

1                                   A bill to be entitled  
2           An act relating to procurement of real property leases by  
3           state agencies; amending s. 255.248, F.S.; revising and  
4           providing definitions; limiting scope of certain  
5           provisions; amending s. 255.249, F.S.; removing a  
6           requirement regarding certain agencies planning to  
7           terminate a lease; providing that the Department of  
8           Management Services, rather than agencies acting on their  
9           own behalf, shall lease space for agencies; providing for  
10          the use of a real estate broker by the department;  
11          limiting scope of provisions to certain departments;  
12          providing for moving of agencies into vacated spaces;  
13          providing conditions under which an agency may reject a  
14          proposed move; providing for competitive solicitation of  
15          leases; providing bid procedures; providing conditions for  
16          space allocation; requiring adoption of a quality  
17          standard; amending s. 255.25, F.S.; providing criteria for  
18          agencies to monitor market conditions and initiate  
19          negotiations; removing a requirement that the Department  
20          of Management Services act as a mediator; authorizing the  
21          department to negotiate to procure new leases for the  
22          colocation of agencies; providing conditions for lease  
23          procurement; changing the requirement for competitive  
24          bidding for leases of real property for agencies to a  
25          requirement for competitive solicitation; requiring a  
26          business case analysis for extension of a lease;  
27          increasing the bond requirement for protests of a lease  
28          solicitation; moving requirements for review by the State  
29          Fire Marshal; moving requirements for a floodplain

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30 analysis; removing an exception regarding specialized  
 31 educational facilities; amending s. 255.25001, F.S.;  
 32 providing competitive bidding as competitive procurement;  
 33 amending s. 255.2501, F.S.; conforming language; amending  
 34 s. 255.45, F.S.; requiring the Department of Management  
 35 Services to review certain construction plans for  
 36 firesafety and flood plain management compliance; amending  
 37 s. 255.503, F.S.; providing that the department may engage  
 38 consultants to advise the department regarding management  
 39 or disposition of properties in the Florida Facilities  
 40 Pool; reenacting s. 633.085, F.S., relating to the  
 41 firesafety in state office buildings, to incorporate the  
 42 amendment to s. 255.45, F.S., in a reference thereto;  
 43 providing an effective date.

44

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

46

47 Section 1. Section 255.248, Florida Statutes, is amended  
 48 to read:

49 255.248 Definitions; exceptions; application of ss.  
 50 255.249 and 255.25.--

51 (1) The following definitions shall apply when used in ss.  
 52 255.249 and 255.25:

53 (a)~~(1)~~ The term "state-owned ~~office~~ building" means any  
 54 real property building title to which is vested in the state and  
 55 which is used by one or more executive agencies predominantly  
 56 for administrative direction and support functions. ~~This term~~  
 57 ~~excludes:~~

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58        (b) The term "privately owned," when used to describe a  
 59 building or a space within a building, shall mean any real  
 60 property, title to which is not vested in the state, leased for  
 61 use by one or more executive agencies predominantly for  
 62 administrative direction and support functions.

63        (c) The term "department" means the Department of  
 64 Management Services.

65        (2) Sections 255.249 and 255.25 shall not apply to:

66        (a) District or area offices established for field  
 67 operations where law enforcement, military, inspections, road  
 68 operations, or tourist welcoming functions are performed.

69        (b) All educational facilities and institutions under the  
 70 supervision of the Department of Education or the Board of  
 71 Governors.

72        (c) All custodial facilities and institutions used  
 73 primarily for the care, custody, or treatment of inmates or  
 74 wards of the state.

75        (d) Buildings or spaces used by the legislature or the  
 76 state courts system for legislative activities.

77        (e) Buildings purchased or constructed from agricultural  
 78 or citrus trust funds.

79        ~~(2) The term "privately owned building" shall mean any~~  
 80 ~~building not owned by a governmental agency.~~

81        Section 2. Section 255.249, Florida Statutes, is amended  
 82 to read:

83        255.249 Department of Management Services; responsibility;  
 84 department rules.--

85        (1) The department ~~of Management Services~~ shall have  
 86 responsibility and authority for the custodial and preventive

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87 maintenance, repair, and allocation of space of all buildings in  
 88 the Florida Facilities Pool and the grounds located adjacent  
 89 thereto.

90 (2)(a) The department shall have the responsibility and  
 91 authority to procure and manage all leases of privately owned  
 92 buildings on behalf of any executive agency, except as set forth  
 93 in s. 255.248(2) ~~require any state agency planning to terminate~~  
 94 a lease for the purpose of occupying space in a new state-owned  
 95 office building, the funds for which are appropriated after June  
 96 30, 2000, to state why the proposed relocation is in the best  
 97 interest of the state.

