

By Senator King

rb01sa-07

1 A reviser's bill to be entitled
2 An act relating to the Florida Statutes;
3 amending ss. 11.0451, 39.5085, 39.6013,
4 39.6221, 61.076, 63.032, 110.1155, 112.32151,
5 163.370, 166.271, 171.205, 189.4155, 195.096,
6 196.012, 201.0205, 202.24, 205.1975, 212.08,
7 213.053, 213.0535, 215.82, 218.64, 220.181,
8 220.183, 250.01, 250.82, 250.84, 252.35,
9 255.25001, 259.1053, 260.016, 287.0574,
10 288.039, 288.1045, 288.106, 288.90151,
11 290.0057, 290.0072, 320.77, 322.2615, 328.64,
12 331.312, 331.313, 331.316, 331.319, 331.324,
13 336.68, 341.840, 366.93, 370.063, 375.065,
14 376.30, 376.301, 376.303, 376.305, 376.307,
15 376.3071, 376.3075, 376.30781, 376.3079,
16 376.308, 376.309, 376.313, 376.315, 376.317,
17 376.82, 376.84, 380.06, 380.23, 381.028,
18 400.0073, 400.0074, 400.0075, 400.506, 402.164,
19 403.091, 403.5175, 403.526, 403.5271, 403.528,
20 403.7043, 403.708, 408.036, 408.802, 408.803,
21 408.806, 408.820, 408.832, 409.1685, 409.221,
22 409.908, 409.912, 409.91211, 419.001, 421.49,
23 429.07, 429.35, 429.69, 429.73, 429.903,
24 429.909, 429.915, 429.919, 435.03, 435.04,
25 456.072, 458.348, 458.3485, 459.025, 482.242,
26 483.285, 489.127, 489.128, 489.131, 489.532,
27 497.461, 499.029, 500.511, 501.016, 501.143,
28 501.160, 509.233, 516.05, 551.101, 559.939,
29 607.0130, 607.193, 620.2113, 620.2118,
30 620.8911, 624.5105, 626.022, 626.171, 626.935,
31 626.9912, 627.351, 627.6617, 633.0245,

1 679.4031, 679.707, 727.109, 736.1001, 736.1209,
2 743.09, 775.21, 794.056, 817.36, 827.06,
3 847.001, 849.09, 849.15, 921.0022, 933.07,
4 943.0435, 943.325, 944.606, 944.607, 984.19,
5 985.483, 985.565, 1001.25, 1001.73, 1002.01,
6 1002.20, 1002.335, 1003.51, 1004.28, 1008.33,
7 1008.345, 1011.62, 1011.71, 1012.21, 1012.22,
8 1013.11, and 1013.721, F.S.; reenacting and
9 amending s. 215.559, F.S.; reenacting ss.
10 316.006 and 1008.22, F.S.; and repealing ss.
11 253.421, 253.422, 288.1231, 288.1232, 288.1233,
12 288.1235, 288.1236, 288.1237, and 947.022,
13 F.S.; pursuant to s. 11.242, F.S.; deleting
14 provisions that have expired, have become
15 obsolete, have had their effect, have served
16 their purpose, or have been impliedly repealed
17 or superseded; replacing incorrect
18 cross-references and citations; correcting
19 grammatical, typographical, and like errors;
20 removing inconsistencies, redundancies, and
21 unnecessary repetition in the statutes;
22 improving the clarity of the statutes and
23 facilitating their correct interpretation;
24 confirming the restoration of provisions
25 unintentionally omitted from republication in
26 the acts of the Legislature during the
27 amendatory process; and conforming to the
28 directive of the Legislature in s. 1, ch.
29 93-199, Laws of Florida, to remove
30 gender-specific references applicable to human
31

1 | beings from the Florida Statutes without
2 | substantive change in legal effect.

3 |
4 | Be It Enacted by the Legislature of the State of Florida:

5 |
6 | Section 1. Section 11.0451, Florida Statutes, is
7 | amended to read:

8 | 11.0451 Requirements for reinstatement of lobbyist
9 | registration after felony conviction.--A person convicted of a
10 | felony after January 1, 2006, may not be registered as a
11 | lobbyist pursuant to s. 11.045 ~~or s. 112.3125~~ until the
12 | person:

13 | (1) Has been released from incarceration and any
14 | postconviction supervision, and has paid all court costs and
15 | court-ordered restitution; and

16 | (2) Has had his or her civil rights restored.

17 |
18 | Reviser's note.--Amended to delete redundancy
19 | in the statutes, as such prohibition relating
20 | to executive branch lobbyist registration
21 | already exists in s. 112.32151.

22 |
23 | Section 2. Paragraph (a) of subsection (2) of section
24 | 39.5085, Florida Statutes, is amended to read:

25 | 39.5085 Relative Caregiver Program.--

26 | (2)(a) The Department of Children and Family Services
27 | shall establish and operate the Relative Caregiver Program
28 | pursuant to eligibility guidelines established in this section
29 | as further implemented by rule of the department. The Relative
30 | Caregiver Program shall, within the limits of available
31 | funding, provide financial assistance to:

1 1. Relatives who are within the fifth degree by blood
2 or marriage to the parent or stepparent of a child and who are
3 caring full-time for that dependent child in the role of
4 substitute parent as a result of a court's determination of
5 child abuse, neglect, or abandonment and subsequent placement
6 with the relative under this chapter.

7 2. Relatives who are within the fifth degree by blood
8 or marriage to the parent or stepparent of a child and who are
9 caring full-time for that dependent child, and a dependent
10 half-brother or half-sister of that dependent child, in the
11 role of substitute parent as a result of a court's
12 determination of child abuse, neglect, or abandonment and
13 subsequent placement with the relative under this chapter.

14
15 The placement may be court-ordered temporary legal custody to
16 the relative under protective supervision of the department
17 pursuant to s. 39.521(1)(b)3., or court-ordered placement in
18 the home of a relative as a permanency option under s. 39.6221
19 or s. 39.6231 or under former s. 39.622 if the placement was
20 made before July 1, 2006. The Relative Caregiver Program shall
21 offer financial assistance to caregivers who are relatives and
22 who would be unable to serve in that capacity without the
23 relative caregiver payment because of financial burden, thus
24 exposing the child to the trauma of placement in a shelter or
25 in foster care.

26
27 Reviser's note.--Amended to conform to the
28 repeal of s. 39.622 by s. 35, ch. 2006-86, Laws
29 of Florida.
30
31

1 Section 3. Subsection (7) of section 39.6013, Florida
2 Statutes, is amended to read:

3 39.6013 Case plan amendments.--

4 (7) Amendments must include service interventions that
5 are the least intrusive into the life of the parent and child,
6 must focus on clearly defined objectives, and must provide the
7 most efficient path to quick reunification or permanent
8 placement given the circumstances of the case and the child's
9 need for safe and proper care. A copy of the amended plan must
10 be immediately given to the persons identified in s.
11 39.6011(6)(b) ~~39.601(1)~~.

12
13 Reviser's note.--Amended to conform to the
14 repeal of s. 39.601 by s. 35, ch. 2006-86, Laws
15 of Florida; s. 39.6011(6)(b), created by s. 15,
16 ch. 2006-86, references persons who must
17 receive case plan copies.

18
19 Section 4. Subsection (3) of section 39.6221, Florida
20 Statutes, is amended to read:

21 39.6221 Permanent guardianship of a dependent child.--

22 (3) The court shall give the permanent guardian a
23 separate order establishing the authority of the permanent
24 guardian to care for the child, ~~reciting what powers and~~
25 ~~duties listed in paragraph (2)(g) belong to the permanent~~
26 ~~guardian~~ and providing any other information the court deems
27 proper which can be provided to persons who are not parties to
28 the proceeding as necessary, notwithstanding the
29 confidentiality provisions of s. 39.202.

1 Reviser's note.--Amended to conform to the fact
2 that paragraph (2)(g) does not exist; the
3 original version of s. 39.6221, as created by
4 Senate Bill 1080, 2006 Regular Session, did
5 include a paragraph (2)(g) containing a list of
6 powers and duties, but that paragraph was
7 deleted from the bill before passage.
8

9 Section 5. Paragraph (b) of subsection (2) of section
10 61.076, Florida Statutes, is amended to read:

11 61.076 Distribution of retirement plans upon
12 dissolution of marriage.--

13 (2) If the parties were married for at least 10 years,
14 during which at least one of the parties who was a member of
15 the federal uniformed services performed at least 10 years of
16 creditable service, and if the division of marital property
17 includes a division of uniformed services retired or retainer
18 pay, the final judgment shall include the following:

19 (b) Certification that the Servicemembers' ~~Soldiers'~~
20 ~~and Sailors'~~ Civil Relief Act ~~of 1940~~ was observed if the
21 decree was issued while the member was on active duty and was
22 not represented in court;
23

24 Reviser's note.--Amended to conform to the
25 redesignation of the federal act in Title 50
26 United States Code.
27

28 Section 6. Subsection (17) of section 63.032, Florida
29 Statutes, is amended to read:

30 63.032 Definitions.--As used in this chapter, the
31 term:

1 (17) "Primarily lives and works outside Florida" means
2 a person who lives and works outside this state at least 6
3 months of the year, military personnel who designate Florida
4 as their place of residence in accordance with the
5 Servicemembers' Soldiers' and Sailors' Civil Relief Act of
6 ~~1940~~, or employees of the United States Department of State
7 living in a foreign country who designate a state other than
8 Florida as their place of residence.

9
10 Reviser's note.--Amended to conform to the
11 redesignation of the federal act in Title 50
12 United States Code.

13
14 Section 7. Subsection (1) of section 110.1155, Florida
15 Statutes, is amended to read:

16 110.1155 Travel to or conducting business with a
17 country in the Western Hemisphere lacking diplomatic relations
18 with the United States.--

19 (1) An officer, employee, agent, or representative of:

20 (a) A state agency;

21 (b) A political subdivision of the state; or

22 (c) A corporation, partnership, association, or other

23 entity that does business or contracts with a state agency,

24 receives state funds, or claims a credit against any tax

25 imposed by the state

26

27 may not travel to or do business with any country located in

28 the Western Hemisphere which lacks diplomatic relations with

29 the United States.

