

1 A bill to be entitled
2 An act relating to the Department of Elderly Affairs;
3 amending s. 20.41, F.S.; deleting provisions relating to
4 contracts by the department with area agencies on aging
5 for certain services; deleting provisions relating to
6 appointment, duties, and responsibilities of the executive
7 director of the area agencies on aging board; providing
8 that certain administering agencies under contract with
9 the department are subject to public records and public
10 meetings requirements; creating s. 430.011, F.S.; defining
11 the terms "department," "secretary," and "planning and
12 service area"; amending s. 430.04, F.S.; deleting
13 provisions relating to the designation of an area agency
14 on aging; amending s. 430.05, F.S.; revising the
15 composition of the membership of the Department of Elderly
16 Affairs Advisory Council; amending s. 430.071, F.S.;
17 revising and deleting definitions and defining the terms
18 "homebound elderly individual" and "RELIEF program";
19 providing that RELIEF services may be delivered to a
20 homebound elderly individual in certain places; providing
21 criteria for eligibility to receive respite services;
22 authorizing the department to give priority for services
23 to persons who are most in need of services in order to
24 prevent their institutionalization; providing duties of
25 the department with respect to administration of the
26 RELIEF program and volunteer services; authorizing the
27 department to adopt rules for the RELIEF program; amending
28 s. 430.101, F.S.; revising provisions to conform to

29 changes made by the act; creating s. 430.103, F.S.;

30 providing for the administration of federal programs for

31 the aged; defining terms; providing for responsibilities

32 of the department and each area agency on aging;

33 authorizing the department to adopt rules authorizing the

34 department to impose penalties and sanctions on an area

35 agency under certain specified circumstances; amending s.

36 430.201, F.S.; conforming a cross-reference; amending s.

37 430.202, F.S.; requiring that the community care for the

38 elderly program be operated through public or private

39 agencies that are not agencies of the state; providing an

40 exception; amending s. 430.203, F.S.; revising and

41 deleting definitions and adding a definition for the term

42 "case management"; amending s. 430.204, F.S.; revising the

43 responsibilities and duties of the department in

44 administering the community-care-for-the-elderly program;

45 directing the department to adopt specified rules;

46 requiring the department to contract with an administering

47 entity in each community care service area; requiring the

48 administrating entity to designate a lead agency in the

49 community care service area; providing duties for

50 administering entities; providing duties for each lead

51 agency; requiring a lead agency to ensure that case

52 management and core services are available to clients in

53 the community care service area; providing eligibility

54 criteria for case management and core services; providing

55 that certain abused adults are entitled to primary

56 consideration for services; requiring training programs;

57 directing eligible persons to the Medicaid program in
58 order to conserve funds of the community-care-for-the-
59 elderly program; authorizing the department to conduct
60 certain demonstration projects; creating s. 430.2043,
61 F.S.; providing procedures for the competitive selection
62 of lead agencies and core service providers; providing for
63 the submission of proposals and the scoring of the
64 proposals; providing that the secretary may waive the
65 competitive-procurement process under specified
66 circumstances; creating s. 430.2045, F.S.; requiring the
67 department to adopt rules to administer the community-
68 care-for-the-elderly program; creating s. 430.2051, F.S.;
69 requiring the department and the Agency for Health Care
70 Administration to create an integrated long-term-care
71 delivery system; providing duties; providing for
72 administration of case management services; authorizing
73 the agency to adopt rules; providing for a service
74 utilization reporting system; requiring integration of
75 specified data systems into one information system within
76 a certain time period; requiring the agency, in
77 consultation with the department, to evaluate the
78 Alzheimer's Disease waiver program and the Adult Day
79 Health Care waiver program; requiring the agency, in
80 consultation with the department, to begin discussions
81 with the federal Centers for Medicare and Medicaid
82 Services regarding the inclusion of Medicare into the
83 integrated long-term-care system; requiring the agency to
84 provide the Governor, the President of the Senate, and the

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85 Speaker of the House of Representatives a plan for
86 including Medicare in the integrated long-term-care
87 system; creating s. 430.5001, F.S.; authorizing the
88 department to adopt rules for the Alzheimer's Disease
89 Initiative; amending s. 430.502, F.S.; requiring
90 Alzheimer's respite provider organizations to assess and
91 collect service fees; requiring the department to prepare
92 a fee schedule; amending ss. 430.602, 430.603, 430.604,
93 and 430.606, F.S.; conforming provisions to changes made
94 by the act; amending ss. 400.126, 409.912, 420.36,
95 430.207, 430.504, and 430.705, F.S., conforming cross-
96 references; repealing ss. 430.205, 430.2053, and 430.503,
97 F.S., relating to the community care service system, aging
98 resource centers, and the Alzheimer's Disease Initiative;
99 providing an effective date.

100
101 Be It Enacted by the Legislature of the State of Florida:

102
103 Section 1. Section 20.41, Florida Statutes, is amended to
104 read:

105 20.41 Department of Elderly Affairs.--There is created a
106 Department of Elderly Affairs.

107 (1) The head of the department is the Secretary of Elderly
108 Affairs. The secretary must be appointed by the Governor,
109 subject to confirmation by the Senate. The secretary serves at
110 the pleasure of the Governor. The secretary shall administer the
111 affairs of the department and may employ assistants,
112 professional staff, and other employees as necessary to

113 discharge the powers and duties of the department.

114 (2) The department shall plan and administer its programs
 115 and services through planning and service areas as designated by
 116 the department.

117 (3) The department shall maintain its headquarters in
 118 Tallahassee.

119 (4) The department shall administer the State Long-Term
 120 Care Ombudsman Council, created by s. 400.0067, and the local
 121 long-term care ombudsman councils, created by s. 400.0069 and
 122 shall, as required by s. 712 of the federal Older Americans Act
 123 of 1965, ensure that both the state and local long-term care
 124 ombudsman councils operate in compliance with the Older
 125 Americans Act.

126 (5) The department shall be the state unit on aging as
 127 defined in the federal Older Americans Act of 1965, as amended,
 128 and shall exercise all responsibilities pursuant to that act.

129 ~~(6) In accordance with the federal Older Americans Act of~~
 130 ~~1965, as amended, the department shall designate and contract~~
 131 ~~with area agencies on aging in each of the department's planning~~
 132 ~~and service areas. Area agencies on aging shall ensure a~~
 133 ~~coordinated and integrated provision of long term care services~~
 134 ~~to the elderly and shall ensure the provision of prevention and~~
 135 ~~early intervention services. The department shall have overall~~
 136 ~~responsibility for information system planning. The department~~
 137 ~~shall ensure, through the development of equipment, software,~~
 138 ~~data, and connectivity standards, the ability to share and~~
 139 ~~integrate information collected and reported by the area~~
 140 ~~agencies in support of their contracted obligations to the~~

141 state.

142 ~~(7) The department shall contract with the governing body,~~
 143 ~~hereafter referred to as the "board," of an area agency on aging~~
 144 ~~to fulfill programmatic and funding requirements. The board~~
 145 ~~shall be responsible for the overall direction of the agency's~~
 146 ~~programs and services and shall ensure that the agency is~~
 147 ~~administered in accordance with the terms of its contract with~~
 148 ~~the department, legal requirements, established agency policy,~~
 149 ~~and effective management principles. The board shall also ensure~~
 150 ~~the accountability of the agency to the local communities~~
 151 ~~included in the planning and service area of the agency.~~

152 ~~(8) The area agency on aging board shall, in consultation~~
 153 ~~with the secretary, appoint a chief executive officer, hereafter~~
 154 ~~referred to as the "executive director," to whom shall be~~
 155 ~~delegated responsibility for agency management and for~~
 156 ~~implementation of board policy, and who shall be accountable for~~
 157 ~~the agency's performance.~~

158 (6)(9) Area agencies on aging and other administering
 159 entities under contract with the department are subject to
 160 chapter 119, relating to public records, and, when considering
 161 any contracts requiring the expenditure of funds, are subject to
 162 ss. 286.011-286.012, relating to public meetings.

163 Section 2. Section 430.011, Florida Statutes, is created
 164 to read:

165 430.011 Definitions.--As used in this chapter, the term:

166 (1) "Department" means the Department of Elderly Affairs.

167 (2) "Secretary" means the Secretary of Elderly Affairs.

168 (3) "Planning and service area" means a geographic service

169 area established by the department in which the programs of the
 170 department are administered and services are delivered.