98 (b) The department may retain and designate a real estate  
 99 broker or brokers licensed under ch. 475 to assist the  
 100 department in negotiating leases, in evaluating present and  
 101 future space needs of executive agencies, and to otherwise  
 102 assist the department in its duties under this section and s.  
 103 255.25. Compensation of a broker may include compensation in the  
 104 form of commissions paid by the owners of privately owned  
 105 buildings. The department must comply with all relevant  
 106 provisions in ch. 287 when procuring the services of a real  
 107 estate broker.

108 (c) This subsection shall not apply to the Department of  
 109 Legal Affairs, the Department of Financial Services, or the  
 110 Department of Agriculture and Consumer Services unless the  
 111 cabinet officer requests that the department perform the  
 112 service, or part thereof, for the cabinet officer's agency.

113 (3) The department may assign one or more agencies to move  
 114 into space that has been vacated by another state agency. The  
 115 agency that requested space may reject the department's transfer

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116 of the agency into the vacated space based on excessive cost,  
 117 unfavorable lease terms or conditions, negative impact on  
 118 employee productivity, security concerns, poor location, poor  
 119 building quality, insufficient parking, excessive moving costs,  
 120 or difficult access for persons served by the agency, provided  
 121 that the agency head states in writing the specific reason or  
 122 reasons for the rejection shall, to the extent feasible,  
 123 ~~coordinate the vacation of privately owned leased space with the~~  
 124 ~~expiration of the lease on that space and, when a lease is~~  
 125 ~~terminated before expiration of its base term, will make a~~  
 126 ~~reasonable effort to place another state agency in the space~~  
 127 ~~vacated. Any state agency may lease the space in any building~~  
 128 ~~that was subject to a lease terminated by a state agency for a~~  
 129 ~~period of time equal to the remainder of the base term without~~  
 130 ~~the requirement of competitive bidding.~~

131 (4) The department shall promulgate rules pursuant to  
 132 chapter 120 providing:

133 (a) Methods for accomplishing the duties outlined in  
 134 subsections ~~subsection~~ (1), (2), and (3).

135 (b) Procedures for soliciting, evaluating, and accepting  
 136 competitive bids, proposals, or replies for leased space of  
 137 ~~5,000 square feet or more in privately owned buildings,~~ for  
 138 ~~evaluating the proposals received, for exemption from~~  
 139 ~~competitive bidding requirements of any~~ However, a lease the  
 140 purpose of which is the provision of care and living space for  
 141 persons, or a lease for emergency space needs as provided in s.  
 142 255.25(6), shall be exempt from the requirement to secure  
 143 competitive bids, proposals, or replies ~~255.25(10), and for the~~

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144 ~~securing of at least three documented quotes for a lease that is~~  
 145 ~~not required to be competitively bid. The procedures:~~

146 1. May be simplified for a solicitation of less than 5,000  
 147 square feet.

148 2. Shall provide evaluation criteria applicable to the  
 149 evaluation of a bid, proposal, or reply.

150 3. Shall require that a real estate broker representing  
 151 the state disclose to the department, in writing, the amount and  
 152 basis of any compensation paid to the broker.

153 4. Shall provide that an agency that requested space may  
 154 reject the department's selection of space for such agency based  
 155 on excessive cost, unfavorable lease terms or conditions,  
 156 negative impact on employee productivity, security concerns,  
 157 poor location, poor building quality, insufficient parking,  
 158 excessive moving costs, or difficult access for persons served  
 159 by the agency, provided that the agency head states in writing  
 160 the specific reason or reasons for the rejection. Upon  
 161 rejection, the department shall not be required to solicit new  
 162 bids, proposals, or replies and may renegotiate with prospective  
 163 landlords that have previously replied to the solicitation.

164 (c) Adoption of a standard method for determining square  
 165 footage or any other measurement used as the basis for lease  
 166 payments, ~~or~~ other charges, or determining space allocation.

167 (d) Methods of allocating space in both state-owned office  
 168 buildings and privately owned buildings leased by the state  
 169 based on use, personnel, and office equipment. The space  
 170 allocation method shall define specific uses and the appropriate  
 171 space to be allocated to such uses. The space allocation method  
 172 shall consider:

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- 173        1. Accommodation of disabled persons.
- 174        2. Security of employees and the public.
- 175        3. Accommodation of public visitors of the agency.
- 176        4. Special needs of agencies regarding laboratory,  
 177 storage, computer, telecommunications, training, and other  
 178 special needs spaces.
- 179        5. Investment in additional space where it can be shown  
 180 that gains in employee productivity will exceed the cost of the  
 181 additional space.
- 182        6. Allocation of space for employee wellness programs,  
 183 childcare, cafeterias, and break areas.
- 184        7. As applied to state-owned buildings, exceptions to  
 185 reasonably accommodate an inability to efficiently reconfigure  
 186 the space because of the design and age of the building.
- 187        (e) Acceptable terms and conditions for inclusion in lease  
 188 agreements.
- 189        (f) Maximum rental rates, by geographic areas or by  
 190 county, for leasing privately owned space.
- 191        (g) A standard method for the assessment of rent to state  
 192 agencies and other authorized occupants of state-owned ~~office~~  
 193 space, notwithstanding the source of funds.
- 194        (h) For full disclosure of the names and the extent of  
 195 interest of the owners holding a 4-percent or more interest in  
 196 any privately owned property leased to the state or in the  
 197 entity holding title to the property, for exemption from such  
 198 disclosure of any beneficial interest which is represented by  
 199 stock in any corporation registered with the Securities and  
 200 Exchange Commission or registered pursuant to chapter 517, which  
 201 stock is for sale to the general public, and for exemption from