30

31

1 Reviser's note.--Material regarding a
2 prohibition of travel or doing business with
3 any country meeting specifications set out at
4 the end of what was paragraph (1)(c) was placed
5 in a flush left paragraph at the end of
6 subsection (1) to apply to the listed items in
7 paragraphs (a)-(c) to provide clarity and
8 facilitate correct interpretation.

9
10 Section 8. Section 112.32151, Florida Statutes, is
11 amended to read:

12 112.32151 Requirements for reinstatement of lobbyist
13 registration after felony conviction.--A person convicted of a
14 felony after January 1, 2006, may not be registered as a
15 lobbyist pursuant to s. 112.3215 ~~11.045~~ or s. ~~112.3125~~ until
16 the person:

17 (1) Has been released from incarceration and any
18 postconviction supervision, and has paid all court costs and
19 court-ordered restitution; and

20 (2) Has had his or her civil rights restored.

21
22 Reviser's note.--Amended to delete redundancy
23 in the statutes, as such prohibition relating
24 to legislative lobbyist registration already
25 exists in s. 11.0451, and to confirm the
26 editorial substitution of a reference to s.
27 112.3215 for a reference to nonexistent s.
28 112.3125; s. 112.3215 relates to registration
29 of lobbyists who lobby before the executive
30 branch or Constitution Revision Commission.

31

1 Section 9. Paragraph (a) of subsection (4) of section
2 163.370, Florida Statutes, is amended to read:

3 163.370 Powers; counties and municipalities; community
4 redevelopment agencies.--

5 (4) With the approval of the governing body, a
6 community redevelopment agency may:

7 (a) Prior to approval of a community redevelopment
8 plan or approval of any modifications of the plan, acquire
9 real property in a community redevelopment area by purchase,
10 lease, option, gift, grant, bequest, devise, or other
11 voluntary method of acquisition; demolish and remove any
12 structures on the property; and pay all costs related to the
13 acquisition, demolition, or removal, including any
14 administrative or relocation expenses, ~~provided such~~
15 ~~acquisition is not pursuant to s. 163.375.~~

16
17 Reviser's note.--Amended to conform to the
18 repeal of s. 163.375 by s. 11, ch. 2006-11,
19 Laws of Florida.

20
21 Section 10. Subsection (1) and paragraph (a) of
22 subsection (2) of section 166.271, Florida Statutes, are
23 amended to read:

24 166.271 Surcharge on municipal facility parking
25 fees.--

26 (1) The governing authority of any municipality with a
27 resident population of 200,000 or more, more than 20 percent
28 of the real property of which is exempt from ad valorem taxes,
29 and which is located in a county with a population of more
30 than 500,000 may impose and collect, subject to referendum
31 approval by voters in the municipality, a discretionary per

1 vehicle surcharge of up to 15 percent of the amount charged
2 for the sale, lease, or rental of space at parking facilities
3 within the municipality which are open for use to the general
4 public and which are not airports, seaports, county
5 administration buildings, or other projects as defined under
6 ss. 125.011 and 125.015, provided that this surcharge shall
7 not take effect while any surcharge imposed pursuant to s.
8 218.503(6)(a) ~~218.503(5)(a)~~, is in effect.

9 (2) A municipal governing authority that imposes the
10 surcharge authorized by this subsection may use the proceeds
11 of such surcharge for the following purposes only:

12 (a) No less than 60 percent and no more than 80
13 percent of surcharge proceeds shall be used to reduce the
14 municipality's ad valorem tax millage or to reduce or
15 eliminate non-ad valorem assessments, unless the municipality
16 has previously used the proceeds from the surcharge levied
17 under s. 218.503(6)(b) ~~218.503(5)(b)~~ to reduce the
18 municipality's ad valorem tax millage or to reduce non-ad
19 valorem assessments.

20
21 Reviser's note.--Amended to conform to the
22 addition of new s. 218.503(4) and the
23 redesignation of following subunits by s. 5,
24 ch. 2006-190, Laws of Florida.

25
26 Section 11. Subsection (2) of section 171.205, Florida
27 Statutes, is amended to read:

28 171.205 Consent requirements for annexation of land
29 under this part.--Notwithstanding part I, an interlocal
30 service boundary agreement may provide a process for
31 annexation consistent with this section or with part I.

1 (2) If the area to be annexed includes a privately
2 owned solid waste disposal facility as defined in s.
3 403.703(11) which receives municipal solid waste collected
4 within the jurisdiction of multiple local governments, the
5 annexing municipality must set forth in its plan the effects
6 ~~affects~~ that the annexation of the solid waste disposal
7 facility will have on the other local governments. The plan
8 must also indicate that the owner of the affected solid waste
9 disposal facility has been contacted in writing concerning the
10 annexation, that an agreement between the annexing
11 municipality and the solid waste disposal facility to govern
12 the operations of the solid waste disposal facility if the
13 annexation occurs has been approved, and that the owner of the
14 solid waste disposal facility does not object to the proposed
15 annexation.

16
17 Reviser's note.--Amended to confirm the
18 editorial substitution of the word "effects"
19 for the word "affects" to conform to context.

20
21 Section 12. Subsection (6) of section 189.4155,
22 Florida Statutes, is amended to read:

23 189.4155 Activities of special districts; local
24 government comprehensive planning.--

25 (6) Any independent district created under a special
26 act or general law, including, but not limited to, this
27 chapter, chapter 190, chapter 191, or chapter 298, for the
28 purpose of providing urban infrastructure or ~~of~~ services may
29 provide housing and housing assistance for its employed
30 personnel whose total annual household income does not exceed
31

1 140 percent of the area median income, adjusted for family
2 size.

3

4 Reviser's note.--Amended to confirm the
5 editorial substitution of the word "or" for the
6 word "of" to conform to context.

7

8 Section 13. Paragraph (f) of subsection (2) of section
9 195.096, Florida Statutes, is amended to read:

10 195.096 Review of assessment rolls.--

11 (2) The department shall conduct, no less frequently
12 than once every 2 years, an in-depth review of the assessment
13 rolls of each county. The department need not individually
14 study every use-class of property set forth in s. 195.073, but
15 shall at a minimum study the level of assessment in relation
16 to just value of each classification specified in subsection
17 (3). Such in-depth review may include proceedings of the value
18 adjustment board and the audit or review of procedures used by
19 the counties to appraise property.

20 (f) Within 120 days following the receipt of a county
21 assessment roll by the executive director of the department
22 pursuant to s. 193.1142(1), or within 10 days after approval
23 of the assessment roll, whichever is later, the department
24 shall complete the review for that county and forward its
25 findings, including a statement of the confidence interval for
26 the median and such other measures as may be appropriate for
27 each classification or subclassification studied and for the
28 roll as a whole, employing a 95-percent level of confidence,
29 and related statistical and analytical details to the Senate
30 and the House of Representatives committees with oversight
31 responsibilities for taxation, and the appropriate property

1 appraiser. Upon releasing its findings, the department shall
2 notify the chairperson of the appropriate county commission or
3 the corresponding official under a consolidated charter that
4 the department's findings are available upon request. The
5 department shall, within 90 days after receiving a written
6 request from the chairperson of the appropriate county
7 commission or the corresponding official under a consolidated
8 charter, forward a copy of its findings, including the
9 confidence interval for the median and such other measures of
10 each classification or subclassification studied ~~studies~~ and
11 for all the roll as a whole, and related statistical and
12 analytical details, to the requesting party.

13

14 Reviser's note.--Amended to confirm the
15 editorial substitution of the word "studied"
16 for the word "studies" to conform to context.

17

18 Section 14. Subsection (6) of section 196.012, Florida
19 Statutes, is amended to read:

20 196.012 Definitions.--For the purpose of this chapter,
21 the following terms are defined as follows, except where the
22 context clearly indicates otherwise:

23 (6) Governmental, municipal, or public purpose or
24 function shall be deemed to be served or performed when the
25 lessee under any leasehold interest created in property of the
26 United States, the state or any of its political subdivisions,
27 or any municipality, agency, special district, authority, or
28 other public body corporate of the state is demonstrated to
29 perform a function or serve a governmental purpose which could
30 properly be performed or served by an appropriate governmental
31 unit or which is demonstrated to perform a function or serve a

1 | purpose which would otherwise be a valid subject for the
2 | allocation of public funds. For purposes of the preceding
3 | sentence, an activity undertaken by a lessee which is
4 | permitted under the terms of its lease of real property
5 | designated as an aviation area on an airport layout plan which
6 | has been approved by the Federal Aviation Administration and
7 | which real property is used for the administration, operation,
8 | business offices and activities related specifically thereto
9 | in connection with the conduct of an aircraft full service
10 | fixed base operation which provides goods and services to the
11 | general aviation public in the promotion of air commerce shall
12 | be deemed an activity which serves a governmental, municipal,
13 | or public purpose or function. Any activity undertaken by a
14 | lessee which is permitted under the terms of its lease of real
15 | property designated as a public airport as defined in s.
16 | 332.004(14) by municipalities, agencies, special districts,
17 | authorities, or other public bodies corporate and public
18 | bodies politic of the state, a spaceport as defined in s.
19 | 331.303, or which is located in a deepwater port identified in
20 | s. 403.021(9)(b) and owned by one of the foregoing
21 | governmental units, subject to a leasehold or other possessory
22 | interest of a nongovernmental lessee that is deemed to perform
23 | an aviation, airport, aerospace, maritime, or port purpose or
24 | operation shall be deemed an activity that serves a
25 | governmental, municipal, or public purpose. The use by a
26 | lessee, licensee, or management company of real property or a
27 | portion thereof as a convention center, visitor center, sports
28 | facility with permanent seating, concert hall, arena, stadium,
29 | park, or beach is deemed a use that serves a governmental,
30 | municipal, or public purpose or function when access to the
31 | property is open to the general public with or without a