171 Section 3. Subsection (2) of section 430.04, Florida
 172 Statutes, is amended to read:

173 430.04 Duties and responsibilities of the Department of
 174 Elderly Affairs.--The Department of Elderly Affairs shall:

175 (2) Be responsible for ensuring that each entity with whom
 176 it contracts ~~area agency on aging~~ operates in a manner to ensure
 177 that the elderly of this state receive the best services
 178 possible. ~~The department shall rescind designation of an area~~
 179 ~~agency on aging or take intermediate measures against the~~
 180 ~~agency, including corrective action, unannounced special~~
 181 ~~monitoring, temporary assumption of operation of one or more~~
 182 ~~programs by the department, placement on probationary status,~~
 183 ~~imposing a moratorium on agency action, imposing financial~~
 184 ~~penalties for nonperformance, or other administrative action~~
 185 ~~pursuant to chapter 120, if the department finds that:~~

186 ~~(a) An intentional or negligent act of the agency has~~
 187 ~~materially affected the health, welfare, or safety of clients,~~
 188 ~~or substantially and negatively affected the operation of an~~
 189 ~~aging services program.~~

190 ~~(b) The agency lacks financial stability sufficient to~~
 191 ~~meet contractual obligations or that contractual funds have been~~
 192 ~~misappropriated.~~

193 ~~(c) The agency has committed multiple or repeated~~
 194 ~~violations of legal and regulatory requirements or department~~
 195 ~~standards.~~

196 ~~(d) The agency has failed to continue the provision or~~

197 ~~expansion of services after the declaration of a state of~~
 198 ~~emergency.~~

199 ~~(e) The agency has exceeded its authority or otherwise~~
 200 ~~failed to adhere to the terms of its contract with the~~
 201 ~~department or has exceeded its authority or otherwise failed to~~
 202 ~~adhere to the provisions specifically provided by statute or~~
 203 ~~rule adopted by the department.~~

204 ~~(f) The agency has failed to properly determine client~~
 205 ~~eligibility as defined by the department or efficiently manage~~
 206 ~~program budgets.~~

207 ~~(g) The agency has failed to implement and maintain a~~
 208 ~~department approved client grievance resolution procedure.~~

209 Section 4. Section 430.05, Florida Statutes, is amended to
 210 read:

211 430.05 Department of Elderly Affairs Advisory Council.--

212 (1) There is created the Department of Elderly Affairs
 213 Advisory Council which shall be located for administrative
 214 purposes in the Department of Elderly Affairs and established in
 215 accordance with s. 20.03(7). It is the intent of the Legislature
 216 that the advisory council ~~shall~~ be an independent nonpartisan
 217 body ~~and shall~~ not be subject to the control, supervision, or
 218 direction by the department.

219 (2) The council shall serve in an advisory capacity to the
 220 secretary ~~of Elderly Affairs~~ to assist the secretary in carrying
 221 out the purposes, duties, and responsibilities of the
 222 department, as specified in this chapter. The council may make
 223 recommendations to the secretary, the Governor, the Speaker of
 224 the House of Representatives, and the President of the Senate

225 regarding organizational issues and additions or reductions in
 226 the department's duties and responsibilities.

227 (3) (a) The advisory council shall be composed of members
 228 ~~one member appointed by the Governor from each of the state's~~
 229 ~~planning and service areas, which are designated in accordance~~
 230 ~~with the Older Americans Act, two additional members appointed~~
 231 ~~by the Governor, two members appointed by the President of the~~
 232 ~~Senate, and two members appointed by the Speaker of the House of~~
 233 ~~Representatives. The members shall be appointed in the following~~
 234 manner:

235 1. The Governor shall appoint one member from each
 236 planning and service area and two additional at-large members.
 237 Members appointed from a planning and service area must maintain
 238 their primary residence within the boundaries of the planning
 239 and service area that they represent. At-large members must
 240 maintain their primary residence in the state. The Governor
 241 shall ensure that a majority of his or her appointments to the
 242 advisory council are 60 years of age or older and that the
 243 membership has a balanced minority and gender representation.
 244 ~~shall select each appointment from a list of three nominations~~
 245 ~~submitted by the designated area agency on aging in each~~
 246 ~~planning and service area. Nominations submitted by an area~~
 247 ~~agency on aging shall be solicited from a broad cross section of~~
 248 ~~the public, private, and volunteer sectors of each county in the~~
 249 ~~respective planning and service area. At least one of the three~~
 250 ~~nominations submitted by an area agency on aging shall be a~~
 251 ~~person 60 years of age or older.~~

252 2. ~~The Governor shall appoint two additional members, one~~

253 ~~of whom shall be 60 years of age or older.~~

254 2.3. The President of the Senate shall appoint two
 255 members. Both appointees must maintain their primary residence
 256 in the state, and at least one appointee must, ~~one of whom shall~~
 257 be 60 years of age or older.

258 3.4. The Speaker of the House of Representatives shall
 259 appoint two members. Both appointees must maintain their primary
 260 residence in the state, and at least one appointee must, ~~one of~~
 261 ~~whom shall~~ be 60 years of age or older.

262 ~~5.~~ ~~The Governor shall ensure that a majority of the~~
 263 ~~members of the advisory council shall be 60 years of age or~~
 264 ~~older and that there shall be balanced minority and gender~~
 265 ~~representation.~~

266 ~~6.~~ ~~The Governor shall designate annually a member of the~~
 267 ~~advisory council to serve as chair.~~

268 4.7. The secretary of ~~Elderly Affairs~~ shall serve as an ex
 269 officio member of the advisory council.

270 (b) Members shall be appointed to 3-year terms. A member
 271 may not serve more than two consecutive terms. ~~in the following~~
 272 ~~manner:~~

273 (c) Vacancies shall be filled in the same manner as the
 274 original appointment, except that when a vacancy occurs in a
 275 position occupied by a member representing a planning and
 276 service area, the department, after consulting with the board of
 277 the local area agency on aging from that planning and service
 278 area, shall submit to the Governor a list of recommended persons
 279 to fill the appointment. Nominations must be solicited from a
 280 cross-section of the public, private, and volunteer sectors of

281 each county in the respective planning and service area after
282 discussions with various local governments and service provider
283 organizations.

284 (d) The Governor shall appoint a chair to serve a 1-year
285 term. The council may elect a vice chair from among its members
286 to preside over the council in the absence of the chair.

287 ~~1. In order to stagger the terms of office, one of the~~
288 ~~initial appointees of the President of the Senate shall be~~
289 ~~appointed to a 2 year term and one of the initial appointees of~~
290 ~~the Speaker of the House of Representatives shall be appointed~~
291 ~~to a 2-year term. Additionally, one third of the total initial~~
292 ~~appointees of the Governor shall be appointed to 1 year terms,~~
293 ~~one third shall be appointed to 2-year terms, and one third to~~
294 ~~3 year terms. If the initial appointments of the Governor are~~
295 ~~not of a number divisible into thirds, and there results one~~
296 ~~additional appointee, that appointee shall be appointed to a 2-~~
297 ~~year term. If the initial appointments of the Governor are not~~
298 ~~of a number divisible into thirds, and there results two~~
299 ~~additional appointees, one of the additional appointees shall be~~
300 ~~appointed to a 1 year term and the other appointee shall be~~
301 ~~appointed to a 2-year term.~~

302 ~~2. Vacancies occurring during an appointee's initial term~~
303 ~~shall be filled in the same manner as the initial appointments,~~
304 ~~pursuant to subparagraph 1. After the terms referred to in~~
305 ~~subparagraph 1. have expired, members shall be appointed to 3-~~
306 ~~year terms.~~

307 ~~(4) In order to enhance its understanding of the various~~
308 ~~needs of the state's elderly population and to avoid unnecessary~~

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309 ~~duplication of effort, the advisory council shall identify any~~
310 ~~council, committee, task force, or similar group that is~~
311 ~~statutorily mandated to represent the interest of older persons,~~
312 ~~and shall invite a member aged 60 years or older, or a younger~~
313 ~~member if there are no members aged 60 years or older, from each~~
314 ~~identified group to serve as a nonvoting ex officio member of~~
315 ~~the advisory council.~~

316 (4)~~(5)~~ The advisory council shall meet at the call of the
317 chair or of a majority of its members ~~least quarterly, or more~~
318 ~~frequently as needed.~~

319 (5)~~(6)~~ The department ~~of Elderly Affairs~~ shall provide
320 staff support to assist the advisory council in the performance
321 of its duties.

322 (6)~~(7)~~ Members of the advisory council shall receive no
323 salary, but are entitled to reimbursement for travel and per
324 diem expenses, as provided in s. 112.061, while performing their
325 duties under this section.

326 Section 5. Section 430.071, Florida Statutes, is amended
327 to read:

328 430.071 Respite for elders living in everyday families.--

329 (1) As used in this section, the term:

330 (a) "Family unit" means one or more individuals who share
331 space within an enclosed single-family dwelling or other space
332 on the same property of a single-family homestead ~~whose primary~~
333 ~~residence is~~ with a homebound elderly individual specifically
334 for the purpose of providing care for that homebound elderly
335 individual. The individuals do ~~family does~~ not necessarily need
336 to be related by blood or marriage to the homebound elderly

337 individual.

338 (b) "Homebound elderly individual" means an individual 60
 339 years of age or older who requires assistance to remain in the
 340 home and, absent such assistance, would need to move to a
 341 skilled nursing or assisted living facility.

342 (c) "RELIEF program" means the Respite for Elders Living
 343 in Everyday Families program created under this section.

344 (d)-(b) "Respite" means temporary in-home assistance or
 345 adult day care services for a homebound elderly individual from
 346 someone who is not a member of the family unit, which allows the
 347 family unit the ability to leave the homebound elderly
 348 individual for a period of time.

349 (e)-(e) "Stipend" means an allotment of funds to enable a
 350 diverse population of volunteers to provide services. The
 351 stipend must be paid at an allotment of funds is for a maximum
 352 hourly rate that does shall not exceed an amount equal to the
 353 state federal minimum wage.