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202 such disclosure of any leasehold interest in property located  
 203 outside the territorial boundaries of the United States.

204 (i) For full disclosure of the names of all public  
 205 officials, agents, or employees holding any interest in any  
 206 privately owned property leased to the state or in the entity  
 207 holding title to the property, and the nature and extent of  
 208 their interest, for exemption from such disclosure of any  
 209 beneficial interest which is represented by stock in any  
 210 corporation registered with the Securities and Exchange  
 211 Commission or registered pursuant to chapter 517, which stock is  
 212 for sale to the general public, and for exemption from such  
 213 disclosure of any leasehold interest in property located outside  
 214 the territorial boundaries of the United States.

215 (j) A method for reporting leases for nominal or no  
 216 consideration.

217 (k) Adoption of the Building Owners and Managers  
 218 Association (BOMA) Metropolitan Base Building Classification, or  
 219 equivalent, as a standard method for rating the quality of  
 220 privately owned buildings. When practical, A or B class space  
 221 according to BOMA standards shall be utilized ~~For a lease of~~  
 222 ~~less than 5,000 square feet, a method for certification by the~~  
 223 ~~agency head or the agency head's designated representative that~~  
 224 ~~all criteria for leasing have been fully complied with and for~~  
 225 ~~the filing of a copy of such lease and all supporting documents~~  
 226 ~~with the department for its review and approval as to technical~~  
 227 ~~sufficiency.~~

228 (5) The department ~~of Management Services~~ shall prepare a  
 229 form listing all conditions and requirements adopted pursuant to  
 230 this chapter which must be met by any state agency leasing any



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231 building or part thereof. This form shall be certified by the  
 232 agency head or the agency head's designated representative.

233 Section 3. Section 255.25, Florida Statutes, is amended to  
 234 read:

235 255.25 Leasing ~~Approval required prior to construction or~~  
 236 ~~lease of buildings.--~~

237 (1)(a) No state agency may lease space in a private  
 238 building that is to be constructed for state use unless prior  
 239 approval of the architectural design and preliminary  
 240 construction plans is first obtained from the department of  
 241 ~~Management Services.~~

242 (b) During the term of existing leases, each agency that  
 243 has procured a lease in its name, and the department as to  
 244 leases executed by the department, shall monitor market  
 245 conditions and shall initiate negotiations for each lease of a  
 246 privately owned building held in the private sector to effect  
 247 the best overall lease terms reasonably available to the state  
 248 ~~that agency.~~ Amendments to leases may be permitted to modify any  
 249 lease provisions or any other terms or conditions, except to the  
 250 extent specifically prohibited by this chapter. ~~The Department~~  
 251 ~~of Management Services shall serve as a mediator in lease~~  
 252 ~~renegotiations if the agency and the lessor are unable to reach~~  
 253 ~~a compromise within 6 months of renegotiation and if either the~~  
 254 ~~agency or lessor requests the Department of Management Services'~~  
 255 ~~intervention.~~

256 (c) When specifically authorized by the Appropriations Act  
 257 and in accordance with s. 255.2501, if applicable, the  
 258 department of ~~Management Services~~ may enter into ~~approve~~ a  
 259 lease-purchase, sale-leaseback, or tax-exempt leveraged lease

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260 contract or other financing technique for the acquisition,  
 261 renovation, or construction of a state fixed capital outlay  
 262 project when it is in the best interest of the state.

263 (d) The department, in seeking economies of scale and the  
 264 opportunity to colocate agencies, may competitively negotiate to  
 265 procure new leases, renegotiate existing leases, or otherwise  
 266 consolidate existing leases into a large scale lease or leases  
 267 covering large areas, buildings, or groups of buildings. The  
 268 department may promulgate rules providing procedures for  
 269 procuring large scale leases, managing large scale leases, and  
 270 providing a method for allocation of lease costs between  
 271 agencies.

272 (2)(a) Except as provided in s. 255.2501, no state agency  
 273 may lease or occupy a state-owned building or privately owned a  
 274 building, or any part thereof, unless prior approval of the  
 275 lease conditions and of the need therefor is first obtained from  
 276 the department ~~of Management Services~~. Any ~~approved~~ lease may  
 277 include an option to purchase or an option to renew the lease,  
 278 or both, upon such terms and conditions acceptable to as are  
 279 ~~established by~~ the department ~~subject to final approval by the~~  
 280 ~~head of the Department of Management Services~~ and in compliance  
 281 with s. 255.2502.