1 charge for admission. If property deeded to a municipality by
2 the United States is subject to a requirement that the Federal
3 Government, through a schedule established by the Secretary of
4 the Interior, determine that the property is being maintained
5 for public historic preservation, park, or recreational
6 purposes and if those conditions are not met the property will
7 revert back to the Federal Government, then such property
8 shall be deemed to serve a municipal or public purpose. The
9 term "governmental purpose" also includes a direct use of
10 property on federal lands in connection with the Federal
11 Government's Space Exploration Program or spaceport activities
12 as defined in s. 212.02(22). Real property and tangible
13 personal property owned by the Federal Government or Space
14 Florida and used for defense and space exploration purposes or
15 which is put to a use in support thereof shall be deemed to
16 perform an essential national governmental purpose and shall
17 be exempt. "Owned by the lessee" as used in this chapter does
18 not include personal property, buildings, or other real
19 property improvements used for the administration, operation,
20 business offices and activities related specifically thereto
21 in connection with the conduct of an aircraft full service
22 fixed based operation which provides goods and services to the
23 general aviation public in the promotion of air commerce
24 provided that the real property is designated as an aviation
25 area on an airport layout plan approved by the Federal
26 Aviation Administration. For purposes of determination of
27 "ownership," buildings and other real property improvements
28 which will revert to the airport authority or other
29 governmental unit upon expiration of the term of the lease
30 shall be deemed "owned" by the governmental unit and not the
31 lessee. Providing two-way telecommunications services to the

1 public for hire by the use of a telecommunications facility,
2 as defined in s. 364.02(15), and for which a certificate is
3 required under chapter 364 does not constitute an exempt use
4 for purposes of s. 196.199, unless the telecommunications
5 services are provided by the operator of a public-use airport,
6 as defined in s. 332.004, for the operator's provision of
7 telecommunications services for the airport or its tenants,
8 concessionaires, or licensees, or unless the
9 telecommunications services are provided by a public hospital.
10 ~~However, property that is being used to provide such~~
11 ~~telecommunications services on or before October 1, 1997,~~
12 ~~shall remain exempt, but such exemption expires October 1,~~
13 ~~2004.~~

14
15 Reviser's note.--Amended to delete a provision
16 that has served its purpose.

17
18 Section 15. Section 201.0205, Florida Statutes, is
19 amended to read:

20 201.0205 Counties that have implemented ch. 83-220;
21 inapplicability of 10-cent tax increase by s. 2, ch. 92-317,
22 Laws of Florida.--The 10-cent tax increase in the documentary
23 stamp tax levied by s. 2, chapter 92-317, does not apply to
24 deeds and other taxable instruments relating to real property
25 located in any county that has implemented the provisions of
26 chapter 83-220, Laws of Florida, as amended by chapters
27 84-270, 86-152, and 89-252, Laws of Florida. Each such county
28 and each eligible jurisdiction within such county shall not be
29 eligible to participate in programs funded pursuant to s.
30 201.15(9) ~~201.15(6)~~. However, each such county and each
31 eligible jurisdiction within such county shall be eligible to

1 participate in programs funded pursuant to s. 201.15(10)
2 ~~201.15(7)~~.

3

4 Reviser's note.--Amended to conform to the
5 redesignation of subunits within s. 201.15 by
6 s. 2, ch. 99-247, Laws of Florida.

7

8 Section 16. Paragraph (c) of subsection (2) of section
9 202.24, Florida Statutes, is amended to read:

10 202.24 Limitations on local taxes and fees imposed on
11 dealers of communications services.--

12 (2)

13 (c) This subsection does not apply to:

14 1. Local communications services taxes levied under
15 this chapter.

16 2. Ad valorem taxes levied pursuant to chapter 200.

17 3. Business ~~Occupational license~~ taxes levied under
18 chapter 205.

19 4. "911" service charges levied under chapter 365.

20 5. Amounts charged for the rental or other use of
21 property owned by a public body which is not in the public
22 rights-of-way to a dealer of communications services for any
23 purpose, including, but not limited to, the placement or
24 attachment of equipment used in the provision of
25 communications services.

26 6. Permit fees of general applicability which are not
27 related to placing or maintaining facilities in or on public
28 roads or rights-of-way.

29 7. Permit fees related to placing or maintaining
30 facilities in or on public roads or rights-of-way pursuant to
31 s. 337.401.

1 8. Any in-kind requirements, institutional networks,
2 or contributions for, or in support of, the use or
3 construction of public, educational, or governmental access
4 facilities allowed under federal law and imposed on providers
5 of cable service pursuant to any ordinance or agreement.
6 Nothing in this subparagraph shall prohibit the ability of
7 providers of cable service to recover such expenses as allowed
8 under federal law.

9 9. Special assessments and impact fees.

10 10. Pole attachment fees that are charged by a local
11 government for attachments to utility poles owned by the local
12 government.

13 11. Utility service fees or other similar user fees
14 for utility services.

15 12. Any other generally applicable tax, fee, charge,
16 or imposition authorized by general law on July 1, 2000, which
17 is not specifically prohibited by this subsection or included
18 as a replaced revenue source in s. 202.20.

19
20 Reviser's note.--Amended to conform to the
21 redesignation of occupational license taxes in
22 chapter 205 as business taxes by ch. 2006-152,
23 Laws of Florida.

24
25 Section 17. Section 205.1975, Florida Statutes, is
26 amended to read:

27 205.1975 Household moving services; consumer
28 protection.--A county or municipality may not issue or renew a
29 business tax receipt ~~occupational license~~ for the operation of
30 a mover or moving broker under chapter 507 unless the mover or
31

1 broker exhibits a current registration from the Department of
2 Agriculture and Consumer Services.

3
4 Reviser's note.--Amended to confirm the
5 editorial substitution of the term "business
6 tax receipt" for the term "occupational
7 license" to conform to usage throughout chapter
8 205 as amended by ch. 2006-152, Laws of
9 Florida.

10
11 Section 18. Paragraph (p) of subsection (5) of section
12 212.08, Florida Statutes, is amended to read:

13 212.08 Sales, rental, use, consumption, distribution,
14 and storage tax; specified exemptions.--The sale at retail,
15 the rental, the use, the consumption, the distribution, and
16 the storage to be used or consumed in this state of the
17 following are hereby specifically exempt from the tax imposed
18 by this chapter.

19 (5) EXEMPTIONS; ACCOUNT OF USE.--

20 (p) Community contribution tax credit for donations.--

21 1. Authorization.--Persons who are registered with the
22 department under s. 212.18 to collect or remit sales or use
23 tax and who make donations to eligible sponsors are eligible
24 for tax credits against their state sales and use tax
25 liabilities as provided in this paragraph:

26 a. The credit shall be computed as 50 percent of the
27 person's approved annual community contribution.

28 b. The credit shall be granted as a refund against
29 state sales and use taxes reported on returns and remitted in
30 the 12 months preceding the date of application to the
31 department for the credit as required in sub-subparagraph 3.c.

1 | If the annual credit is not fully used through such refund
2 | because of insufficient tax payments during the applicable
3 | 12-month period, the unused amount may be included in an
4 | application for a refund made pursuant to sub-subparagraph
5 | 3.c. in subsequent years against the total tax payments made
6 | for such year. Carryover credits may be applied for a 3-year
7 | period without regard to any time limitation that would
8 | otherwise apply under s. 215.26.

9 | c. A person may not receive more than \$200,000 in
10 | annual tax credits for all approved community contributions
11 | made in any one year.

12 | d. All proposals for the granting of the tax credit
13 | require the prior approval of the Office of Tourism, Trade,
14 | and Economic Development.

15 | e. The total amount of tax credits which may be
16 | granted for all programs approved under this paragraph, s.
17 | 220.183, and s. 624.5105 is \$10.5 million annually for
18 | projects that provide homeownership opportunities for
19 | low-income or very-low-income households as defined in s.
20 | 420.9071(19) and (28) and \$3.5 million annually for all other
21 | projects.

22 | f. A person who is eligible to receive the credit
23 | provided for in this paragraph, s. 220.183, or s. 624.5105 may
24 | receive the credit only under the one section of the person's
25 | choice.

26 | 2. Eligibility requirements.--

27 | a. A community contribution by a person must be in the
28 | following form:

- 29 | (I) Cash or other liquid assets;
30 | (II) Real property;
31 | (III) Goods or inventory; or

1 (IV) Other physical resources as identified by the
2 Office of Tourism, Trade, and Economic Development.

3 b. All community contributions must be reserved
4 exclusively for use in a project. As used in this
5 sub-subparagraph, the term "project" means any activity
6 undertaken by an eligible sponsor which is designed to
7 construct, improve, or substantially rehabilitate housing that
8 is affordable to low-income or very-low-income households as
9 defined in s. 420.9071(19) and (28); designed to provide
10 commercial, industrial, or public resources and facilities; or
11 designed to improve entrepreneurial and job-development
12 opportunities for low-income persons. A project may be the
13 investment necessary to increase access to high-speed
14 broadband capability in rural communities with enterprise
15 zones, including projects that result in improvements to
16 communications assets that are owned by a business. A project
17 may include the provision of museum educational programs and
18 materials that are directly related to any project approved
19 between January 1, 1996, and December 31, 1999, and located in
20 an enterprise zone designated pursuant to s. 290.0065. This
21 paragraph does not preclude projects that propose to construct
22 or rehabilitate housing for low-income or very-low-income
23 households on scattered sites. With respect to housing,
24 contributions may be used to pay the following eligible
25 low-income and very-low-income housing-related activities:

26 (I) Project development impact and management fees for
27 low-income or very-low-income housing projects;

28 (II) Down payment and closing costs for eligible
29 persons, as defined in s. 420.9071(19) and (28);

30 (III) Administrative costs, including housing
31 counseling and marketing fees, not to exceed 10 percent of the

1 community contribution, directly related to low-income or
2 very-low-income projects; and

3 (IV) Removal of liens recorded against residential
4 property by municipal, county, or special district local
5 governments when satisfaction of the lien is a necessary
6 precedent to the transfer of the property to an eligible
7 person, as defined in s. 420.9071(19) and (28), for the
8 purpose of promoting home ownership. Contributions for lien
9 removal must be received from a nonrelated third party.