354 ~~(d) "Volunteer service system" means an organized network~~
 355 ~~of volunteers and agencies engaged in supporting volunteers to~~
 356 ~~assist a family unit that requires respite.~~

357 (2) There is created within the department the "Respite
 358 for Elders Living in Everyday Families" (RELIEF) program. The
 359 RELIEF program shall will provide one-on-one or congregate in-
 360 home respite services as that is an expansion of respite
 361 services that are is currently available through other programs,
 362 specifically including evening and weekend respite and an
 363 expansion of hours for existing adult day care services. The
 364 purpose of this service is to increase the ability of a family

365 unit to continue to care for a homebound elderly individual by
 366 providing ~~in-home~~ respite services beyond the basic provisions
 367 of current public programs.

368 (3) Respite services under the RELIEF program may be
 369 provided in:

370 (a) The family unit's dwelling or another dwelling located
 371 on the property of the family unit; or

372 (b) Another facility if the homebound elderly individual
 373 returns to the family unit's dwelling or property at the
 374 conclusion of the respite service.

375 (4) ~~(3)~~ Respite services may ~~shall~~ be provided through a
 376 multigenerational corps of volunteers, volunteers who receive a
 377 stipend, and any other appropriate personnel as determined by
 378 the department.

379 (a) Volunteers shall be screened, selected, trained, and
 380 registered according to standards developed by the ~~Office of~~
 381 ~~Volunteer and Community Services in the~~ department of ~~Elderly~~
 382 ~~Affairs~~. These standards must be developed to ensure, at a
 383 minimum, the safety of a homebound elderly individual who will
 384 receive the respite service.

385 (b) Volunteers may be recruited from a variety of sources,
 386 including, but not limited to, volunteer centers, religious
 387 organizations, college campuses, corporations, families, Retired
 388 Senior Volunteer Programs, Senior Companion Programs, and
 389 AmeriCorps Programs.

390 (5) (a) ~~(4)~~ To receive assistance from the RELIEF program,
 391 the family unit must be assessed according to ~~the following~~
 392 guidelines developed by the department to determine the need for

393 | respite services. This assessment must determine, at a minimum,
 394 | that:

395 | 1. The family unit is caring for a homebound elderly
 396 | individual who meets the standards for program eligibility; and

397 | 2.(a) The family unit is unable to pay for respite
 398 | services without jeopardizing other basic needs, including, but
 399 | not limited to, food, shelter, and medications.

400 | (b) The provider may prioritize the order by which a
 401 | family unit receives RELIEF program services with priority given
 402 | first to those determined to be most in need of respite services
 403 | in order to continue to care for the homebound elderly
 404 | ~~individual for whom the family unit is caring is 60 years of age~~
 405 | ~~or older, requires assistance to remain in the home, and,~~
 406 | ~~without this assistance, would need to move to an assisted~~
 407 | ~~living facility or a nursing facility.~~

408 | (c)(5) A family unit that receives respite services from
 409 | the RELIEF program is not excluded from receiving assistance
 410 | from other governmental programs, but the provider may take
 411 | other assistance that the family unit is receiving into account
 412 | when determining an order of priority for services under the
 413 | RELIEF program.

414 | (6) The department Office of Volunteer and Community
 415 | Services shall:

416 | (a) Systematically develop a volunteer service system in
 417 | order to provide respite services under the RELIEF program. The
 418 | office shall also implement, monitor, and evaluate the delivery
 419 | of respite services provided through the RELIEF under this
 420 | program.

421 (b) Develop an organized network of volunteers and
 422 agencies engaged in supporting volunteers in order to provide
 423 services under the RELIEF program.

424 (c)~~(b)~~ Work collaboratively with local, state, and
 425 national organizations, including, but not limited to, the
 426 Florida Commission on Community Service, to promote the use of
 427 volunteers providing ~~offering~~ respite services under this
 428 program.

429 (d)~~(e)~~ Encourage contributions and grants through public
 430 and private sources to promote the delivery of respite to assist
 431 family units providing care for homebound elderly individuals.

432 (7) The department may adopt rules pursuant to ss.
 433 120.536(1) and 120.54 to administer the RELIEF program.

434 Section 6. Section 430.101, Florida Statutes, is amended
 435 to read:

436 430.101 State unit on aging; designation; authority
 437 ~~Administration of federal aging programs.--The department of~~
 438 ~~Elderly Affairs~~ is designated the state unit on aging under the
 439 federal Older Americans Act of 1965, as amended, and shall
 440 exercise all responsibilities under that act. The department is
 441 the state agency designated to handle all programs of the
 442 Federal Government relating to the aging, by virtue of funds
 443 appropriated through the Older Americans Act of 1965 and
 444 subsequent amendments, requiring actions within the state which
 445 are not the specific responsibility of another state agency
 446 under ~~the provisions of~~ federal or state law. ~~Authority is~~
 447 ~~hereby conferred on~~ The department may ~~to~~ accept and use any
 448 funds in accordance with established state budgetary procedures

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449 which might become available pursuant to the purposes set out
450 herein.

451 Section 7. Section 430.103, Florida Statutes, is created
452 to read:

453 430.103 Administration of federal programs for the aged.--

454 (1) DEFINITIONS.--As used in this section, the term:

455 (a) "Agency" means an area agency on aging designated by
456 the department.

457 (b) "Area agency on aging" means a public or not-for-
458 profit private entity or office designated by the department to
459 coordinate and administer the federal programs on aging and to
460 provide, through contracting entities, services within a
461 planning and service area. Entities under contract with the
462 department to serve as an area agency on aging may also contract
463 with the department to serve as the administering entity for the
464 community-care-for-the-elderly program created under s. 430.204.
465 Entities under contract with the department to serve as an area
466 agency on aging are not agencies, agents, or offices of state
467 government.

468 (c) "Board" means the governing body of an agency.

469 (d) "Executive director" means the chief executive officer
470 of an agency appointed by, and serving at the pleasure of, the
471 agency's board.

472 (2) DEPARTMENT RESPONSIBILITIES.--

473 (a) In accordance with the federal Older Americans Act,
474 the department shall:

475 1. Apportion the state into one or more planning and
476 service areas.

477 2. Administer programs and services of the federal Older
 478 Americans Act through the planning and service areas.

479 3. Execute a contract with the board of each agency to
 480 administer services of the federal Older Americans Act within
 481 the planning and service area that the agency serves.

482 4. Develop a state plan on aging in accordance with the
 483 federal Older Americans Act that evaluates service needs of the
 484 elderly, identifies priority services and target client groups,
 485 provides for periodic evaluation of activities and services, and
 486 provides for administration of funds available through the
 487 federal Older Americans Act.

488 (b) The department shall regularly monitor the activities
 489 of each agency to ensure that each agency meets all of the
 490 requirements of federal and state laws and department rules,
 491 policies, and contract requirements.

492 (c) The department shall adopt rules pursuant to ss.
 493 120.536(1) and 120.54 to administer and oversee the programs
 494 authorized under this section.

495 (3) BOARD RESPONSIBILITIES.--

496 (a) The board of each agency shall:

497 1. Be accountable for the performance of the agency.

498 2. Be responsible for the overall direction of the
 499 programs and services of the agency.

500 3. Ensure that the agency is administered according to the
 501 terms of its contract with the department, established federal
 502 and state laws, and department rules and policies, and effective
 503 management and budgetary principles.

504 4. Ensure the accountability of the agency to local

505 governments and local communities located within the planning
506 and service area that the agency serves.

507 (b) The board shall appoint an executive director. It may
508 delegate to the director the responsibility for day-to-day
509 agency management and operation and for implementing board
510 policy.

511 (4) DEPARTMENTAL SANCTIONS AND PENALTIES.--

512 (a) The secretary shall rescind the designation of an
513 agency if the department determines that:

514 1. An intentional or negligent act or omission by the
515 agency has materially affected the health, welfare, or safety of
516 a client or substantially and negatively affected the operation
517 of a program.

518 2. The agency has exceeded its authority, has failed to
519 adhere to the terms of its contract with the department, or has
520 otherwise failed to adhere to the relevant federal and state
521 laws or department rules.

522 3. The agency lacks financial stability sufficient to meet
523 contractual obligations or that contractual funds have been
524 misappropriated or mismanaged.

525 4. The agency has committed violations of department
526 standards or policies.

527 5. The agency has repeatedly failed to properly determine
528 client eligibility under federal and state laws or department
529 rules or standards.

530 6. The agency has failed to implement or maintain a
531 department-approved procedure to resolve client grievances.

532 7. The agency has failed to continue to provide or expand

533 services after the declaration of a state of emergency.

534 (b)1. If the department determines that an agency has
535 committed a violation of law, rule, contract, or policy,
536 including those listed in paragraph (a), but the secretary
537 determines that intermediate corrective actions may resolve the
538 issue without rescinding the agency's designation, the secretary
539 may place the agency on probation and take intermediate
540 corrective actions. The secretary may not place an agency on
541 probation or take intermediate corrective actions for a period
542 of less than 30 days or more than 1 year.

543 2. The secretary shall provide to the board a written
544 notice of probation. The notice must include the reasons for
545 placing the agency on probation, including the specific
546 violations committed by the agency, the length of the probation
547 being imposed, any specific conditions the agency will be
548 subject to while on probation, any actions required of the
549 agency to rectify the violation, any actions the department
550 intends to take related to the probation, and any other
551 information relevant to the violation or probation. A copy of
552 the notice shall be provided to the Governor, the President of
553 the Senate, and the Speaker of the House of Representatives.

554 3. The secretary may impose, either singularly or in
555 conjunction with, any of the following intermediate corrective
556 actions:

557 a. Levying financial penalties against the agency which
558 the secretary determines are commensurate with the seriousness
559 of the violation.