282 (b) An agency allowed to directly procure a ~~The approval~~  
 283 ~~of the Department of Management Services, except for technical~~  
 284 ~~sufficiency, need not be obtained for the lease or an extension~~  
 285 of a lease shall comply of less than 5,000 square feet of space  
 286 ~~within a privately owned building, provided the agency head or~~  
 287 ~~the agency head's designated representative has certified~~  
 288 ~~compliance~~ with applicable leasing criteria as may be provided

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289 pursuant to this section and s. 255.249(4)(k) and shall  
 290 determine that ~~has determined~~ such lease is to be in the best  
 291 interest of the state. Such a lease which is for a term  
 292 extending beyond the end of a fiscal year is subject to the  
 293 provisions of ss. 216.311, 255.2502, and 255.2503.

294 (c) The department ~~of Management Services~~ shall adopt as a  
 295 rule uniform leasing procedures for use by the department and by  
 296 agencies who may directly procure space ~~each state agency other~~  
 297 ~~than the Department of Transportation. Each state agency shall~~  
 298 ~~ensure that the leasing practices of that agency are in~~  
 299 ~~substantial compliance with the uniform leasing rules adopted~~  
 300 ~~under this section and ss. 255.249, 255.2502, and 255.2503.~~

301 (3)(a) ~~Except as provided in subsection (10), no state~~  
 302 ~~agency shall enter into a lease as lessee for the use of 5,000~~  
 303 ~~square feet or more of space in a privately owned building~~  
 304 ~~except upon advertisement for and receipt of competitive bids~~  
 305 ~~and award to the lowest and best bidder. The Department of~~  
 306 ~~Management Services shall have the authority to approve a lease~~  
 307 ~~for 5,000 square feet or more of space that covers more than 1~~  
 308 ~~fiscal year, subject to the provisions of ss. 216.311, 255.2501,~~  
 309 ~~255.2502, and 255.2503, if such lease is, in the judgment of the~~  
 310 ~~department, in the best interests of the state. This paragraph~~  
 311 ~~does not apply to buildings or facilities of any size leased for~~  
 312 ~~the purpose of providing care and living space for persons.~~

313 ~~(b)~~ The department, or an agency that may procure its own  
 314 space, ~~of Management Services~~ may negotiate with the owner of a  
 315 privately owned building to enter into an extension ~~approve~~  
 316 ~~extensions~~ of an existing lease ~~of 5,000 square feet or more of~~  
 317 ~~space if such~~ extension is ~~extensions are~~ determined to be in

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318 the best interests of the state., ~~but in no case shall the total~~  
 319 ~~of such extensions exceed 11 months. If at the end of the 11th~~  
 320 ~~month an agency still needs that space, it shall be procured by~~  
 321 ~~competitive bid in accordance with s. 255.249(4)(b). However, an~~  
 322 ~~agency that determines that it is in its best interest to remain~~  
 323 ~~in the space it currently occupies may negotiate a replacement~~  
 324 ~~lease with the lesser if an~~ In determining the best interests of  
 325 the state, the department or agency shall utilize an independent  
 326 comparative market analysis to show ~~demonstrates~~ that the  
 327 negotiated lease rate for the extension is ~~rates offered are~~  
 328 within market rates for comparable ~~the space, that~~ and the cost  
 329 of the extension ~~new lease~~ does not exceed the cost of a  
 330 comparable space ~~lease~~ plus documented moving costs, and that  
 331 the space will continue to adequately serve the public. A  
 332 present-value analysis and the consumer price index shall be  
 333 used in the calculation of lease costs. ~~The term of the~~  
 334 ~~replacement lease may not exceed the base term of the expiring~~  
 335 ~~lease.~~

336 (b)(e) Any person who files an action pursuant to s.  
 337 120.57(3)(b) protesting a decision or intended decision  
 338 pertaining to a competitive solicitation ~~bid~~ for space to be  
 339 leased by an ~~the~~ agency or the department ~~pursuant to s.~~  
 340 120.57(3)(b) shall post with the state agency or department, as  
 341 appropriate, at the time of filing the formal written protest a  
 342 bond payable to the agency or department in an amount equal to 1  
 343 percent of the estimated total rental of the basic lease period  
 344 or \$7,500 ~~\$5,000~~, whichever is greater, which bond shall be  
 345 conditioned upon the payment of all costs which may be adjudged  
 346 against the protestor ~~him or her~~ in the administrative hearing

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347 in which the action is brought and in any subsequent appellate  
 348 court proceeding. If the agency or department prevails after  
 349 completion of the administrative hearing process and any  
 350 appellate court proceedings, it shall recover all costs and  
 351 charges which shall be included in the final order or judgment,  
 352 excluding attorney's fees. Upon payment of such costs and  
 353 charges by the person protesting the award, the bond shall be  
 354 returned to him or her. If the person protesting the award  
 355 prevails, the bond shall be returned to that person and he or  
 356 she shall recover from the agency or department all costs and  
 357 charges which shall be included in the final order of judgment,  
 358 excluding attorney's fees.