10 c. The project must be undertaken by an "eligible
11 sponsor," which includes:

12 (I) A community action program;

13 (II) A nonprofit community-based development
14 organization whose mission is the provision of housing for
15 low-income or very-low-income households or increasing
16 entrepreneurial and job-development opportunities for
17 low-income persons;

18 (III) A neighborhood housing services corporation;

19 (IV) A local housing authority created under chapter
20 421;

21 (V) A community redevelopment agency created under s.
22 163.356;

23 (VI) The Florida Industrial Development Corporation;

24 (VII) A historic preservation district agency or
25 organization;

26 (VIII) A regional workforce board;

27 (IX) A direct-support organization as provided in s.
28 1009.983;

29 (X) An enterprise zone development agency created
30 under s. 290.0056;

31

1 (XI) A community-based organization incorporated under
2 chapter 617 which is recognized as educational, charitable, or
3 scientific pursuant to s. 501(c)(3) of the Internal Revenue
4 Code and whose bylaws and articles of incorporation include
5 affordable housing, economic development, or community
6 development as the primary mission of the corporation;

7 (XII) Units of local government;

8 (XIII) Units of state government; or

9 (XIV) Any other agency that the Office of Tourism,
10 Trade, and Economic Development designates by rule.

11
12 In no event may a contributing person have a financial
13 interest in the eligible sponsor.

14 d. The project must be located in an area designated
15 an enterprise zone or a Front Porch Florida Community pursuant
16 to s. 20.18(6), unless the project increases access to
17 high-speed broadband capability for rural communities with
18 enterprise zones but is physically located outside the
19 designated rural zone boundaries. Any project designed to
20 construct or rehabilitate housing for low-income or
21 very-low-income households as defined in s. 420.9071(19) and
22 ~~(28) 420.0971(19) and (28)~~ is exempt from the area requirement
23 of this sub-subparagraph.

24 e.(I) If, during the first 10 business days of the
25 state fiscal year, eligible tax credit applications for
26 projects that provide homeownership opportunities for
27 low-income or very-low-income households as defined in s.
28 420.9071(19) and (28) are received for less than the annual
29 tax credits available for those projects, the Office of
30 Tourism, Trade, and Economic Development shall grant tax
31 credits for those applications and shall grant remaining tax

1 credits on a first-come, first-served basis for any subsequent
2 eligible applications received before the end of the state
3 fiscal year. If, during the first 10 business days of the
4 state fiscal year, eligible tax credit applications for
5 projects that provide homeownership opportunities for
6 low-income or very-low-income households as defined in s.
7 420.9071(19) and (28) are received for more than the annual
8 tax credits available for those projects, the office shall
9 grant the tax credits for those applications as follows:

10 (A) If tax credit applications submitted for approved
11 projects of an eligible sponsor do not exceed \$200,000 in
12 total, the credits shall be granted in full if the tax credit
13 applications are approved.

14 (B) If tax credit applications submitted for approved
15 projects of an eligible sponsor exceed \$200,000 in total, the
16 amount of tax credits granted pursuant to
17 sub-sub-sub-subparagraph (A) shall be subtracted from the
18 amount of available tax credits, and the remaining credits
19 shall be granted to each approved tax credit application on a
20 pro rata basis.

21 (II) If, during the first 10 business days of the
22 state fiscal year, eligible tax credit applications for
23 projects other than those that provide homeownership
24 opportunities for low-income or very-low-income households as
25 defined in s. 420.9071(19) and (28) are received for less than
26 the annual tax credits available for those projects, the
27 office shall grant tax credits for those applications and
28 shall grant remaining tax credits on a first-come,
29 first-served basis for any subsequent eligible applications
30 received before the end of the state fiscal year. If, during
31 the first 10 business days of the state fiscal year, eligible

1 tax credit applications for projects other than those that
2 provide homeownership opportunities for low-income or
3 very-low-income households as defined in s. 420.9071(19) and
4 (28) are received for more than the annual tax credits
5 available for those projects, the office shall grant the tax
6 credits for those applications on a pro rata basis.

7 3. Application requirements.--

8 a. Any eligible sponsor seeking to participate in this
9 program must submit a proposal to the Office of Tourism,
10 Trade, and Economic Development which sets forth the name of
11 the sponsor, a description of the project, and the area in
12 which the project is located, together with such supporting
13 information as is prescribed by rule. The proposal must also
14 contain a resolution from the local governmental unit in which
15 the project is located certifying that the project is
16 consistent with local plans and regulations.

17 b. Any person seeking to participate in this program
18 must submit an application for tax credit to the office which
19 sets forth the name of the sponsor, a description of the
20 project, and the type, value, and purpose of the contribution.
21 The sponsor shall verify the terms of the application and
22 indicate its receipt of the contribution, which verification
23 must be in writing and accompany the application for tax
24 credit. The person must submit a separate tax credit
25 application to the office for each individual contribution
26 that it makes to each individual project.

27 c. Any person who has received notification from the
28 office that a tax credit has been approved must apply to the
29 department to receive the refund. Application must be made on
30 the form prescribed for claiming refunds of sales and use
31 taxes and be accompanied by a copy of the notification. A

1 person may submit only one application for refund to the
2 department within any 12-month period.

3 4. Administration.--

4 a. The Office of Tourism, Trade, and Economic
5 Development may adopt rules pursuant to ss. 120.536(1) and
6 120.54 necessary to administer this paragraph, including rules
7 for the approval or disapproval of proposals by a person.

8 b. The decision of the office must be in writing, and,
9 if approved, the notification shall state the maximum credit
10 allowable to the person. Upon approval, the office shall
11 transmit a copy of the decision to the Department of Revenue.

12 c. The office shall periodically monitor all projects
13 in a manner consistent with available resources to ensure that
14 resources are used in accordance with this paragraph; however,
15 each project must be reviewed at least once every 2 years.

16 d. The office shall, in consultation with the
17 Department of Community Affairs and the statewide and regional
18 housing and financial intermediaries, market the availability
19 of the community contribution tax credit program to
20 community-based organizations.

21 5. Expiration.--This paragraph expires June 30, 2015;
22 however, any accrued credit carryover that is unused on that
23 date may be used until the expiration of the 3-year carryover
24 period for such credit.

25
26 Reviser's note.--Amended to correct an
27 erroneous reference. Section 420.0971 does not
28 exist; s. 420.9071(19) and (28) define
29 "low-income household" and "very-low-income
30 household."
31

1 Section 19. Paragraph (b) of subsection (5) of section
2 213.053, Florida Statutes, is amended to read:

3 213.053 Confidentiality and information sharing.--

4 (5) Nothing contained in this section shall prevent
5 the department from:

6 (b) Disclosing to the Chief Financial Officer the
7 names and addresses of those taxpayers who have claimed an
8 exemption pursuant to former s. 199.185(1)(i) or a deduction
9 pursuant to s. 220.63(5).

10
11 Reviser's note.--Amended to conform to the
12 repeal of s. 199.185 by s. 1, ch. 2006-312,
13 Laws of Florida.

14
15 Section 20. Paragraph (a) of subsection (4) of section
16 213.0535, Florida Statutes, is amended to read:

17 213.0535 Registration Information Sharing and Exchange
18 Program.--

19 (4) There are two levels of participation:

20 (a) Each unit of state or local government responsible
21 for administering one or more of the provisions specified in
22 subparagraphs 1.-8. is a level-one participant. Level-one
23 participants shall exchange, monthly or quarterly, as
24 determined jointly by each participant and the department, the
25 data enumerated in subsection (2) for each new registrant, new
26 filer, or initial reporter, permittee, or licensee, with
27 respect to the following taxes, licenses, or permits:

28 1. The sales and use tax imposed under chapter 212.

29 2. The tourist development tax imposed under s.
30 125.0104.

31 3. The tourist impact tax imposed under s. 125.0108.

1 4. Local business ~~occupational license~~ taxes imposed
2 under chapter 205.

3 5. Convention development taxes imposed under s.
4 212.0305.

5 6. Public lodging and food service establishment
6 licenses issued pursuant to chapter 509.

7 7. Beverage law licenses issued pursuant to chapter
8 561.

9 8. A municipal resort tax as authorized under chapter
10 67-930, Laws of Florida.

11

12 Reviser's note.--Amended to conform to the
13 redesignation of local occupational license
14 taxes as local business taxes by ch. 2006-152,
15 Laws of Florida.

16

17 Section 21. Paragraph (a) of subsection (2) and
18 subsection (7) of section 215.559, Florida Statutes, are
19 reenacted, and subsection (4) of that section is amended to
20 read:

21 215.559 Hurricane Loss Mitigation Program.--

22 (2)(a) Seven million dollars in funds provided in
23 subsection (1) shall be used for programs to improve the wind
24 resistance of residences and mobile homes, including loans,
25 subsidies, grants, demonstration projects, and direct
26 assistance; educating persons concerning the Florida Building
27 Code cooperative programs with local governments and the
28 Federal Government; and other efforts to prevent or reduce
29 losses or reduce the cost of rebuilding after a disaster.

30 (4) Of moneys provided to the Department of Community
31 Affairs in paragraph (2)(a), 10 percent shall be allocated to

1 a Type I Center within the State University System dedicated
2 to hurricane research. The Type I Center shall develop a
3 preliminary work plan approved by the advisory council set
4 forth in subsection (5) ~~(6)~~ to eliminate the state and local
5 barriers to upgrading existing mobile homes and communities,
6 research and develop a program for the recycling of existing
7 older mobile homes, and support programs of research and
8 development relating to hurricane loss reduction devices and
9 techniques for site-built residences. The State University
10 System also shall consult with the Department of Community
11 Affairs and assist the department with the report required
12 under subsection (7) ~~(8)~~.

13 (7) On January 1st of each year, the Department of
14 Community Affairs shall provide a full report and accounting
15 of activities under this section and an evaluation of such
16 activities to the Speaker of the House of Representatives, the
17 President of the Senate, and the Majority and Minority Leaders
18 of the House of Representatives and the Senate. Upon
19 completion of the report, the Department of Community Affairs
20 shall deliver the report to the Office of Insurance
21 Regulation. The Office of Insurance Regulation shall review
22 the report and shall make such recommendations available to
23 the insurance industry as the Office of Insurance Regulation
24 deems appropriate. These recommendations may be used by
25 insurers for potential discounts or rebates pursuant to s.
26 627.0629. The Office of Insurance Regulation shall make the
27 recommendations within 1 year after receiving the report.