560 b. Temporarily assuming the administration of one or more

561 programs on behalf of the agency or assigning these
562 administrative duties to another qualified entity, including
563 another designated area agency on aging.

564 c. Conducting unannounced special monitoring of the
565 agency.

566 4. The secretary may terminate an agency's probation
567 before the date specified in the notice of probation.

568 5. Upon terminating the probation, the secretary shall
569 determine whether the agency has taken sufficient actions
570 necessary to rectify the violations listed in the notice of
571 probation and whether the agency is capable of continuing to
572 serve as a designated area agency on aging. The secretary shall
573 submit to the board a written notice of his or her
574 determination. A copy of the notice shall be provided to the
575 Governor, the President of the Senate, and the Speaker of the
576 House of Representatives.

577 6. If the secretary determines that the agency has not
578 made sufficient progress to correct the violations listed in the
579 notice of probation, the secretary shall rescind the agency's
580 designation.

581 7. The secretary shall rescind the designation of any
582 agency that has been placed on probation twice and that commits
583 a third violation within 5 years after the date the first
584 probation was imposed.

585 Section 8. Section 430.201, Florida Statutes, is amended
586 to read:

587 430.201 Short title.--Sections 430.201-430.2045 ~~430.201-~~
588 ~~430.207~~ may be cited as the "Community Care for the Elderly

589 Act."

590 Section 9. Section 430.202, Florida Statutes, is amended
591 to read:

592 430.202 Community care for the elderly; legislative
593 intent.--The purpose of ss. 430.201-430.2045 ~~ss. 430.201-430.207~~
594 is to assist functionally impaired elderly persons to live in
595 ~~living~~ dignified and ~~reasonably~~ independent lives in their own
596 homes or in the homes of relatives or caregivers through the
597 development, expansion, reorganization, and coordination of
598 various community-based services provided and administered
599 through public or private entities that are not agencies or
600 offices of state government except as defined in s.

601 430.204(1)(d). The Legislature intends that a continuum of care
602 be established so that functionally impaired elderly persons age
603 60 and older may be assured the least restrictive environment
604 suitable to their needs. The development of innovative
605 approaches to program management, staff training, and service
606 delivery which have an impact on cost-avoidance, cost-
607 effectiveness, and program efficiency is encouraged.

608 Section 10. Section 430.203, Florida Statutes, is amended
609 to read:

610 430.203 Community care for the elderly; definitions.--As
611 used in ss. 430.201-430.2045 ~~ss. 430.201-430.207~~, the term:

612 (1) "Administering entity" ~~"Area agency on aging"~~ means a
613 public or not-for-profit ~~nonprofit~~ private entity ~~agency~~ or
614 office under contract with ~~designated by~~ the department to
615 coordinate and administer the department's programs and to
616 provide, through contracting agencies, services within a

617 community care ~~planning and~~ service area. Local governments or
618 other entities under contract with the department to serve as
619 administering entities are not agencies, agents, or offices of
620 state government ~~An area agency on aging serves as both the~~
621 ~~advocate and the visible focal point in its planning and service~~
622 ~~area to foster the development of comprehensive and coordinated~~
623 ~~service systems to serve older individuals.~~

624 (2) "Community care service area" means a geographic area
625 designated by the department for the purpose of organizing the
626 local provision of community-care-for-the-elderly case
627 management and core services ~~service area within a planning and~~
628 ~~service area.~~

629 (3) "Community care service system" means a service system
630 that is organized to provide various and necessary case
631 management and core services through, when feasible, a multitude
632 of entities to network comprising a variety of home-delivered
633 ~~services, day care services, and other basic services,~~
634 ~~hereinafter referred to as "core services," for functionally~~
635 ~~impaired elderly persons residing within the boundaries of the~~
636 community care service area. The system is under the direction
637 of the entities selected under ss. 430.204 and 430.2043 ~~which~~
638 ~~are provided by or through a single lead agency. The~~ Its purpose
639 of the system is to provide a continuum of care encompassing a
640 full range of preventive, maintenance, and restorative services
641 for functionally impaired elderly persons to prevent unnecessary
642 institutionalization.

643 (4) "Case management" means a client-centered series of
644 activities that include planning, arranging for, and

645 coordinating community-based services for an eligible client of
646 the community-care-for-the-elderly program. Case management
647 includes referral services, travel time related to the client's
648 case, a comprehensive client assessment, development of an
649 individualized care plan with planned client outcomes, and
650 followup contacts for the purpose of monitoring the client's
651 situation and assuring timely, effective delivery of services.

652 ~~"Contracting agency" means an area agency on aging, a lead~~
653 ~~agency, or any other agency contracting to provide program~~
654 ~~administration or to provide services.~~

655 (5) "Core services" means a variety of home-delivered
656 services, day care services, personal care services, and other
657 basic services that are provided to functionally impaired
658 elderly persons ~~may be provided by several entities.~~ Core
659 services are those services that are required ~~most needed~~ to
660 assist a functionally impaired elderly person to live in his or
661 her own home or in the home of a relative or caregiver. Without
662 receiving core services, the individual would likely be required
663 to move to a more institutionalized care setting. For the
664 purposes of ss. 430.201-430.2045, case management is considered
665 as a separate service and is not a core service ~~prevent~~
666 ~~unnecessary institutionalization. The area agency on aging shall~~
667 ~~not directly provide core services.~~

668 ~~(6) "Department" means the Department of Elderly Affairs.~~

669 ~~(6)(7)~~ (6) "Functionally impaired elderly person" means any
670 person, 60 years of age or older, having physical or mental
671 limitations that restrict individual ability to perform the
672 normal activities of daily living and that impede individual

673 capacity to live independently in his or her own home or in the
674 home of a relative or caregiver without receiving the provision
675 of core services. Functional impairment shall be determined
676 through a functional assessment administered to each applicant
677 for community care for the elderly core services. The functional
678 assessment shall be developed by the department.

679 ~~(8) "Health maintenance services" means those routine~~
680 ~~health services that are necessary to help maintain the health~~
681 ~~of a functionally impaired elderly person, but that are limited~~
682 ~~to medical therapeutic services, nonmedical prevention services,~~
683 ~~personal care services, home health aide services, home nursing~~
684 ~~services, and emergency response systems.~~

685 ~~(7)(9)~~ "Lead agency" means an agency designated at least
686 once every 3 years by an administering entity under s. 430.204
687 area agency on aging as the result of a request for proposal
688 process to be in place no later than the state fiscal year 1996-
689 1997. A lead agency directs the activities of the community care
690 service system within the boundaries of the community care
691 service area that the agency is designated to serve. A lead
692 agency is not an agency, agent, or office of state government.

693 ~~(a) The guidelines for the request for proposal must be~~
694 ~~developed by the department in consultation with the area~~
695 ~~agencies on aging. Such guidelines must include requirements for~~
696 ~~the assurance of quality and cost efficiency of services,~~
697 ~~minimum personnel standards, and employee benefits.~~

698 ~~(b) The area agency on aging, in consultation with the~~
699 ~~department, shall exempt from the competitive bid process any~~
700 ~~contract with a provider who meets or exceeds established~~

701 ~~minimum standards, as determined by the department.~~

702 ~~(c) In each community care service system the lead agency~~
703 ~~must be given the authority and responsibility to coordinate~~
704 ~~some or all of the services, either directly or through~~
705 ~~subcontracts, for functionally impaired elderly persons. These~~
706 ~~services must include case management, homemaker and chore~~
707 ~~services, respite care, adult day care, personal care services,~~
708 ~~home delivered meals, counseling, information and referral, and~~
709 ~~emergency home repair services. The lead agency must compile~~
710 ~~community care statistics and monitor, when applicable,~~
711 ~~subcontracts with agencies providing core services.~~

712 (8) ~~(10)~~ "Personal care services" means services to assist
713 with bathing, dressing, ambulation, housekeeping, supervision,
714 emotional security, eating, supervision of self-administered
715 medications, and assistance in securing health care from
716 appropriate sources. Personal care services does not include
717 medical services.

718 ~~(11) "Planning and service area" means a geographic~~
719 ~~service area established by the department, in which the~~
720 ~~programs of the department are administered and services are~~
721 ~~delivered.~~

722 ~~(12) "State Plan on Aging" means the service plan~~
723 ~~developed by the department which evaluates service needs of the~~
724 ~~elderly, identifies priority services and target client groups,~~
725 ~~provides for periodic evaluation of activities and services~~
726 ~~funded under the plan, and provides for administration of funds~~
727 ~~available through the federal Older Americans Act. The state~~
728 ~~plan on aging must be based upon area plans on aging developed~~

729 ~~by the area agencies on aging in order that the priorities and~~
 730 ~~conditions of local communities are taken into consideration.~~

731 Section 11. Section 430.204, Florida Statutes, is amended
 732 to read:

733 430.204 Community-care-for-the-elderly program ~~core~~
 734 ~~services; departmental powers and duties.--~~

735 (1) In order to administer the community-care-for-the-
 736 elderly program, the department shall:

737 (a) Designate community care service areas for the purpose
 738 of organizing and providing community-care-for-the-elderly case
 739 management and core services to functionally impaired elderly
 740 persons in local communities throughout the state.

741 (b) Ensure that there exists in each county, as defined in
 742 s. 125.011(1), more than one but not more than three community
 743 care service systems.