359 (c)~~(d)~~ The agency or department and the lessor, when  
 360 entering into a lease ~~for 5,000 or more square feet~~ of a  
 361 privately owned building, shall, before the effective date of  
 362 the lease, agree upon and separately state the cost of tenant  
 363 improvements which may qualify for reimbursement if the lease is  
 364 terminated before the expiration of its base term. ~~The~~  
 365 ~~department shall serve as mediator if the agency and the lessor~~  
 366 ~~are unable to agree.~~ The amount agreed upon and stated shall, if  
 367 appropriated, be amortized over the original base term of the  
 368 lease on a straight-line basis.

369 (d)~~(e)~~ The unamortized portion of tenant improvements, if  
 370 appropriated, will be paid in equal monthly installments over  
 371 the remaining term of the lease. If any portion of the original  
 372 leased premises is occupied after termination but during the  
 373 original term by a tenant that does not require material changes  
 374 to the premises, the repayment of the cost of tenant  
 375 improvements applicable to the occupied but unchanged portion

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376 shall be abated during occupancy. The portion of the repayment  
 377 to be abated shall be based on the ratio of leased space to  
 378 unleased space.

379 (4)(a) Neither the department, nor any state agency  
 380 conducting its own leasing, of Management Services shall not  
 381 authorize any state agency to enter into a lease agreement for  
 382 space in a privately owned building when suitable space is  
 383 available in a state-owned building located in the same  
 384 geographic region, unless except upon presentation to the  
 385 department or the agency, as appropriate, prepares of sufficient  
 386 written justification why, acceptable to the department, that a  
 387 separate space is required in order to fulfill the statutory  
 388 duties of the agency making such request. The term "state-owned  
 389 building" as used in this subsection means any state-owned  
 390 facility regardless of use or control.

391 (b) The department State agencies shall cooperate with  
 392 local governmental units by using suitable, existing publicly  
 393 owned facilities, subject to the provisions of ss. 255.2501,  
 394 255.2502, and 255.2503. Agencies may utilize unexpended funds  
 395 appropriated for lease payments to:

396 1. pay the local government a reasonable their proportion  
 397 of operating costs, and to-

398 2. renovate space assigned applicable spaces.

399 ~~(5) Before construction or renovation of any state-owned~~  
 400 ~~building or state-leased space is commenced, the Department of~~  
 401 ~~Management Services shall ascertain, by submission of proposed~~  
 402 ~~plans to the Division of State Fire Marshal for review, that the~~  
 403 ~~proposed construction or renovation plan complies with the~~  
 404 ~~uniform firesafety standards required by the Division of State~~

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405 ~~Fire Marshal. The review of construction or renovation plans for~~  
406 ~~state leased space shall be completed within 10 calendar days of~~  
407 ~~receipt of the plans by the Division of State Fire Marshal. The~~  
408 ~~review of construction or renovation plans for a state owned~~  
409 ~~building shall be completed within 30 calendar days of receipt~~  
410 ~~of the plans by the Division of State Fire Marshal. The~~  
411 ~~responsibility for submission and retrieval of the plans called~~  
412 ~~for in this subsection shall not be imposed on the design~~  
413 ~~architect or engineer, but shall be the responsibility of the~~  
414 ~~two agencies. Whenever the Division of State Fire Marshal~~  
415 ~~determines that a construction or renovation plan is not in~~  
416 ~~compliance with such uniform firesafety standards, the Division~~  
417 ~~of State Fire Marshal may issue an order to cease all~~  
418 ~~construction or renovation activities until compliance is~~  
419 ~~obtained, except those activities required to achieve such~~  
420 ~~compliance. The Department of Management Services shall withhold~~  
421 ~~approval of any proposed lease until the construction or~~  
422 ~~renovation plan complies with the uniform firesafety standards~~  
423 ~~of the Division of State Fire Marshal. The cost of all~~  
424 ~~modifications or renovations made for the purpose of bringing~~  
425 ~~leased property into compliance with the uniform firesafety~~  
426 ~~standards shall be borne by the lessor.~~

427 ~~(6) Before construction or substantial improvement of any~~  
428 ~~state owned building is commenced, the Department of Management~~  
429 ~~Services must ascertain that the proposed construction or~~  
430 ~~substantial improvement complies with the flood plain management~~  
431 ~~criteria for mitigation of flood hazards, as prescribed in the~~  
432 ~~October 1, 1986, rules and regulations of the Federal Emergency~~  
433 ~~Management Agency, and the department shall monitor the project~~