28
29 Reviser's note.--Paragraph (2)(a) and
30 subsection (7) are reenacted to confirm the
31 validity of the amendments to those provisions

1 by s. 1, ch. 2005-147, Laws of Florida. The
2 Governor vetoed the addition of what would have
3 been a new subsection (5) by s. 1, ch.
4 2005-147. Subsection (4) is amended to conform
5 references within the section to the current
6 location of the referenced material as a result
7 of the repeal of former subsection (3) by s.
8 46, ch. 2006-12, Laws of Florida.
9

10 Section 22. Subsection (2) of section 215.82, Florida
11 Statutes, is amended to read:

12 215.82 Validation; when required.--

13 (2) Any bonds issued pursuant to this act which are
14 validated shall be validated in the manner provided by chapter
15 75. In actions to validate bonds to be issued in the name of
16 the State Board of Education under s. 9(a) and (d), Art. XII
17 of the State Constitution and bonds to be issued pursuant to
18 chapter 259, the Land Conservation Act of 1972, the complaint
19 shall be filed in the circuit court of the county where the
20 seat of state government is situated, the notice required to
21 be published by s. 75.06 shall be published only in the county
22 where the complaint is filed, and the complaint and order of
23 the circuit court shall be served only on the state attorney
24 of the circuit in which the action is pending. In any action
25 to validate bonds issued pursuant to former ss.

26 1010.61-1010.619 or issued pursuant to s. 9(a)(1), Art. XII of
27 the State Constitution or issued pursuant to s. 215.605 or s.
28 338.227, the complaint shall be filed in the circuit court of
29 the county where the seat of state government is situated, the
30 notice required to be published by s. 75.06 shall be published
31 in a newspaper of general circulation in the county where the

1 | complaint is filed and in two other newspapers of general
2 | circulation in the state, and the complaint and order of the
3 | circuit court shall be served only on the state attorney of
4 | the circuit in which the action is pending; provided, however,
5 | that if publication of notice pursuant to this section would
6 | require publication in more newspapers than would publication
7 | pursuant to s. 75.06, such publication shall be made pursuant
8 | to s. 75.06.

9 |
10 | Reviser's note.--Amended to conform to the
11 | repeal of ss. 1010.61-1010.619 by s. 15, ch.
12 | 2006-27, Laws of Florida.

13 |
14 | Section 23. Paragraph (b) of subsection (3) of section
15 | 218.64, Florida Statutes, is amended to read:

16 | 218.64 Local government half-cent sales tax; uses;
17 | limitations.--

18 | (3) Subject to ordinances enacted by the majority of
19 | the members of the county governing authority and by the
20 | majority of the members of the governing authorities of
21 | municipalities representing at least 50 percent of the
22 | municipal population of such county, counties may use up to \$2
23 | million annually of the local government half-cent sales tax
24 | allocated to that county for funding for any of the following
25 | applicants:

26 | (b) A certified applicant as a "motorsport
27 | entertainment complex," as provided for in s. 288.1171
28 | ~~288.1097~~. Funding for each franchise or motorsport complex
29 | shall begin 60 days after certification and shall continue for
30 | not more than 30 years.

31 |

1 Reviser's note.--Amended to correct an
2 erroneous reference. Section 288.1097 relates
3 to qualified training organizations; s.
4 288.1171 relates to a motorsport entertainment
5 complex.

6
7 Section 24. Paragraph (a) of subsection (1) of section
8 220.181, Florida Statutes, is amended to read:

9 220.181 Enterprise zone jobs credit.--

10 (1)(a) There shall be allowed a credit against the tax
11 imposed by this chapter to any business located in an
12 enterprise zone which demonstrates to the department that, on
13 the date of application, the total number of full-time jobs is
14 greater than the total was 12 months prior to that date. The
15 credit shall be computed as 20 percent of the actual monthly
16 wages paid in this state to each new employee hired when a new
17 job has been created, as defined under s. 220.03(1)(ee)
18 ~~220.03(1)(ff)~~, unless the business is located in a rural
19 enterprise zone, pursuant to s. 290.004(6), in which case the
20 credit shall be 30 percent of the actual monthly wages paid.
21 If no less than 20 percent of the employees of the business
22 are residents of an enterprise zone, excluding temporary and
23 part-time employees, the credit shall be computed as 30
24 percent of the actual monthly wages paid in this state to each
25 new employee hired when a new job has been created, unless the
26 business is located in a rural enterprise zone, in which case
27 the credit shall be 45 percent of the actual monthly wages
28 paid, for a period of up to 24 consecutive months. If the new
29 employee hired when a new job is created is a participant in
30 the welfare transition program, the following credit shall be
31 a percent of the actual monthly wages paid: 40 percent for \$4

1 above the hourly federal minimum wage rate; 41 percent for \$5
2 above the hourly federal minimum wage rate; 42 percent for \$6
3 above the hourly federal minimum wage rate; 43 percent for \$7
4 above the hourly federal minimum wage rate; and 44 percent for
5 \$8 above the hourly federal minimum wage rate.

6
7 Reviser's note.--Amended to conform to the
8 repeal of former s. 220.03(1)(x) by s. 4, ch.
9 2006-2, Laws of Florida, and the redesignation
10 of subunits as a result of that repeal; current
11 s. 220.03(1)(ee) defines "new job has been
12 created."

13
14 Section 25. Paragraph (c) of subsection (1) of section
15 220.183, Florida Statutes, is amended to read:

16 220.183 Community contribution tax credit.--

17 (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX
18 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM
19 SPENDING.--

20 (c) The total amount of tax credit which may be
21 granted for all programs approved under this section, s.
22 212.08(5)(p) ~~212.08(5)(q)~~, and s. 624.5105 is \$10.5 million
23 annually for projects that provide homeownership opportunities
24 for low-income or very-low-income households as defined in s.
25 420.9071(19) and (28) and \$3.5 million annually for all other
26 projects.

27
28 Reviser's note.--Amended to conform to the
29 redesignation of s. 212.08(5)(q) as s.
30 212.08(5)(p) to conform to the repeal of former
31

1 s. 212.08(5)(p) by s. 2, ch. 2006-2, Laws of
2 Florida.

3
4 Section 26. Subsection (20) of section 250.01, Florida
5 Statutes, is amended to read:

6 250.01 Definitions.--As used in this chapter, the
7 term:

8 (20) "~~SCRA SSCRA~~" means the Servicemembers' ~~Soldiers'~~
9 ~~and Sailors'~~ Civil Relief Act, Title 50, Appendix U.S.C. ss.
10 501 et seq.

11
12 Reviser's note.--Amended to conform to the
13 redesignation of the federal act in Title 50
14 United States Code.

15
16 Section 27. Subsection (1) of section 250.82, Florida
17 Statutes, is amended to read:

18 250.82 Applicability of federal law.--

19 (1) Florida law provides certain protections to
20 members of the United States Armed Forces, the United States
21 Reserve Forces, and the Florida National Guard in various
22 legal proceedings and contractual relationships. In addition
23 to these state provisions, federal law also contains
24 protections, such as those provided in the Servicemembers'
25 ~~Soldiers' and Sailors'~~ Civil Relief Act (~~SCRA SSCRA~~), Title
26 50, Appendix U.S.C. ss. 501 et seq., and the Uniformed
27 Services Employment and Reemployment Rights Act (USERRA),
28 Title 38 United States Code, chapter 43, that are applicable
29 to members in every state even though such provisions are not
30 specifically identified under state law.

31

1 Reviser's note.--Amended to conform to the
2 redesignation of the federal act in Title 50
3 United States Code.

4
5 Section 28. Paragraph (b) of subsection (3) of section
6 250.84, Florida Statutes, is amended to read:

7 250.84 Florida Uniformed Servicemembers Protection
8 Act; rights of servicemembers; incorporation by reference.--

9 (3) Such documents containing the rights and
10 responsibilities of servicemembers set forth in this act shall
11 include an enumeration of all rights and responsibilities
12 under state and federal law, including, but not limited to:

13 (b) The rights and responsibilities provided by the
14 Servicemembers' ~~Soldiers' and Sailors'~~ Civil Relief Act.

15
16 Reviser's note.--Amended to conform to the
17 redesignation of the federal act in Title 50
18 United States Code.

19
20 Section 29. Paragraph (s) of subsection (2) of section
21 252.35, Florida Statutes, is amended to read:

22 252.35 Emergency management powers; Division of
23 Emergency Management.--

24 (2) The division is responsible for carrying out the
25 provisions of ss. 252.31-252.90. In performing its duties
26 under ss. 252.31-252.90, the division shall:

27 (s) By January 1, 2007, the Division of Emergency
28 Management shall complete an inventory of portable generators
29 owned by the state and local governments which are capable of
30 operating during a major disaster. The inventory must
31 identify, at a minimum, the location of each generator, the

1 number of generators stored at each specific location, the
2 agency to which each ~~the~~ generator belongs, the primary use of
3 the generator by the owner agency, and the names, addresses,
4 and telephone numbers of persons having the authority to loan
5 the stored generators as authorized by the Division of
6 Emergency Management during a declared emergency.

7
8 Reviser's note.--Amended to confirm the
9 editorial deletion of the word "the" following
10 the word "each" to improve clarity.

11
12 Section 30. Section 253.421, Florida Statutes, is
13 repealed.

14
15 Reviser's note.--The cited section, which
16 provides for the exchange of donated state
17 lands between the Board of Trustees of the
18 Internal Improvement Trust Fund and a local
19 government no later than August 31, 2003, has
20 served its purpose.

21
22 Section 31. Section 253.422, Florida Statutes, is
23 repealed.

24
25 Reviser's note.--The cited section, which
26 provides for an exchange of lands contemplated
27 between the Board of Trustees of the Internal
28 Improvement Trust Fund and a private entity for
29 formerly submerged sovereignty lands, known as
30 the "Chapman Exchange," no later than July 1,
31 2003, has served its purpose.