744 (c) Designate one or more geographic service areas in the
 745 state which may include one or more community care service
 746 areas, the purpose of which is to set the boundaries within
 747 which a designated administering entity shall have
 748 administration and oversight authority through contract with the
 749 department.

750 (d) Contract with an administering entity or entities at
 751 least once every 3 years to fund, administer, and oversee the
 752 delivery of community-care-for-the-elderly case management and
 753 core services to functionally impaired elderly persons residing
 754 in each designated community care service area in the state.
 755 When it is essential for the continued health, safety, and
 756 welfare of functionally impaired elderly persons, the department

757 may serve as the administering entity for one or more community
758 care service areas.

759 (e) Regularly monitor each administering entity to ensure
760 that it is in compliance with all federal and state laws and
761 department rules, policies, and contract requirements.

762 (f) Adopt rules to:

763 1. Define each core service to be provided through the
764 program.

765 2. Establish quality assurance standards for the delivery
766 of case management and core services.

767 3. Establish procedures by which to designate the
768 administering entity.

769 4. Establish standards that entities must meet in order to
770 be eligible to serve as an administering entity.

771 5. Establish standards for an entity to be eligible to
772 serve as a lead agency.

773 6. Establish standards for an entity to be eligible to
774 provide core services.

775 7. Establish procedures for terminating a contract with an
776 administering entity that violates the law, a rule, or its
777 contract with the department and procedures for transferring
778 administrative duties to another administering entity. Each
779 procedure must ensure the minimum adversity for the clients of
780 the program.

781 8. Establish procedures that an administering entity or
782 lead agency must follow in order to sanction a service provider
783 for noncompliance with federal or state laws or department
784 rules, policies, or contract requirements.

785 9. Establish procedures that an administering entity or
786 lead agency must follow in order to:

787 a. Terminate a contract with a lead agency or service
788 provider that violates the law, a rule, or its contract or that
789 otherwise fails to meet the standards necessary to continue
790 providing services; and

791 b. Transfer the responsibility for services to another
792 qualified lead agency or service provider while causing minimal
793 disruption to the program's clients.

794 (2) The department may designate each administering entity
795 as an aging resource center.

796 (a) The purpose of an aging resource center shall be to
797 provide Florida's elders and their families with a coordinated
798 approach to integrating information and referral for all non-
799 Older-Americans-Act services for elders.

800 (b) The duties of an aging resource center are to provide
801 access to all long-term care supports through intake assessment,
802 eligibility screening, and programmatic and financial
803 eligibility determinations that are integrated or closely
804 coordinated. Each aging resource center shall utilize a
805 management information system that supports the functions of the
806 program, including tracking client intake, needs assessment,
807 care plans, utilization, and costs.

808 (c) Each aging resource center is encouraged to enter into
809 a memorandum of understanding with the department for
810 collaboration with the CARES unit staff.

811 (d) Each aging resource center is encouraged to enter into
812 a memorandum of understanding with the Department of Children

813 and Family Services for collaboration with the Economic Self-
814 Sufficiency Unit staff.

815 (3) (a) Each administering entity in the state shall
816 designate one lead agency for each community care service area
817 within the boundaries of the geographic area it serves. Lead
818 agencies shall be designated at least once every 3 years by
819 means of the competitive selection process under s. 430.2043.

820 (b) An administering entity must regularly monitor each
821 lead agency with which it has a contract to ensure that the lead
822 agency is meeting all federal and state laws and department
823 rules, policies, and contract requirements.

824 (c) An administering entity may not provide case
825 management or core services to clients of the community-care-
826 for-the-elderly program unless the department determines that
827 special circumstances exist which warrant the temporary
828 provision of those services by an administering entity.

829 ~~(a) The department shall fund, through each area agency on~~
830 ~~aging, at least one community care service system the primary~~
831 ~~purpose of which is the prevention of unnecessary~~
832 ~~institutionalization of functionally impaired elderly persons~~
833 ~~through the provision of community based core services. Whenever~~
834 ~~feasible, an area agency on aging shall be the contracting~~
835 ~~agency of preference to engage only in the planning and funding~~
836 ~~of community care for the elderly core services for functionally~~
837 ~~impaired elderly persons.~~

838 ~~(b) The department shall fund, through each area agency on~~
839 ~~aging in each county as defined in s. 125.011(1), more than one~~
840 ~~community care service system the primary purpose of which is~~

841 ~~the prevention of unnecessary institutionalization of~~
842 ~~functionally impaired elderly persons through the provision of~~
843 ~~community-based core services.~~

844 (4)(2) Each lead agency shall organize a community care
845 service system for its community care service area. The lead
846 agency shall coordinate the activities of the individual
847 contracting agencies within the system. All existing community
848 resources available to functionally impaired elderly persons
849 shall be coordinated into the a community care service system to
850 provide a continuum of care for these ~~to such~~ persons as their
851 needs change. Additional services may be provided, but may not
852 be funded from the community-care-for-the-elderly ~~core service~~
853 funds appropriated by the Legislature. Agencies providing
854 services with these funds ~~contracting with the department~~ shall
855 ensure that all other local funding sources available have been
856 used before using ~~prior to utilizing~~ community-care-for-the-
857 elderly funds. The department, administering entities, and other
858 entities ~~agencies~~ contracting with the department may accept
859 ~~gifts and grants in order~~ to provide services within a community
860 care service area may accept grants and gifts in order to expand
861 those services to additional clients or to new service areas.

862 (5)(a) The lead agency shall ensure that case management
863 and core services are available for all clients enrolled in the
864 program within its community care service area and that, when
865 feasible, policies, procedures, and contracts are in place to
866 offer prospective and current clients an unbiased choice of
867 service providers within the community care service system.

868 (b) In each community care service system, the lead agency

869 shall provide case-management services. Core services may be
870 provided by any public or private entity, including the lead
871 agency, if the entity meets the requirements of paragraph (c)
872 and the standards adopted by rule of the department for service
873 providers.

874 (c) The administering entity shall ensure that:

875 1. Whenever feasible, functionally impaired elderly
876 persons are provided with a choice of service providers within a
877 community care service system.

878 2. The entities under contract to provide core services
879 within the system are the most cost-effective service providers
880 available to serve the community care service area. The
881 administering entity shall ensure that service providers meet
882 standards for client safety, satisfaction, and quality assurance
883 by requiring each lead agency to competitively select core
884 service providers to create its service system. The
885 administering entity may not allow a lead agency to provide a
886 core service if the agency does not meet the requirements of
887 this subparagraph for that service.

888 (d) The lead agency must compile statistics on community
889 care and monitor, when applicable, subcontracts with agencies
890 providing core services within its system.

891 (6) (a) A person who has been classified as a functionally
892 impaired elderly person is eligible to receive case management
893 and those core services that the person requires to prevent or
894 delay the person's movement to a more institutionalized care
895 setting. Eligibility for community-care-for-the-elderly services
896 does not entitle a person to each core service available under

897 the program. The department shall adopt a rule specifying the
898 criteria that will ensure that a person's plan of care is
899 commensurate with his or her care needs specifically in order to
900 prevent or delay movement to a more institutionalized care
901 setting. This section is not intended to guarantee the provision
902 of all services identified in a person's plan of care.

903 (b) Functional impairment shall be determined through a
904 functional assessment administered to each applicant seeking
905 community-care-for-the-elderly services. The functional
906 assessment instrument shall be developed by the department in
907 rule.

908 (c)1. The department shall determine an order of
909 prioritization for all functionally impaired elderly persons
910 seeking community-care-for-the-elderly services which is based
911 on the frailty level of the applicant and the applicant's
912 likelihood of institutional placement if he or she does not
913 receive program services. After determining the applicant's
914 frailty level and likelihood of institutional placement, if the
915 list of potential recipients requires further prioritization,
916 the department shall consider the applicant's ability to pay for
917 similar services. Those who are less able to pay for services
918 must receive higher priority than those who are better able to
919 pay for the services. An applicant's ability to pay may be
920 determined by using the applicant's self-declared statement of
921 income and expenses.

922 2. Administering entities, lead agencies, and service
923 providers may not provide core services, as defined in
924 430.203(5) to a client using community-care-for-the-elderly

925 funds if the individual is not within a priority category
926 established by the criteria of this paragraph.

927 3. The department may temporarily waive the requirements
928 of this paragraph if the secretary determines that an emergency
929 situation exists.

930 (d) Notwithstanding paragraph (c), a person who is 60
931 years of age or older and who is determined by a protective
932 investigation to be a vulnerable adult in need of services under
933 s. 415.104(3), or to be a victim of abuse, neglect, or
934 exploitation who is in need of immediate services in order to
935 prevent further harm, and who is referred by the adult
936 protective services program, shall be given primary
937 consideration for receiving community-care-for-the-elderly core
938 services. As used in this paragraph, the term "primary
939 consideration" means that an assessment and services must start
940 within 72 hours after the person is referred to the department
941 or as established in accordance with department contracts by
942 local protocols developed between department service providers
943 and the adult protective services program.

944 (7) A preservice and in-service training program for
945 community-care-for-the-elderly service providers and staff shall
946 be designed and implemented by the department to help ensure the
947 delivery of quality services. The department shall adopt a rule
948 specifying the training standards and requirements for service
949 providers and staff. Training must be sufficient to ensure that
950 quality services are provided to clients and that appropriate
951 skills are developed to conduct the program.

