term of
15 at least 180 actual teaching days ~~as prescribed in s.~~
16 ~~1003.01(14)~~ or the equivalent on an hourly basis as specified
17 by rules of the State Board of Education each school year. The
18 State Board of Education may prescribe procedures for
19 altering, and, upon written application, may alter, this
20 requirement during a national, state, or local emergency as it
21 may apply to an individual school or schools in any district
22 or districts if, in the opinion of the board, it is not
23 feasible to make up lost days, and the apportionment may, at
24 the discretion of the Commissioner of Education and if the
25 board determines that the reduction of school days is caused
26 by the existence of a bona fide emergency, be reduced for such
27 district or districts in proportion to the decrease in the
28 length of term in any such school or schools. A strike, as
29 defined in s. 447.203(6), by employees of the school district
30 may not be considered an emergency.

31

1 Reviser's note.--Amended to improve clarity and
2 facilitate correct interpretation. Section
3 1003.01(14) does not pertain to a term of 180
4 actual teaching days.

5
6 Section 170. Subsection (9) of section 1012.56,
7 Florida Statutes, is amended to read:

8 1012.56 Educator certification requirements.--

9 (9) NONCITIZENS.--

10 (a) The State Board of Education may adopt rules for
11 issuing certificates to noncitizens who are needed to teach
12 and who are legally admitted to the United States through the
13 United States Bureau of Citizenship and Immigration Services
14 ~~Immigration and Naturalization Service~~. The filing of a
15 written oath to uphold the principles of the Constitution of
16 the United States and the Constitution of the State of
17 Florida, required under paragraph (2)(b), does not apply to
18 individuals assigned to teach on an exchange basis.

19 (b) A certificate may not be issued to a citizen of a
20 nation controlled by forces that are antagonistic to
21 democratic forms of government, except to an individual who
22 has been legally admitted to the United States through the
23 United States Bureau of Citizenship and Immigration Services
24 ~~Immigration and Naturalization Service~~.

25
26 Reviser's note.--Amended to conform to the
27 redesignation of the Immigration and
28 Naturalization Service pursuant to its transfer
29 to the Department of Homeland Security by s.
30 451, Pub. L. No. 107-296.

31

1 Section 171. Subsection (1) of section 1013.74,
2 Florida Statutes, is amended to read:

3 1013.74 University authorization for fixed capital
4 outlay projects.--

5 (1) Notwithstanding the provisions of chapter 216,
6 including s. 216.351, a university may accomplish fixed
7 capital outlay projects consistent with the provisions of this
8 section. Projects authorized by this section shall not require
9 educational plant survey approval as prescribed in this
10 chapter ~~235~~.

11
12 Reviser's note.--Amended to improve clarity and
13 facilitate correct interpretation. Chapter 235
14 was repealed by s. 1058, ch. 2002-387, Laws of
15 Florida. Chapter 1013 covers educational
16 facilities.

17
18 Section 172. Subsection (3) of section 1013.79,
19 Florida Statutes, is amended to read:

20 1013.79 University Facility Enhancement Challenge
21 Grant Program.--

22 (3) There is established the Alec P. Courtelis Capital
23 Facilities Matching Trust Fund for the purpose of providing
24 matching funds from private contributions for the development
25 of high priority instructional and research-related capital
26 facilities, including common areas connecting such facilities,
27 within a university. The Legislature shall appropriate funds
28 to be transferred to the trust fund. The Public Education
29 Capital Outlay and Debt Service Trust Fund, Capital
30 Improvement Trust Fund, Division of Sponsored Research Trust
31 Fund, and Contracts and Grants Trust Fund shall not be used as

1 the source of the state match for private contributions. All
2 appropriated funds deposited into the trust fund shall be
3 invested pursuant to the provisions of s. 17.61 ~~17.161~~.
4 Interest income accruing to that portion of the trust fund
5 shall increase the total funds available for the challenge
6 grant program. Interest income accruing from the private
7 donations shall be returned to the participating foundation
8 upon completion of the project. The State Board of Education
9 shall administer the trust fund and all related construction
10 activities.

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12 Reviser's note.--Amended to improve clarity and
13 facilitate correct interpretation. Section
14 17.161 does not exist. Section 17.61 relates to
15 investment of funds.

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