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434 ~~to assure compliance with the criteria. In accordance with~~  
 435 ~~chapter 120, the Department of Management Services shall adopt~~  
 436 ~~any necessary rules to ensure that all such proposed state~~  
 437 ~~construction and substantial improvement of state buildings in~~  
 438 ~~designated flood-prone areas complies with the flood plain~~  
 439 ~~management criteria. Whenever the department determines that a~~  
 440 ~~construction or substantial improvement project is not in~~  
 441 ~~compliance with the established flood plain management criteria,~~  
 442 ~~the department may issue an order to cease all construction or~~  
 443 ~~improvement activities until compliance is obtained, except~~  
 444 ~~those activities required to achieve such compliance.~~

445 (5)(7) This section does not apply to any lease having a  
 446 term of less than 120 consecutive days for the purpose of  
 447 securing the one-time special use of the leased property or -  
 448 ~~This section does not apply to any lease for nominal or no~~  
 449 ~~consideration.~~

450 ~~(8) No agency shall enter into more than one lease for~~  
 451 ~~space in the same privately owned facility or complex within any~~  
 452 ~~12-month period except upon the solicitation of competitive~~  
 453 ~~bids.~~

454 ~~(9) Specialized educational facilities, excluding~~  
 455 ~~classrooms, shall be exempt from the competitive bid~~  
 456 ~~requirements for leasing pursuant to this section if the~~  
 457 ~~executive head of any state agency certifies in writing that~~  
 458 ~~said facility is available from a single source and that the~~  
 459 ~~competitive bid requirements would be detrimental to the state.~~  
 460 ~~Such certification shall include documentation of evidence of~~  
 461 ~~steps taken to determine sole source status.~~



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462        ~~(6)(10)~~ The department of ~~Management Services~~ may approve  
463 emergency acquisition of space without competitive solicitation  
464 ~~bids~~ if existing state-owned or state-leased space is destroyed  
465 or rendered uninhabitable by an act of God, fire, malicious  
466 destruction, or structural failure, or by legal action, if the  
467 chief administrator of the state agency or the chief  
468 administrator's designated representative certifies in writing  
469 that no other agency-controlled space is available to meet this  
470 emergency need, but in no case shall the lease for such space  
471 exceed 11 months. If the lessor elects not to replace or  
472 renovate the destroyed or uninhabitable facility, the agency or  
473 department, as applicable, shall procure the needed space by  
474 competitive solicitation ~~bid~~ in accordance with s.  
475 255.249(4)(b). If the lessor elects to replace or renovate the  
476 destroyed or uninhabitable facility and the construction or  
477 renovations will not be complete at the end of the 11-month  
478 lease, the agency or department may ~~modify the lease to~~ extend  
479 the temporary lease ~~it~~ on a month-to-month basis for up to an  
480 additional 6 months to allow completion of such construction or  
481 renovations.

482        ~~(7)(11)~~ In any leasing of space that is accomplished  
483 without competition, the individuals taking part in the  
484 development or selection of criteria for evaluation, in the  
485 evaluation, and in the award processes shall attest in writing  
486 that they are independent of, and have no conflict of interest  
487 in, the entities evaluated and selected.

488        Section 4. Paragraph (b) of subsection (2) of section  
489 255.25001, Florida Statutes, is amended to read:

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490           255.25001 Suspension or delay of specified functions,  
 491 programs, and requirements relating to governmental  
 492 operations.--Notwithstanding the provisions of:

493           (2) Sections 253.025 and 255.25, the Department of  
 494 Management Services has the authority to promulgate rules  
 495 pursuant to chapter 120 to be used in determining whether a  
 496 lease-purchase of a state-owned office building is in the best  
 497 interests of the state, which rules provide:

498           (b) Procedures and document formats for the ~~advertisement,~~  
 499 competitive procurement bid process, including format of  
 500 submissions, and evaluation of lease-purchase acquisition  
 501 proposals for state-owned office buildings. The evaluation  
 502 process shall include but not be limited to the following:

- 503           1. A consideration of the cost of comparable operating  
 504 leases.
- 505           2. The appraised value of the facility as required by s.  
 506 253.025.
- 507           3. A present value analysis of the proposed payment  
 508 stream.
- 509           4. The cost of financing the facility to be acquired.
- 510           5. The cost to repair identified physical defects.
- 511           6. The cost to remove identified hazardous substances.
- 512           7. An energy analysis.
- 513           8. A determination of who is responsible for management  
 514 and maintenance activities.

515  
 516 In order to minimize the cost of the evaluation process, the  
 517 Department of Management Services may develop a multistage  
 518 evaluation process to identify the most cost-efficient proposals

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519 for extensive evaluation. The studies developed as a result of  
 520 this evaluation process shall be considered confidential and  
 521 exempt from the provisions of s. 119.07(1) to the same extent  
 522 that appraisal reports are considered confidential and exempt  
 523 from the provisions of s. 119.07(1) as provided in s.  
 524 253.025(6)(d).