952 (8)-(3)- The use of volunteers shall be maximized to provide

953 a range of services for ~~the~~ functionally impaired elderly
 954 persons ~~person~~. The department shall provide or arrange for the
 955 ~~provision of~~ training and supervision of volunteers to ensure
 956 the delivery of quality services. The department ~~or contracting~~
 957 agency may provide, or it may require administering entities,
 958 lead agencies, or service providers under contract to provide,
 959 appropriate insurance coverage to protect volunteers from
 960 personal liability while acting within the scope of their
 961 volunteer assignments under a community care service area. The
 962 coverage may also include excess automobile liability
 963 protection.

964 ~~(4) The department or contracting agency shall contract~~
 965 ~~for the provision of the core services required by a community~~
 966 ~~care service area.~~

967 ~~(9)(5)~~ Lead agencies and entities under contract with a
 968 lead agency providing ~~Entities contracting to provide core~~
 969 services under ss. 430.201-430.2045 ~~ss. 430.201-430.207~~ must
 970 provide a minimum of 10 percent of the funding necessary for the
 971 support of the program's operation ~~project operations~~. In-kind
 972 contributions, including ~~whether~~ materials, commodities,
 973 transportation, office space, other types of facilities, or
 974 personal services, and contributions of money or services from
 975 functionally impaired elderly persons may be evaluated and
 976 counted as part or all of the required local funding.

977 ~~(10)(6)~~ Whenever ~~When~~ possible, services shall be provided
 978 to elderly persons under the Florida Plan for Medical Assistance
 979 under Title XIX of the Social Security Act in place of using
 980 community-care-for-the-elderly funds. This subsection does not

981 prevent the temporary delivery of services to elderly persons
 982 who are awaiting determination of eligibility under the Medicaid
 983 program. However, if a functionally impaired elderly person
 984 receiving community-care-for-the-elderly core services is
 985 determined to be eligible for substantially similar services
 986 under the Medicaid program, the person must be transferred
 987 immediately to the Medicaid program. ~~obtained under:~~

988 ~~(a) The Florida Plan for Medical Assistance under Title~~
 989 ~~XIX of the Social Security Act; or~~

990 ~~(b) The State Plan on Aging under the Older Americans Act.~~

991 ~~(11)(7)~~ Funds appropriated for the community-care-for-the-
 992 elderly program ~~community care for the elderly~~ must be used only
 993 for ~~the provision of~~ community-care-for-the-elderly core
 994 services, case management, and directly related expenditures.
 995 The department may provide advance funding for the community-
 996 care-for-the-elderly program.

997 ~~(12)(8)~~ Provider agencies are responsible for the
 998 collection of fees for services in accordance with rules adopted
 999 by the department. Provider agencies shall assess fees for
 1000 services rendered in accordance with those rules. To help pay
 1001 for services received through the community-care-for-the-elderly
 1002 program ~~from community care for the elderly~~, a functionally
 1003 impaired elderly person shall be assessed a fee based on the
 1004 person's ~~an overall~~ ability to pay for core services without
 1005 jeopardizing the person's ability to pay for other basic living
 1006 necessities such as expenses for food, living space,
 1007 medications, and other similar life-sustaining expenditures. The
 1008 fee to be assessed shall be fixed according to a schedule

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1009 established by the department ~~in cooperation with area agencies,~~
 1010 ~~lead agencies, and service providers.~~

1011 (13)~~(9)~~ The department shall evaluate the delivery of
 1012 services within community care service areas and recommend
 1013 legislative and administrative action as necessary. The
 1014 department shall analyze ~~Accurate analysis~~ of the costs and
 1015 benefits associated with the establishment and operation of the
 1016 program ~~programs as determined~~ through a uniform cost accounting
 1017 and reporting system designed ~~shall be maintained~~ to provide an
 1018 assessment of the ability of these programs to:

1019 (a) Reduce the rate of inappropriate entry and placement
 1020 of functionally impaired elderly persons into more restrictive
 1021 care settings ~~in institutions; and~~

1022 (b) Reduce the use of institutional services and
 1023 facilities. ~~and~~

1024 ~~(c) Recommend legislative and administrative action.~~

1025 (14) Notwithstanding other provisions of this section, the
 1026 department may conduct or contract for demonstration projects to
 1027 determine the desirability of new concepts of organization,
 1028 administration, or service delivery which are designed to
 1029 prevent the institutionalization of functionally impaired
 1030 elderly persons. The department shall evaluate the cost-
 1031 avoidance features of the demonstration projects, the ability of
 1032 the projects to reduce the rate of placing functionally impaired
 1033 elderly persons into institutions, and the impact of the
 1034 projects on the use of institutional services and facilities.

1035 Section 12. Section 430.2043, Florida Statutes, is created
 1036 to read:

1037 430.2043 Competitive selection of lead agencies and core
 1038 service providers.--

1039 (1) An entity may be designated as a lead agency for a
 1040 community care service area under the community-care-for-the-
 1041 elderly program only after the review committee, as established
 1042 in this section, examines and impartially scores the competitive
 1043 sealed proposals. An administering entity must follow the
 1044 procedures set forth in this section when conducting the
 1045 competitive-procurement process.

1046 (a) A process of competitive procurement shall be
 1047 announced simultaneously to all prospective vendors using
 1048 multiple written or recorded advertisements through such mediums
 1049 as newspapers, television, Internet websites, e-mail, and other
 1050 community advertisements. The request for proposals must
 1051 include:

1052 1. A statement of the commodities or contractual services
 1053 sought;

1054 2. The latest possible time and date for the receipt of a
 1055 proposal and the location to which the proposal must be sent in
 1056 order to be considered;

1057 3. The time, date, and location of the public opening of
 1058 all proposals;

1059 4. A listing of the names and professional titles of each
 1060 member and alternate member of the review committee;

1061 5. The grievance procedure for any vendor wishing to file
 1062 a bid protest relating to the impartiality or legality of the
 1063 competitive-selection or scoring process; and

1064 6. All contractual terms and conditions applicable to the

1065 procurement, including the criteria, which must include, but
1066 need not be limited to, cost-effectiveness, quality, variety of
1067 services offered, and geographic service area to be served,
1068 which criteria shall be scored and used to determine the most
1069 advantageous proposal.

1070 (b) Cost-effectiveness and maximizing the number of
1071 clients served using available funds each year shall count for
1072 not less than 80 percent of the total possible score for each
1073 proposal, and the relative importance of the other evaluation
1074 criteria shall be indicated in the initial request for
1075 proposals. Failure to include any measuring criteria in the
1076 initial request for proposals prohibits that criteria from being
1077 used in determining the most advantageous proposal, unless the
1078 administering entity discontinues the competitive-selection
1079 process before any scoring takes place and reissues the request
1080 for proposals. Once scoring the proposals has begun, the
1081 selection process must continue to completion and a contract
1082 must be awarded, pending the outcome of a bid protest.

1083 (c) The administering agency shall publicly notice and
1084 conduct, not less than 15 days before the final date for receipt
1085 of all proposals, a conference for purposes of ensuring that
1086 each prospective interested vendor fully understands the
1087 solicitation requirements. The vendors shall be accorded fair
1088 and equal treatment in posing questions and receiving responses
1089 to their questions during the conference. The administering
1090 entity shall provide notice in writing, not less than 10 days
1091 before the date for receipt of all proposals, the questions and
1092 answers for each inquiry posed by a prospective vendor during

1093 the conference.

1094 (d) The governing board of the administering entity or, if
 1095 no governing board exists, the chief executive officer, shall
 1096 appoint an impartial review committee consisting of an odd
 1097 number of no fewer than five members to evaluate all proposals.
 1098 Two alternate members shall also be appointed. The review
 1099 committee members must collectively have experience and
 1100 knowledge in the program areas and service requirements for the
 1101 commodities or contractual services being sought. More than 50
 1102 percent of the review committee's composition must be persons
 1103 who have no working or personal relationship or affiliation with
 1104 the administering entity or any likely prospective bidder, but
 1105 such persons may be employees of other administrating entities
 1106 in the state.

1107 (e) The administering entity shall conduct, at the time
 1108 and place noted in the initial request for proposals, a public
 1109 opening of all bids where members of the review committee will
 1110 be presented with all proposals. During the public bid-opening
 1111 meeting, once all bids have been opened but before any member of
 1112 the review committee inspects a proposal, each member must sign
 1113 an attestation that he or she has no conflict of interest or
 1114 working or personal relationship with any of the vendors that
 1115 submitted proposals. If a member of the review committee, upon
 1116 learning the names of the vendors that submitted bids,
 1117 determines that he or she has a conflict of interest with a
 1118 vendor that submitted a proposal, the member shall be dismissed
 1119 from his or her scoring duties and the first alternate shall
 1120 take his or her place on the committee. The administering entity

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1121 may reschedule the date of the public opening of all bids from
1122 the date noted in the initial request for proposals by publicly
1123 noticing the new date not less than 10 days before the date of
1124 the rescheduled meeting.