1 Section 32. Paragraph (c) of subsection (2) of section
2 255.25001, Florida Statutes, is amended to read:

3 255.25001 Suspension or delay of specified functions,
4 programs, and requirements relating to governmental
5 operations.--Notwithstanding the provisions of:

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

11 (c) Acceptable terms and conditions for inclusion in
12 lease-purchase agreements, which shall include but not be
13 limited to:

14 1. The assignment of the lease-purchase agreement to
15 other governmental entities, including accumulated equity.

16 2. The ability of the acquiring state agency to
17 sublease a portion of the facility, not to exceed 25 percent,
18 to other governmental entities. These subleases shall provide
19 for the recovery of the agencies' cost of operations and
20 maintenance.

21
22 The execution of a lease-purchase is conditioned upon a
23 finding by the Department of Management Services that it would
24 be in the best interests of the state. The language in this
25 subsection shall be considered specific authorization for a
26 lease-purchase pursuant to s. 255.25(1)(c) ~~255.25(1)(b)~~ upon
27 the Department of Management Services' certification that the
28 lease-purchase is in the best interests of the state.
29 Thereafter, the agency is authorized to enter into a
30 lease-purchase agreement and to expend operating funds for
31 lease-purchase payments. Any facility which is acquired

1 pursuant to the processes authorized by this subsection shall
2 be considered to be a "state-owned office building" and a
3 "state-owned building" as those terms are applied in ss.
4 255.248-255.25.

5
6 Reviser's note.--Amended to conform to the
7 redesignation of s. 255.25(1)(b) as s.
8 255.25(1)(c) by s. 3, ch. 94-333, Laws of
9 Florida.

10
11 Section 33. Paragraph (b) of subsection (7) of section
12 259.1053, Florida Statutes, is amended to read:

13 259.1053 Babcock Ranch Preserve; Babcock Ranch, Inc.;
14 creation; membership; organization; meetings.--

15 (7) BOARD; MEMBERSHIP; REMOVAL; LIABILITY.--The
16 corporation shall be governed by a nine-member board of
17 directors who shall be appointed by the Board of Trustees of
18 the Internal Improvement Trust Fund; the executive director of
19 the commission; the Commissioner of Agriculture; the Babcock
20 Florida Company, a corporation registered to do business in
21 the state, or its successors or assigns; the Charlotte County
22 Board of County Commissioners; and the Lee County Board of
23 County Commissioners in the following manner:

24 (b) All members of the board of directors shall be
25 appointed no later than 90 days following the initial
26 acquisition of the Babcock Ranch by the state, and:

27 1. Four members initially appointed by the Board of
28 Trustees of the Internal Improvement Trust Fund shall each
29 serve a 4-year term.

30 2. The remaining initial five appointees shall each
31 serve a 2-year term.

1 3. Each member appointed thereafter shall serve a
2 4-year term.

3 4. A vacancy shall be filled in the same manner in
4 which the original appointment was made, and a member
5 appointed to fill a vacancy shall serve for the remainder of
6 that term.

7 5. No member may serve more than 8 years in
8 consecutive terms.

9
10 Reviser's note.--Amended to confirm the
11 editorial insertion of the word "than" after
12 the word "later" to improve clarity and
13 facilitate correct interpretation.

14
15 Section 34. Paragraph (d) of subsection (1) of section
16 260.016, Florida Statutes, is amended to read:

17 260.016 General powers of the department.--

18 (1) The department may:

19 (d) Establish, develop, and publicize greenways and
20 trails in a manner that will permit public recreation when
21 appropriate without damaging natural resources and avoiding
22 unnecessary impact upon sensitive environments such as
23 wetlands or animal habitats, wherever encountered. The Big
24 Bend Historic Saltwater Paddling Trail from the St. Marks
25 River to Yankeetown is hereby designated as part of the
26 Florida Greenways and Trails System. Additions to this trail
27 may be added by the Legislature or the department from time to
28 time as part of the Florida Circumnavigation Saltwater
29 Paddling Trail created in s. 260.019 ~~260.19~~.

1 Reviser's note.--Amended to correct a reference
2 to s. 260.19, which does not exist; s. 260.019
3 creates the Florida Circumnavigation Saltwater
4 Paddling Trail.

5
6 Section 35. Subsection (4) of section 287.0574,
7 Florida Statutes, is amended to read:

8 287.0574 Business cases to outsource; review and
9 analysis; requirements.--

10 (4) For any proposed outsourcing, the state agency
11 shall develop a business case that justifies the proposal to
12 outsource. In order to reduce any administrative burden, the
13 council may allow a state agency to submit the business case
14 in the form required by the budget instructions issued
15 pursuant to s. 216.023(4)(a)7. ~~216.023(4)(a)11.~~, augmented
16 with additional information if necessary, to ensure that the
17 requirements of this section are met. The business case is not
18 subject to challenge or protest pursuant to chapter 120. The
19 business case must include, but need not be limited to:

20 (a) A detailed description of the service or activity
21 for which the outsourcing is proposed.

22 (b) A description and analysis of the state agency's
23 current performance, based on existing performance metrics if
24 the state agency is currently performing the service or
25 activity.

26 (c) The goals desired to be achieved through the
27 proposed outsourcing and the rationale for such goals.

28 (d) A citation to the existing or proposed legal
29 authority for outsourcing the service or activity.

30 (e) A description of available options for achieving
31 the goals. If state employees are currently performing the

1 service or activity, at least one option involving maintaining
2 state provision of the service or activity shall be included.

3 (f) An analysis of the advantages and disadvantages of
4 each option, including, at a minimum, potential performance
5 improvements and risks.

6 (g) A description of the current market for the
7 contractual services that are under consideration for
8 outsourcing.

9 (h) A cost-benefit analysis documenting the direct and
10 indirect specific baseline costs, savings, and qualitative and
11 quantitative benefits involved in or resulting from the
12 implementation of the recommended option or options. Such
13 analysis must specify the schedule that, at a minimum, must be
14 adhered to in order to achieve the estimated savings. All
15 elements of cost must be clearly identified in the
16 cost-benefit analysis, described in the business case, and
17 supported by applicable records and reports. The state agency
18 head shall attest that, based on the data and information
19 underlying the business case, to the best of his or her
20 knowledge, all projected costs, savings, and benefits are
21 valid and achievable. As used in this section, the term "cost"
22 means the reasonable, relevant, and verifiable cost, which may
23 include, but is not limited to, elements such as personnel,
24 materials and supplies, services, equipment, capital
25 depreciation, rent, maintenance and repairs, utilities,
26 insurance, personnel travel, overhead, and interim and final
27 payments. The appropriate elements shall depend on the nature
28 of the specific initiative. As used in this section, the term
29 "savings" means the difference between the direct and indirect
30 actual annual baseline costs compared to the projected annual
31

1 | cost for the contracted functions or responsibilities in any
2 | succeeding state fiscal year during the term of the contract.

3 | (i) A description of differences among current state
4 | agency policies and processes and, as appropriate, a
5 | discussion of options for or a plan to standardize,
6 | consolidate, or revise current policies and processes, if any,
7 | to reduce the customization of any proposed solution that
8 | would otherwise be required.

9 | (j) A description of the specific performance
10 | standards that must, at a minimum, be met to ensure adequate
11 | performance.

12 | (k) The projected timeframe for key events from the
13 | beginning of the procurement process through the expiration of
14 | a contract.

15 | (l) A plan to ensure compliance with the public
16 | records law.

17 | (m) A specific and feasible contingency plan
18 | addressing contractor nonperformance and a description of the
19 | tasks involved in and costs required for its implementation.

20 | (n) A state agency's transition plan for addressing
21 | changes in the number of agency personnel, affected business
22 | processes, employee transition issues, and communication with
23 | affected stakeholders, such as agency clients and the public.
24 | The transition plan must contain a reemployment and retraining
25 | assistance plan for employees who are not retained by the
26 | state agency or employed by the contractor.

27 | (o) A plan for ensuring access by persons with
28 | disabilities in compliance with applicable state and federal
29 | law.

30 | (p) A description of legislative and budgetary actions
31 | necessary to accomplish the proposed outsourcing.

1 Reviser's note.--Amended to conform to the
2 redesignation of s. 216.023(4)(a)11. as s.
3 216.023(4)(a)7. by s. 26, ch. 2006-122, Laws of
4 Florida, and by s. 17, ch. 2006-146, Laws of
5 Florida.

6
7 Section 36. Paragraph (b) of subsection (2) of section
8 288.039, Florida Statutes, is amended to read:

9 288.039 Employing and Training our Youths (ENTRY).--

10 (2) TAX REFUND; ELIGIBLE AMOUNTS.--

11 (b) After entering into an employment/tax refund
12 agreement under subsection (3), an eligible business may
13 receive refunds for the following taxes or fees due and paid
14 by that business:

15 1. Taxes on sales, use, and other transactions under
16 chapter 212.

17 2. Corporate income taxes under chapter 220.

18 3. Intangible personal property taxes under chapter
19 199.

20 4. Emergency excise taxes under chapter 221.

21 5. Excise taxes on documents under chapter 201.

22 6. Ad valorem taxes paid, as defined in s. 220.03(1).

23 7. Insurance premium taxes under s. 624.509.

24 8. Business tax ~~Occupational license~~ fees under
25 chapter 205.

26
27 However, an eligible business may not receive a refund under
28 this section for any amount of credit, refund, or exemption
29 granted to that business for any of such taxes or fees. If a
30 refund for such taxes or fees is provided by the office, which
31 taxes or fees are subsequently adjusted by the application of

1 any credit, refund, or exemption granted to the eligible
2 business other than as provided in this section, the business
3 shall reimburse the office for the amount of that credit,
4 refund, or exemption. An eligible business shall notify and
5 tender payment to the office within 20 days after receiving
6 any credit, refund, or exemption other than the one provided
7 in this section.

8
9 Reviser's note.--Amended to conform to the
10 redesignation of occupational license taxes in
11 chapter 205 as business taxes by ch. 2006-152,
12 Laws of Florida.