525 Section 5. Subsection (2) of section 255.2501, Florida  
 526 Statutes, is amended to read:

527 255.2501 Lease of space financed with local government  
 528 obligations.--

529 (2) No lease, lease-purchase, sale-leaseback, purchase, or  
 530 rental of any office space, building, real property and  
 531 improvements thereto, or any other fixed capital outlay project  
 532 that is or is to be financed with local government obligations  
 533 of any type shall be requested for approval in the  
 534 Appropriations Act unless:

535 (a) The construction for such project is to be or has been  
 536 competitively procured ~~bid~~ unless the certificate of occupancy  
 537 for such project was issued more than 3 years prior to the time  
 538 such request is made;

539 (b) The executive branch agency or department making the  
 540 request has competitively procured ~~bid~~ its space needs prior to  
 541 making such request ~~and the project for which approval is sought~~  
 542 ~~was the lowest and best bidder for such needs;~~ and

543 (c) The rent, lease payment, lease-purchase payment, or  
 544 other payment for such project is not greater than an amount  
 545 equal to the same proportion of the debt service on the local  
 546 government obligations to be issued to finance or which are  
 547 outstanding that financed, as the case may be, the facility or

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548 project for which approval is sought that the executive agency  
 549 or department seeking such approval will utilize under the  
 550 lease, lease-purchase, sale-leaseback, purchase, or rental of  
 551 the project in the facility or project as compared to the entire  
 552 facility or project that is to be or was financed. This  
 553 paragraph shall not apply when the certificate of occupancy for  
 554 a facility or project was issued more than 3 years prior to the  
 555 time such request is made.

556 Section 6. Section 255.45, Florida Statutes, is amended to  
 557 read:

558 255.45 Safety in Correction of firesafety violations in  
 559 ~~ertain~~ state-owned and state-leased property.--

560 (1) The Department of Management Services is responsible  
 561 for ensuring that firesafety violations that are noted by the  
 562 State Fire Marshal pursuant to s. 633.085 are corrected as soon  
 563 as practicable for all state-owned property which is leased from  
 564 the Department of Management Services.

565 (2) Before construction or renovation of any state-owned  
 566 building or privately owned building to be occupied by the state  
 567 is commenced, the Department of Management Services shall  
 568 ascertain, by submission of proposed plans to the Division of  
 569 State Fire Marshal for review, that the proposed construction or  
 570 renovation plan complies with the uniform firesafety standards  
 571 required by the Division of State Fire Marshal. The review of  
 572 construction or renovation plans for a privately owned building  
 573 shall be completed within 10 calendar days after receipt of the  
 574 plans by the Division of State Fire Marshal. The review of  
 575 construction or renovation plans for a state-owned building  
 576 shall be completed within 30 calendar days after receipt of the

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577 plans by the Division of State Fire Marshal. The responsibility  
 578 for submission and retrieval of the plans called for in this  
 579 subsection shall not be imposed on the design architect or  
 580 engineer, but shall be the responsibility of the Department of  
 581 Management Services. If the Division of State Fire Marshal  
 582 determines that a construction or renovation plan is not in  
 583 compliance with the uniform firesafety standards, the Division  
 584 of State Fire Marshal may issue an order to cease all  
 585 construction or renovation activities until compliance is  
 586 obtained, except those activities required to achieve such  
 587 compliance. The Department of Management Services shall withhold  
 588 approval of any proposed lease until the construction or  
 589 renovation plan complies with the uniform firesafety standards  
 590 of the Division of State Fire Marshal. The cost of all  
 591 modifications or renovations made for the purpose of bringing  
 592 leased property into compliance with the uniform firesafety  
 593 standards shall be borne by the lessor.

594 (3) Before construction or substantial improvement of any  
 595 state-owned building is commenced, the Department of Management  
 596 Services must ascertain that the proposed construction or  
 597 substantial improvement complies with the flood plain management  
 598 criteria for mitigation of flood hazards, as prescribed in the  
 599 October 1, 1986, rules and regulations of the Federal Emergency  
 600 Management Agency. The department shall monitor the project to  
 601 assure compliance with the criteria. The Department of  
 602 Management Services shall adopt rules to ensure that all such  
 603 proposed state construction and substantial improvement of  
 604 state-owned buildings in designated flood-prone areas complies  
 605 with the flood plain management criteria. In any instance where

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606 the department has determined that a construction or substantial  
 607 improvement project is not in compliance with the established  
 608 flood plain management criteria, the department may issue an  
 609 order to cease all construction or improvement activities until  
 610 compliance is obtained, except those activities required to  
 611 achieve such compliance.