1125 (f) Scoring of proposals shall be conducted only by those
1126 members of the review committee who are appointed and noted in
1127 the initial request for proposals. Alternates may not score
1128 proposals unless a committee member was determined to have a
1129 conflict of interest. Each committee member shall review and
1130 score all submitted proposals. Scoring shall be conducted in an
1131 independent, unbiased manner for the sole purpose of choosing
1132 the most advantageous proposal for the program's enrollees
1133 through the scoring methodology described in the initial request
1134 for proposals. Scoring of proposals need not occur in a public
1135 meeting; however, scoring pages, member notes pertaining to the
1136 scoring, final scores, and other similar documentation shall all
1137 be available for public inspection following an award. Members
1138 of the review committee may not discuss with each other the
1139 proposals until an award has been made. The chief executive
1140 officer of the administering entity, in the presence of at least
1141 two unrelated witnesses who are not employees of the entity,
1142 shall collect all final scoring pages from the review committee
1143 and shall determine the proposal that received the highest
1144 cumulative score among the total scores awarded by the committee
1145 members to each vendor.

1146 (g) The designation of a lead agency and the corresponding
1147 contract shall be awarded to the responsible and responsive
1148 vendor whose proposal receives the highest cumulative score from

1149 the review committee. The administering entity shall submit in
 1150 writing to its board of directors, with a copy to the secretary,
 1151 a statement supporting the basis upon which the award was made.

1152 (h) The administering entity must establish, before
 1153 advertising its request for proposals, an agreement with an
 1154 experienced mediator who has no conflict of interest with the
 1155 procurement process, the administering entity, or any likely
 1156 respondents to the proposal. The mediator must agree to
 1157 impartially consider the arguments of any bidder who is not
 1158 awarded the contract as the lead agency but who timely filed a
 1159 proposal in a bid protest directed to the impartiality or
 1160 legality of the selection procedures or scoring process. The
 1161 mediator must adhere to the guidelines for a bid protest set out
 1162 in the initial request for proposals. The mediator must also
 1163 consider any information provided by the administering entity
 1164 and the review committee to refute or substantiate the claims of
 1165 the protestor. After reviewing the facts of the protest and the
 1166 selection process, the mediator shall report whether the
 1167 procurement process was conducted substantially fairly, openly,
 1168 and impartially. If the mediator determines that the process was
 1169 flawed by some act or omission by the administering entity or
 1170 review committee which substantially affected the outcome of the
 1171 selection process in a negative manner, the administering entity
 1172 shall dismiss the award and conduct a new selection process.

1173 (2) The secretary may waive in writing the competitive-
 1174 procurement process described in this section for a period of
 1175 180 days and may approve an award of a contract by the
 1176 administrative entity using a noncompetitive process if the

1177 secretary determines that there is an immediate danger to the
 1178 public health, safety, or welfare or a substantial loss to the
 1179 state and that emergency action is required.

1180 Section 13. Section 430.2045, Florida Statutes, is created
 1181 to read:

1182 430.2045 Rules.--The department may adopt rules pursuant
 1183 to ss. 120.536(1) and 120.54 to administer the community-care-
 1184 for-the-elderly program.

1185 Section 14. Section 430.2051, Florida Statutes, is created
 1186 to read:

1187 430.2051 Integrated long-term-care delivery
 1188 system.--Notwithstanding other requirements of this chapter, the
 1189 department and the Agency for Health Care Administration shall
 1190 develop an integrated long-term-care delivery system.

1191 (1) The duties of the integrated system shall include
 1192 organizing and administering service delivery for the elderly,
 1193 obtaining contracts for services with providers in each service
 1194 area, monitoring the quality of services provided, determining
 1195 levels of need and disability for payment purposes, and other
 1196 activities determined necessary by the department and the agency
 1197 in order to operate an integrated system.

1198 (2) The agency and the department shall reimburse
 1199 providers for case management services on a capitated basis and
 1200 develop uniform standards for case management within the Aged
 1201 and Disabled Adult Medicaid waiver program. The coordination of
 1202 acute and chronic medical services for individuals may be
 1203 included in the capitated rate for case management services. The
 1204 agency, in consultation with the department, shall adopt rules

1205 pursuant to ss. 120.536(1) and 120.54 necessary to comply with
 1206 or administer these requirements.

1207 (3) The agency, in consultation with the department, shall
 1208 work with the fiscal agent for the Medicaid program to develop a
 1209 service utilization reporting system that operates through the
 1210 fiscal agent for the capitated plans.

1211 (4) The department, in consultation with the agency, shall
 1212 integrate the database systems for the Comprehensive Assessment
 1213 and Review for Long-Term Care Services (CARES) program and the
 1214 Client Information and Referral Tracking System (CIRTS) into a
 1215 single operating assessment information system by October 30,
 1216 2006.

1217 (5) During the 2006-2007 fiscal year:

1218 (a) The agency, in consultation with the department, shall
 1219 evaluate the Alzheimer's Disease waiver program and the Adult
 1220 Day Health Care waiver program to assess whether providing
 1221 limited intensive services through these waiver programs
 1222 produces better outcomes for individuals than providing those
 1223 services through the fee-for-service or capitated programs that
 1224 provide a larger array of services.

1225 (b) The agency, in consultation with the department, shall
 1226 begin discussions with the federal Centers for Medicare and
 1227 Medicaid Services regarding the inclusion of Medicare into the
 1228 integrated long-term-care system. By December 31, 2006, the
 1229 agency shall provide to the Governor, the President of the
 1230 Senate, and the Speaker of the House of Representatives a plan
 1231 for including Medicare in the integrated long-term-care system.

1232 Section 15. Section 430.207, Florida Statutes, is amended

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1233 to read:

1234 430.207 Confidentiality of information.--Information about
 1235 functionally impaired elderly persons who receive services under
 1236 ss. 430.201-430.2045 ~~ss. 430.201-430.206~~ which is received
 1237 through files, reports, inspections, or otherwise, by the
 1238 department or by authorized departmental employees, by persons
 1239 who volunteer services, or by persons who provide services to
 1240 functionally impaired elderly persons under ss. 430.201-430.2045
 1241 ~~ss. 430.201-430.206~~ through contracts with the department is
 1242 confidential and exempt from the provisions of s. 119.07(1).
 1243 Such information may not be disclosed publicly in such a manner
 1244 as to identify a functionally impaired elderly person, unless
 1245 that person or his or her legal guardian provides written
 1246 consent.

1247 Section 16. Section 430.5001, Florida Statutes, is created
 1248 to read:

1249 430.5001 Alzheimer's disease initiative; short title; rule
 1250 authority.--

1251 (1) Sections 430.5001-430.504 may be cited as the
 1252 "Alzheimer's Disease Initiative."

1253 (2) The department may adopt rules pursuant to ss.
 1254 120.536(1) and 120.54 necessary to administer the programs
 1255 created under ss. 430.5001-430.504.

1256 Section 17. Subsection (5) of section 430.502, Florida
 1257 Statutes, is amended to read:

1258 430.502 Alzheimer's disease; memory disorder clinics and
 1259 day care and respite care programs.--

1260 (5) Pursuant to s. 287.057, the department ~~of Elderly~~

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1261 ~~Affairs~~ shall contract for the provision of respite care and
 1262 adult day care services. All funds appropriated for ~~the~~
 1263 ~~provision of~~ respite care shall be distributed annually by the
 1264 department to each funded county according to an allocation
 1265 formula. In developing the formula, the department shall
 1266 consider the number and proportion of the county population of
 1267 individuals who are 75 years of age and older. Each respite care
 1268 program shall be used as a resource for research and statistical
 1269 data by the memory disorder clinics established in this section
 1270 ~~part~~. In consultation with the memory disorder clinics, the
 1271 department shall specify the information to be provided by the
 1272 respite care programs for research purposes. Respite provider
 1273 organizations shall assess and collect fees for services
 1274 according to rules adopted by the department. To help pay for
 1275 services received through the Alzheimer's Disease Initiative, a
 1276 functionally impaired elderly person shall be assessed a fee
 1277 based on the person's ability to pay for those services without
 1278 jeopardizing the person's ability to pay the expenses for other
 1279 basic living necessities. The fee to be assessed shall be fixed
 1280 in a schedule to be prepared by the department. Services of
 1281 specified value may be accepted in lieu of a fee. The fee
 1282 schedule shall be developed in cooperation with the Alzheimer's
 1283 Disease Advisory Committee and updated as necessary.

1284 Section 18. Section 430.504, Florida Statutes, is amended
 1285 to read:

1286 430.504 Confidentiality of information.--Information about
 1287 clients of programs created or funded under s. 430.501 or s.
 1288 430.503 which is received through files, reports, inspections,

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1289 or otherwise, by the department or by authorized departmental
 1290 employees, by persons who volunteer services, or by persons who
 1291 provide services to clients of programs created or funded under
 1292 s. 430.501 or s. 430.502(5) ~~s. 430.503~~ through contracts with
 1293 the department is confidential and exempt from the provisions of
 1294 s. 119.07(1). Such information may not be disclosed publicly in
 1295 such a manner as to identify a person who receives services
 1296 under s. 430.501 or s. 430.502(5) ~~s. 430.503~~, unless that person
 1297 or that person's legal guardian provides written consent.

1298 Section 19. Section 430.602, Florida Statutes, is amended
 1299 to read:

1300 430.602 Home care for the elderly; definitions.--As used
 1301 in ss. 430.601-430.606:

1302 ~~(1) "Department" means the Department of Elderly Affairs.~~
 1303 (1)(2) "Elderly person" means any person 60 years of age
 1304 or older ~~over~~ who is currently a resident of this state ~~and has~~
 1305 ~~an intent to remain in this state.~~

1306 (2)(3) "Home care ~~for the elderly~~" means a full-time
 1307 family-type living arrangement, in a private home, under which a
 1308 person or group of persons provides, on a nonprofit basis, basic
 1309 services of maintenance and supervision, and any necessary
 1310 specialized services as may be needed, for three or fewer
 1311 elderly persons.