13
14 Section 37. Paragraph (1) of subsection (1) of section
15 288.1045, Florida Statutes, is amended to read:

16 288.1045 Qualified defense contractor tax refund
17 program.--

18 (1) DEFINITIONS.--As used in this section:

19 (1) "Taxable year" means the same as in s.
20 220.03(1)(y) ~~220.03(1)(z)~~.

21
22 Reviser's note.--Amended to conform to the
23 redesignation of s. 220.03(1)(z) as s.
24 220.03(1)(y) necessitated by the repeal of
25 paragraph (1)(x) by s. 4, ch. 2006-2, Laws of
26 Florida.

27
28 Section 38. Paragraph (p) of subsection (1) of section
29 288.106, Florida Statutes, is amended to read:

30 288.106 Tax refund program for qualified target
31 industry businesses.--

1 (1) DEFINITIONS.--As used in this section:

2 (p) "Taxable year" means taxable year as defined in s.
3 220.03(1)(y) ~~220.03(1)(z)~~.

4
5 Reviser's note.--Amended to conform to the
6 redesignation of s. 220.03(1)(z) as s.
7 220.03(1)(y) necessitated by the repeal of
8 paragraph (1)(x) by s. 4, ch. 2006-2, Laws of
9 Florida.

10
11 Section 39. Sections 288.1231, 288.1232, 288.1233,
12 288.1235, 288.1236, and 288.1237, Florida Statutes, are
13 repealed.

14
15 Reviser's note.--The cited sections, which
16 relate to the selection of a host city for the
17 XXXth Olympic Games in 2012, have served their
18 purpose.

19
20 Section 40. Subsection (6) of section 288.90151,
21 Florida Statutes, is amended to read:

22 288.90151 Return on investment from activities of
23 Enterprise Florida, Inc.--

24 (6) Enterprise Florida, Inc., shall fully comply with
25 the performance measures, standards, and sanctions in its
26 contracts with the Office of Tourism, Trade, and Economic
27 Development under s. 14.2015(2)(g) and ~~(7) 14.2015(2)(h) and~~
28 ~~(7)~~. The Office of Tourism, Trade, and Economic Development
29 shall ensure, to the maximum extent possible, that the
30 contract performance measures are consistent with performance
31

1 | measures that the office is required to develop and track
2 | under performance-based program budgeting.

3 |
4 | Reviser's note.--Amended to conform to the
5 | redesignation of s. 14.2015(2)(h) as s.
6 | 14.2015(2)(g) by s. 1, ch. 99-251, Laws of
7 | Florida.

8 |
9 | Section 41. Paragraph (e) of subsection (1) of section
10 | 290.0057, Florida Statutes, is amended to read:

11 | 290.0057 Enterprise zone development plan.--

12 | (1) Any application for designation as a new
13 | enterprise zone must be accompanied by a strategic plan
14 | adopted by the governing body of the municipality or county,
15 | or the governing bodies of the county and one or more
16 | municipalities together. At a minimum, the plan must:

17 | (e) Commit the governing body or bodies to enact and
18 | maintain local fiscal and regulatory incentives, if approval
19 | for the area is received under s. 290.0065. These incentives
20 | may include the municipal public service tax exemption
21 | provided by s. 166.231, the economic development ad valorem
22 | tax exemption provided by s. 196.1995, the business
23 | ~~occupational license~~ tax exemption provided by s. 205.054,
24 | local impact fee abatement or reduction, or low-interest or
25 | interest-free loans or grants to businesses to encourage the
26 | revitalization of the nominated area.

27 |
28 | Reviser's note.--Amended to conform to the
29 | redesignation of occupational license taxes in
30 | chapter 205 as business taxes by ch. 2006-152,
31 | Laws of Florida.

1 Section 42. Section 290.0072, Florida Statutes, is
2 amended to read:

3 290.0072 Enterprise zone designation for the City of
4 Winter Haven.--The City of Winter Haven may apply to the
5 Office of Tourism, Trade, and Economic Development for
6 designation of one enterprise zone for an area within the City
7 of Winter Haven, which zone shall encompass an ~~on~~ area up to 5
8 square miles. Notwithstanding s. 290.0065 limiting the total
9 number of enterprise zones designated and the number of
10 enterprise zones within a population category, the Office of
11 Tourism, Trade, and Economic Development may designate one
12 enterprise zone under this section. The Office of Tourism,
13 Trade, and Economic Development shall establish the initial
14 effective date of the enterprise zone designated pursuant to
15 this section.

16
17 Reviser's note.--Amended to confirm the
18 editorial substitution of the word "an" for the
19 word "on" to conform to context.

20
21 Section 43. Subsections (2) and (3) of section
22 316.006, Florida Statutes, are reenacted to read:

23 316.006 Jurisdiction.--Jurisdiction to control traffic
24 is vested as follows:

25 (2) MUNICIPALITIES.--

26 (a) Chartered municipalities shall have original
27 jurisdiction over all streets and highways located within
28 their boundaries, except state roads, and may place and
29 maintain such traffic control devices which conform to the
30 manual and specifications of the Department of Transportation
31 upon all streets and highways under their original

1 jurisdiction as they shall deem necessary to indicate and to
2 carry out the provisions of this chapter or to regulate, warn,
3 or guide traffic.

4 (b) A municipality may exercise jurisdiction over any
5 private road or roads, or over any limited access road or
6 roads owned or controlled by a special district, located
7 within its boundaries if the municipality and party or parties
8 owning or controlling such road or roads provide, by written
9 agreement approved by the governing body of the municipality,
10 for municipal traffic control jurisdiction over the road or
11 roads encompassed by such agreement. Pursuant thereto:

12 1. Provision for reimbursement for actual costs of
13 traffic control and enforcement and for liability insurance
14 and indemnification by the party or parties, and such other
15 terms as are mutually agreeable, may be included in such an
16 agreement.

17 2. The exercise of jurisdiction provided for herein
18 shall be in addition to jurisdictional authority presently
19 exercised by municipalities under law, and nothing in this
20 paragraph shall be construed to limit or remove any such
21 jurisdictional authority. Such jurisdiction includes
22 regulation of access to such road or roads by security devices
23 or personnel.

24 3. Any such agreement may provide for the installation
25 of multiparty stop signs by the parties controlling the roads
26 covered by the agreement if a determination is made by such
27 parties that the signage will enhance traffic safety.
28 Multiparty stop signs must conform to the manual and
29 specifications of the Department of Transportation; however,
30 minimum traffic volumes may not be required for the
31

1 installation of such signage. Enforcement for the signs shall
2 be as provided in s. 316.123.

3 4. The board of directors of a homeowners' association
4 as defined in chapter 720 may, by majority vote, elect to have
5 state traffic laws enforced by local law enforcement agencies
6 on private roads that are controlled by the association.

7 (c) Notwithstanding any other provisions of law to the
8 contrary, a municipality may, by interlocal agreement with a
9 county, agree to transfer traffic regulatory authority over
10 areas within the municipality to the county.

11
12 This subsection shall not limit those counties which have the
13 charter powers to provide and regulate arterial, toll, and
14 other roads, bridges, tunnels, and related facilities from the
15 proper exercise of those powers by the placement and
16 maintenance of traffic control devices which conform to the
17 manual and specifications of the Department of Transportation
18 on streets and highways located within municipal boundaries.

19 (3) COUNTIES.--

20 (a) Counties shall have original jurisdiction over all
21 streets and highways located within their boundaries, except
22 all state roads and those streets and highways specified in
23 subsection (2), and may place and maintain such traffic
24 control devices which conform to the manual and specifications
25 of the Department of Transportation upon all streets and
26 highways under their original jurisdiction as they shall deem
27 necessary to indicate and to carry out the provisions of this
28 chapter or to regulate, warn, or guide traffic.

29 (b) A county may exercise jurisdiction over any
30 private road or roads, or over any limited access road or
31 roads owned or controlled by a special district, located in

1 | the unincorporated area within its boundaries if the county
2 | and party or parties owning or controlling such road or roads
3 | provide, by written agreement approved by the governing body
4 | of the county, for county traffic control jurisdiction over
5 | the road or roads encompassed by such agreement. Pursuant
6 | thereto:

7 | 1. Provision for reimbursement for actual costs of
8 | traffic control and enforcement and for liability insurance
9 | and indemnification by the party or parties, and such other
10 | terms as are mutually agreeable, may be included in such an
11 | agreement.

12 | 2. Prior to entering into an agreement which provides
13 | for enforcement of the traffic laws of the state over a
14 | private road or roads, or over any limited access road or
15 | roads owned or controlled by a special district, the governing
16 | body of the county shall consult with the sheriff. No such
17 | agreement shall take effect prior to October 1, the beginning
18 | of the county fiscal year, unless this requirement is waived
19 | in writing by the sheriff.

20 | 3. The exercise of jurisdiction provided for herein
21 | shall be in addition to jurisdictional authority presently
22 | exercised by counties under law, and nothing in this paragraph
23 | shall be construed to limit or remove any such jurisdictional
24 | authority.

25 | 4. Any such agreement may provide for the installation
26 | of multiparty stop signs by the parties controlling the roads
27 | covered by the agreement if a determination is made by such
28 | parties that the signage will enhance traffic safety.
29 | Multiparty stop signs must conform to the manual and
30 | specifications of the Department of Transportation; however,
31 | minimum traffic volumes may not be required for the

1 installation of such signage. Enforcement for the signs shall
2 be as provided in s. 316.123.

3 5. The board of directors of a homeowners' association
4 as defined in chapter 720 may, by majority vote, elect to have
5 state traffic laws enforced by local law enforcement agencies
6 on private roads that are controlled by the association.

7 (c) If the governing body of a county abandons the
8 roads and rights-of-way dedicated in a recorded residential
9 subdivision, and simultaneously conveys the county's interest
10 therein to a homeowners' association for the subdivision in
11 the manner prescribed in s. 336.125, that county's traffic
12 control jurisdiction over the abandoned and conveyed roads
13 ceases unless the requirements of paragraph (b) are met.

