

1 A bill to be entitled

2 An act relating to the Department of Elderly Affairs;
3 amending s. 430.04, F.S.; requiring the Department of
4 Elderly Affairs to conduct an evaluation prior to
5 rescinding designation of or taking certain measures
6 against an area agency on aging; providing circumstances
7 under which the department may terminate an area agency on
8 aging contract; authorizing the department to contract
9 with certain entities to provide programs and services
10 under certain circumstances; requiring the department to
11 initiate a competitive procurement process to replace an
12 area agency on aging within a specified time period;
13 providing for certain contracts and agreements to be
14 assignable to the department and, subsequently, to an
15 entity selected to replace the area agency on aging;
16 providing an effective date.

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

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20 Section 1. Subsection (2) of section 430.04, Florida
21 Statutes, is amended, subsections (3) through (16) are
22 renumbered as subsections (4) through (17), respectively, and a
23 new subsection (3) is added to that section, to read:

24 430.04 Duties and responsibilities of the Department of
25 Elderly Affairs.--The Department of Elderly Affairs shall:

26 (2) Be responsible for ensuring that each area agency on
27 aging operates in a manner to ensure that the elderly of this

28 | state receive the best services possible. The department shall
29 | rescind designation of an area agency on aging or take
30 | intermediate measures against the agency, including corrective
31 | action, unannounced special monitoring, temporary assumption of
32 | operation of one or more programs by the department, placement
33 | on probationary status, imposing a moratorium on agency action,
34 | imposing financial penalties for nonperformance, or other
35 | administrative action pursuant to chapter 120, if, after an
36 | evaluation, the department finds that:

37 | (a) An intentional or negligent act of the agency has
38 | materially affected the health, welfare, or safety of clients,
39 | or substantially and negatively affected the operation of an
40 | aging services program;-

41 | (b) The agency lacks financial stability sufficient to
42 | meet contractual obligations or that contractual funds have been
43 | misappropriated;-

44 | (c) The agency has committed multiple or repeated
45 | violations of legal and regulatory requirements or department
46 | standards;-

47 | (d) The agency has failed to continue the provision or
48 | expansion of services after the declaration of a state of
49 | emergency;-

50 | (e) The agency has exceeded its authority or otherwise
51 | failed to adhere to the terms of its contract with the
52 | department or has exceeded its authority or otherwise failed to
53 | adhere to the provisions specifically provided by statute or
54 | rule adopted by the department;-

55 (f) The agency has failed to properly determine client
56 eligibility as defined by the department or efficiently manage
57 program budgets; ~~or-~~

58 (g) The agency has failed to implement and maintain a
59 department-approved client grievance resolution procedure.

60 (3) If the department takes an intermediate measure
61 against an area agency on aging as provided in subsection (2)
62 and the department determines, at least 90 days after such
63 measure is taken, that the agency has failed to effectively
64 plan, fund, or administer contracts for programs and services
65 not funded by the federal Older Americans Act, the department
66 may terminate an agency's contract for such programs or
67 services. Notwithstanding any law to the contrary, in the event
68 of the termination of a contract with an agency, the department
69 shall contract, in accordance with chapter 287, with an entity
70 to plan, fund, and administer the programs and services
71 previously under contract in the affected planning and service
72 area. The department may directly provide the affected program
73 or service for a limited period of time but shall initiate a
74 competitive procurement process to replace the agency within 180
75 days after the termination of the agency's contract. Any
76 contract or referral agreement effective on or after July 1,
77 2006, between an area agency on aging and a lead agency or
78 service provider must be assignable to the department and
79 subsequently to an entity competitively selected under this
80 subsection.

81 Section 2. This act shall take effect July 1, 2006.