1312 Section 20. Section 430.603, Florida Statutes, is amended
 1313 to read:

1314 430.603 Home care for the elderly; rules.--There is
 1315 created within the department the home care for the elderly
 1316 program. The department shall adopt rules pursuant to ss.

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1317 120.536(1) and 120.54 to ~~by rule~~ establish minimum standards and
 1318 procedures for the provision of home care ~~for the elderly and~~
 1319 for the approval of persons seeking to provide this ~~such~~ care.
 1320 Any person who is approved to provide care, goods, or services
 1321 for an elderly person shall be eligible for the subsidy payments
 1322 described in s. 430.605. However, the cost of administration and
 1323 subsidy payments made under the home care for the elderly
 1324 program must not exceed the amount specifically ~~be operated~~
 1325 ~~within the funds~~ appropriated by the Legislature for the program
 1326 each year.

1327 Section 21. Section 430.604, Florida Statutes, is amended
 1328 to read:

1329 430.604 Department determination of inability to provide
 1330 home care.--If a person who is providing or plans to provide
 1331 home care ~~under ss. 430.601-430.606~~ is found by the department,
 1332 or its designee, to be unable to provide this care, the
 1333 department must notify the person ~~seeking to provide home care~~
 1334 of this determination, and the person is immediately ineligible
 1335 to receive ~~not eligible for~~ subsidy payments under the program
 1336 ~~ss. 430.601-430.606.~~

1337 Section 22. Section 430.606, Florida Statutes, is amended
 1338 to read:

1339 430.606 Eligibility for services.--The criteria for
 1340 determining eligibility for the home care for the elderly ~~this~~
 1341 program shall be substantially similar to the criteria used to
 1342 determine eligibility for ~~nursing home care under~~ the Medicaid
 1343 institutional care program of the state.

1344 Section 23. Paragraph (c) of subsection (2) of section

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1345 430.705, Florida Statutes, is amended to read:

1346 430.705 Implementation of the long-term care community
1347 diversion pilot projects.--

1348 (2)

1349 (c) The requirements of paragraph (b) do not apply to
1350 entities selected to provide services to the pilot projects
1351 authorized under s. 430.2051(3) ~~s. 430.205(6)(b)2~~. The
1352 department, in consultation with the agency, shall develop by
1353 rule minimum financial solvency and reporting standards for
1354 these providers that are reflective of the amount of risk the
1355 provider will assume under the pilot project. The standards
1356 adopted by rule shall ensure safety for the pilot project
1357 enrollees and financial protection for the state in the event of
1358 a provider's inability to continue providing services to the
1359 project.

1360 Section 24. Sections 430.205, 430.2053, and 430.503,
1361 Florida Statutes, are repealed.

1362 Section 25. Subsection (12) of section 400.126, Florida
1363 Statutes, is amended to read:

1364 400.126 Receivership proceedings.--

1365 (12) Concurrently with the appointment of a receiver, the
1366 agency and the Department of Elderly Affairs shall coordinate an
1367 assessment of each resident in the facility by the Comprehensive
1368 Assessment and Review for Long-Term-Care (CARES) Program for the
1369 purpose of evaluating each resident's need for the level of care
1370 provided in a nursing facility and the potential for providing
1371 such care in alternative settings. If the CARES assessment
1372 determines that a resident could be cared for in a less

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1373 restrictive setting or does not meet the criteria for skilled or
 1374 intermediate care in a nursing home, the department and agency
 1375 shall refer the resident for such care, as is appropriate for
 1376 the resident. Residents referred under ~~pursuant to~~ this
 1377 subsection shall be given primary consideration for receiving
 1378 services under the community care for the elderly program in the
 1379 same manner as persons classified to receive ~~such~~ services under
 1380 s. 430.204(5) ~~pursuant to s. 430.205.~~

1381 Section 26. Paragraph (h) of subsection (4) of section
 1382 409.912, Florida Statutes, is amended to read:

1383 409.912 Cost-effective purchasing of health care.--The
 1384 agency shall purchase goods and services for Medicaid recipients
 1385 in the most cost-effective manner consistent with the delivery
 1386 of quality medical care. To ensure that medical services are
 1387 effectively utilized, the agency may, in any case, require a
 1388 confirmation or second physician's opinion of the correct
 1389 diagnosis for purposes of authorizing future services under the
 1390 Medicaid program. This section does not restrict access to
 1391 emergency services or poststabilization care services as defined
 1392 in 42 C.F.R. part 438.114. Such confirmation or second opinion
 1393 shall be rendered in a manner approved by the agency. The agency
 1394 shall maximize the use of prepaid per capita and prepaid
 1395 aggregate fixed-sum basis services when appropriate and other
 1396 alternative service delivery and reimbursement methodologies,
 1397 including competitive bidding pursuant to s. 287.057, designed
 1398 to facilitate the cost-effective purchase of a case-managed
 1399 continuum of care. The agency shall also require providers to
 1400 minimize the exposure of recipients to the need for acute

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1401 inpatient, custodial, and other institutional care and the
1402 inappropriate or unnecessary use of high-cost services. The
1403 agency shall contract with a vendor to monitor and evaluate the
1404 clinical practice patterns of providers in order to identify
1405 trends that are outside the normal practice patterns of a
1406 provider's professional peers or the national guidelines of a
1407 provider's professional association. The vendor must be able to
1408 provide information and counseling to a provider whose practice
1409 patterns are outside the norms, in consultation with the agency,
1410 to improve patient care and reduce inappropriate utilization.
1411 The agency may mandate prior authorization, drug therapy
1412 management, or disease management participation for certain
1413 populations of Medicaid beneficiaries, certain drug classes, or
1414 particular drugs to prevent fraud, abuse, overuse, and possible
1415 dangerous drug interactions. The Pharmaceutical and Therapeutics
1416 Committee shall make recommendations to the agency on drugs for
1417 which prior authorization is required. The agency shall inform
1418 the Pharmaceutical and Therapeutics Committee of its decisions
1419 regarding drugs subject to prior authorization. The agency is
1420 authorized to limit the entities it contracts with or enrolls as
1421 Medicaid providers by developing a provider network through
1422 provider credentialing. The agency may competitively bid single-
1423 source-provider contracts if procurement of goods or services
1424 results in demonstrated cost savings to the state without
1425 limiting access to care. The agency may limit its network based
1426 on the assessment of beneficiary access to care, provider
1427 availability, provider quality standards, time and distance
1428 standards for access to care, the cultural competence of the

1429 provider network, demographic characteristics of Medicaid
 1430 beneficiaries, practice and provider-to-beneficiary standards,
 1431 appointment wait times, beneficiary use of services, provider
 1432 turnover, provider profiling, provider licensure history,
 1433 previous program integrity investigations and findings, peer
 1434 review, provider Medicaid policy and billing compliance records,
 1435 clinical and medical record audits, and other factors. Providers
 1436 shall not be entitled to enrollment in the Medicaid provider
 1437 network. The agency shall determine instances in which allowing
 1438 Medicaid beneficiaries to purchase durable medical equipment and
 1439 other goods is less expensive to the Medicaid program than long-
 1440 term rental of the equipment or goods. The agency may establish
 1441 rules to facilitate purchases in lieu of long-term rentals in
 1442 order to protect against fraud and abuse in the Medicaid program
 1443 as defined in s. 409.913. The agency may seek federal waivers
 1444 necessary to administer these policies.

1445 (4) The agency may contract with:

1446 (h) An entity authorized in s. 430.204 ~~s. 430.205~~ to
 1447 contract with the agency and the Department of Elderly Affairs
 1448 to provide health care and social services on a prepaid or
 1449 fixed-sum basis to elderly recipients. Such prepaid health care
 1450 services entities are exempt from the provisions of part I of
 1451 chapter 641 for the first 3 years of operation. An entity
 1452 recognized under this paragraph that demonstrates to the
 1453 satisfaction of the Office of Insurance Regulation that it is
 1454 backed by the full faith and credit of one or more counties in
 1455 which it operates may be exempted from s. 641.225.

1456 Section 27. Paragraph (c) of subsection (3) of section

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1457 420.36, Florida Statutes, is amended to read:

1458 420.36 Low-income Emergency Home Repair Program.--There is
 1459 established within the Department of Community Affairs the Low-
 1460 income Emergency Home Repair Program to assist low-income
 1461 persons, especially the elderly and physically disabled, in
 1462 making emergency repairs which directly affect their health and
 1463 safety.

1464 (3)

1465 (c) Each grantee shall be required to provide an in-kind
 1466 or cash match of at least 20 percent of the funds granted.
 1467 Grantees and subgrantees are ~~shall be~~ encouraged to use
 1468 community resources to provide the ~~such~~ match, including family,
 1469 church, and neighborhood volunteers and materials provided by
 1470 local groups and businesses. Grantees shall coordinate with
 1471 local governments through their community development block
 1472 grant entitlement programs and other housing programs, local
 1473 housing partnerships, and agencies under contract to a lead
 1474 agency for the provisions of services under the Community Care
 1475 for the Elderly Act, ss. 430.201-430.2045 ~~ss. 430.201-430.207~~.

1476 Section 28. This act shall take effect July 1, 2006.