612 Section 7. Subsection (9) of section 255.503, Florida  
 613 Statutes, is amended to read:

614 255.503 Powers of the Department of Management  
 615 Services.--The Department of Management Services shall have all  
 616 the authority necessary to carry out and effectuate the purposes  
 617 and provisions of this act, including, but not limited to, the  
 618 authority to:

619 (9) Engage the services of consultants for rendering  
 620 professional and technical assistance and advice and to engage  
 621 services of professionals in connection with the acquisition,  
 622 management, disposition, or financing of any facility or the  
 623 operation and activities of the Department of Management  
 624 Services, including attorneys, auditors, consultants, and  
 625 accountants.

626 Section 8. For the purpose of incorporating the amendment  
 627 to section 255.45, Florida Statutes, in a reference thereto,  
 628 section 633.085, Florida Statutes, is reenacted to read:

629 633.085 Inspections of state buildings and premises; tests  
 630 of firesafety equipment; building plans to be approved.--

631 (1)(a) It is the duty of the State Fire Marshal and her or  
 632 his agents to inspect, or cause to be inspected, each state-  
 633 owned building on a recurring basis established by rule, and to  
 634 ensure that high-hazard occupancies are inspected at least

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635 annually, for the purpose of ascertaining and causing to be  
 636 corrected any conditions liable to cause fire or endanger life  
 637 from fire and any violation of the firesafety standards for  
 638 state-owned buildings, the provisions of this chapter, or the  
 639 rules or regulations adopted and promulgated pursuant hereto.  
 640 The State Fire Marshal shall, within 7 days following an  
 641 inspection, submit a report of such inspection to the head of  
 642 the department of state government responsible for the building.

643 (b) Except as provided in s. 255.45, the department head  
 644 is responsible for ensuring that deficiencies noted in the  
 645 inspection are corrected as soon as practicable.

646 (c) Each department shall, in its annual budget proposal,  
 647 include requests for sufficient funds to correct any firesafety  
 648 deficiencies noted by the State Fire Marshal.

649 (d) Each department shall, in its annual budget proposal  
 650 and for all proposals for new construction or renovations to  
 651 existing structures, include requests for sufficient funds to  
 652 pay for any charges or fees imposed by the State Fire Marshal  
 653 for review of plans, renovations, occupancy, or inspections,  
 654 whether recurring or high hazard.

655 (2) The State Fire Marshal and her or his agents shall  
 656 conduct performance tests on any electronic fire warning and  
 657 smoke detection system, and any pressurized air-handling unit,  
 658 in any state-owned or state-leased space on a recurring basis as  
 659 provided in subsection (1). The State Fire Marshal and her or  
 660 his agents shall also ensure that fire drills are conducted in  
 661 all state-owned or state-leased high-hazard occupancies at least  
 662 annually.

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663 (3) All construction of any new, or renovation,  
 664 alteration, or change of occupancy of any existing, state-owned  
 665 or state-leased space shall comply with the uniform firesafety  
 666 standards of the State Fire Marshal.

667 (a) For all new construction or renovation, alteration, or  
 668 change of occupancy of state-leased space, compliance with the  
 669 uniform firesafety standards shall be determined by reviewing  
 670 the plans for the proposed construction or occupancy submitted  
 671 by the lessor to the Division of State Fire Marshal for review  
 672 and approval prior to commencement of construction or occupancy,  
 673 which review shall be completed within 10 working days after  
 674 receipt of the plans by the Division of State Fire Marshal.

675 (b) The plans for all construction of any new, or  
 676 renovation or alteration of any existing, state-owned building  
 677 are subject to the review and approval of the Division of State  
 678 Fire Marshal for compliance with the uniform firesafety  
 679 standards prior to commencement of construction or change of  
 680 occupancy, which review shall be completed within 30 calendar  
 681 days of receipt of the plans by the Division of State Fire  
 682 Marshal.

683 (4) The Division of State Fire Marshal may inspect state-  
 684 owned space and state-leased space as necessary prior to  
 685 occupancy or during construction, renovation, or alteration to  
 686 ascertain compliance with the uniform firesafety standards.  
 687 Whenever the Division of State Fire Marshal determines by virtue  
 688 of such inspection or by review of plans that construction,  
 689 renovation, or alteration of state-owned and state-leased space  
 690 is not in compliance with the uniform firesafety standards, the  
 691 Division of State Fire Marshal shall issue an order to cease



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692 construction, renovation, or alteration, or to preclude  
693 occupancy, of a building until compliance is obtained, except  
694 for those activities required to achieve such compliance.

695 (5) The Division of State Fire Marshal shall by rule  
696 provide a schedule of fees to pay for the costs of the  
697 inspections, whether recurring or high hazard, any firesafety  
698 review or plans for proposed construction, renovations, or  
699 occupancy, and related administrative expenses.

700 Section 9. This act shall take effect July 1, 2004.