14
15 Notwithstanding the provisions of subsection (2), each county
16 shall have original jurisdiction to regulate parking, by
17 resolution of the board of county commissioners and the
18 erection of signs conforming to the manual and specifications
19 of the Department of Transportation, in parking areas located
20 on property owned or leased by the county, whether or not such
21 areas are located within the boundaries of chartered
22 municipalities.

23
24 Reviser's note.--Section 6, ch. 2006-290, Laws
25 of Florida, amended paragraphs (2)(b) and
26 (3)(b) without publishing the flush left
27 language at the end of the respective
28 subsections. Absent affirmative evidence of
29 legislative intent to repeal it, the flush left
30 language is reenacted to confirm that the
31 omissions were not intended.

1 Section 44. Paragraph (b) of subsection (9) of section
2 320.77, Florida Statutes, is amended to read:

3 320.77 License required of mobile home dealers.--

4 (9) SALESPERSONS TO BE REGISTERED BY LICENSEES.--

5 (b) Each time a mobile home salesperson employed by a
6 licensee changes his or her residence address, the salesperson
7 must notify the department within 20 days after the change.

8
9 Reviser's note.--Amended pursuant to the
10 directive of the Legislature in s. 1, ch.
11 93-199, Laws of Florida, to remove
12 gender-specific references applicable to human
13 beings from the Florida Statutes without
14 substantive change in legal effect.

15
16 Section 45. Subsection (2) of section 322.2615,
17 Florida Statutes, is amended to read:

18 322.2615 Suspension of license; right to review.--

19 (2) Except as provided in paragraph (1)(a), the law
20 enforcement officer shall forward to the department, within 5
21 days after issuing the notice of suspension, the driver's
22 license; an affidavit stating the officer's grounds for belief
23 that the person was driving or in actual physical control of a
24 motor vehicle while under the influence of alcoholic beverages
25 or chemical or controlled substances; the results of any
26 breath or blood test or an affidavit stating that a breath,
27 blood, or urine test was requested by a law enforcement
28 officer or correctional officer and that the person refused to
29 submit; the officer's description of the person's field
30 sobriety test, if any; the notice of suspension; and a copy of
31 the crash report, if any. The failure of the officer to submit

1 materials within the 5-day period specified in this subsection
2 and in subsection (1) does not affect the department's ability
3 to consider any evidence submitted at or prior to the hearing.
4 The officer may also submit a copy of a videotape of the field
5 sobriety test or the attempt to administer such test.
6 Materials submitted to the department by a law enforcement
7 agency or correctional agency shall be considered
8 self-authenticating and shall be in the record for
9 consideration by the hearing officer. Notwithstanding s.
10 316.066(7) ~~316.066(4)~~, the crash report shall be considered by
11 the hearing officer.

12

13 Reviser's note.--Amended to conform to the
14 redesignation of s. 316.066(4) as s. 316.066(7)
15 by s. 1, ch. 2006-260, Laws of Florida.

16

17 Section 46. Subsection (1) of section 328.64, Florida
18 Statutes, is amended to read:

19 328.64 Change of interest and address.--

20 (1) The owner shall furnish the Department of Highway
21 Safety and Motor Vehicles notice of the transfer of all or any
22 part of his or her interest in a vessel registered or titled
23 in this state pursuant to this chapter ~~or chapter 328~~ or of
24 the destruction or abandonment of such vessel, within 30 days
25 thereof, on a form prescribed by the department. Such
26 transfer, destruction, or abandonment shall terminate the
27 certificate for such vessel, except that in the case of a
28 transfer of a part interest which does not affect the owner's
29 right to operate such vessel, such transfer shall not
30 terminate the certificate. The department shall provide the

31

1 form for such notice and shall attach the form to every vessel
2 title issued or reissued.

3

4 Reviser's note.--Amended to confirm the
5 editorial deletion of the words "or chapter
6 328" following the words "this chapter" to
7 conform to the renumbering of s. 327.19 as s.
8 328.64 by s. 19, ch. 99-289, Laws of Florida,
9 and to eliminate redundancy.

10

11 Section 47. Section 331.312, Florida Statutes, is
12 amended to read:

13 331.312 Furnishing facilities and services within the
14 spaceport territory.--Space Florida may construct, develop,
15 create, maintain, and operate its projects within the
16 geographical limits of the spaceport territory, including any
17 portions of the spaceport territory located inside the
18 boundaries of any incorporated municipality or other political
19 subdivision, and ~~to~~ offer, supply, and furnish the facilities
20 and services provided for in this act to, and ~~to~~ establish and
21 collect fees, rentals, and other charges from, persons, public
22 or private, within the geographical limits of the spaceport
23 territory and for the use of Space Florida itself.

24

25 Reviser's note.--Amended to confirm the
26 editorial deletion of the word "to" following
27 the word "and" to improve clarity and correct
28 sentence construction.

29

30 Section 48. Section 331.313, Florida Statutes, is
31 amended to read:

1 331.313 Power of Space Florida with respect to
2 roads.--Within the territorial limits of any spaceport
3 territory, Space Florida may acquire, through purchase or
4 interagency agreement, or as otherwise provided in law, and ~~to~~
5 construct, control, and maintain, roads deemed necessary by
6 Space Florida and connections thereto and extensions thereof
7 now or hereafter acquired, constructed, or maintained in
8 accordance with established highway safety standards; provided
9 that, in the event a road being addressed by Space Florida is
10 owned by another agency or jurisdiction, Space Florida, before
11 proceeding with the proposed project or work activity, shall
12 have either coordinated the desired work with the owning
13 agency or jurisdiction or shall have successfully executed an
14 interagency agreement with the owning agency or jurisdiction.

15
16 Reviser's note.--Amended to confirm the
17 editorial deletion of the word "to" preceding
18 the word "construct" to improve clarity and
19 correct sentence construction.

20
21 Section 49. Subsection (1) of section 331.316, Florida
22 Statutes, is amended to read:

23 331.316 Rates, fees, rentals, tolls, fares, and
24 charges; procedure for adoption and modification; minimum
25 revenue requirements.--

26 (1) To recover the costs of the spaceport facility or
27 system, Space Florida may prescribe, fix, establish, and
28 collect rates, fees, rentals, tolls, fares, or other charges
29 (hereinafter referred to as "revenues"), and ~~to~~ revise the
30 same from time to time, for the facilities and services
31 furnished or to be furnished by Space Florida and the

1 | spaceport, including, but not limited to, launch pads, ranges,
2 | payload assembly and processing facilities, visitor and
3 | tourist facilities, transportation facilities, and parking and
4 | other related facilities, and may provide for reasonable
5 | penalties against any user or property for any such rates,
6 | fees, rentals, tolls, fares, or other charges that are
7 | delinquent.

8 |
9 | Reviser's note.--Amended to confirm the
10 | editorial deletion of the word "to" preceding
11 | the word "revise" to improve clarity and
12 | correct sentence construction.

13 |
14 | Section 50. Subsection (2) of section 331.319, Florida
15 | Statutes, is amended to read:

16 | 331.319 Comprehensive planning; building and safety
17 | codes.--The board of directors may:

18 | (2) Prohibit within the spaceport territory the
19 | construction, alteration, repair, removal, or demolition, or
20 | the commencement of the construction, alteration, repair
21 | (except emergency repairs), removal, or demolition, of any
22 | building or structure, including, but not by way of
23 | limitation, public utility poles, lines, pipes, and
24 | facilities, without first obtaining a permit from the board or
25 | such other officer or agency as the board may designate, and
26 | ~~to~~ prescribe the procedure with respect to the obtaining of
27 | such permit.

28 |
29 | Reviser's note.--Amended to confirm the
30 | editorial deletion of the word "to" preceding

31 |

1 the word "prescribe" to improve clarity and
2 correct sentence construction.

3
4 Section 51. Section 331.324, Florida Statutes, is
5 amended to read:

6 331.324 Contracts, grants, and contributions.--Space
7 Florida may make and enter all contracts and agreements
8 necessary or incidental to the performance of the functions of
9 Space Florida and the execution of its powers, and ~~to~~ contract
10 with, and ~~to~~ accept and receive grants or loans of money,
11 material, or property from, any person, private or public, as
12 the board shall determine to be necessary or desirable to
13 carry out the purposes of this act, and in connection with
14 any such contract, grant, or loan, ~~to~~ stipulate and agree to
15 such covenants, terms, and conditions as the board shall deem
16 appropriate.

17
18 Reviser's note.--Amended to confirm the
19 editorial deletion of the word "to" following
20 the words "and" and "loan" to improve clarity
21 and correct sentence construction.

22
23 Section 52. Subsection (4) of section 336.68, Florida
24 Statutes, is amended to read:

25 336.68 Special road and bridge district boundaries;
26 property owner rights and options.--

27 (4) The property owner shall provide copies of the
28 recorded certificate to the governing body of the district
29 from which the property is being withdrawn within ~~days~~ 10 days
30 after the date that the certificate is recorded. If the
31 district does not record an objection to the withdrawal of the

1 | property in the public records within 30 days after the
2 | recording of the certificate identifying the criteria in this
3 | section that has not been met, the withdrawal shall be final
4 | and the property shall be permanently withdrawn from the
5 | boundaries of the district.

6 |
7 | Reviser's note.--Amended to confirm the
8 | editorial deletion of the word "days" following
9 | the word "within" to correct a typographical
10 | error.

11 |
12 | Section 53. Subsection (6) of section 341.840, Florida
13 | Statutes, is amended to read:

14 | 341.840 Tax exemption.--

15 | (6) A leasehold interest held by the authority is not
16 | subject to intangible tax. However, if a leasehold interest
17 | held by the authority is subleased to a nongovernmental
18 | lessee, such subleasehold interest shall be deemed to be an
19 | interest described in s. 199.023(1)(d), Florida Statutes 2005,
20 | and is subject to the intangible tax.

21 |
22 | Reviser's note.--Amended to conform to the
23 | repeal of s. 199.023 by s. 1, ch. 2006-312,
24 | Laws of Florida.

25 |
26 | Section 54. Paragraph (c) of subsection (1) and
27 | subsection (2) of section 366.93, Florida Statutes, are
28 | amended to read:

29 | 366.93 Cost recovery for the siting, design,
30 | licensing, and construction of nuclear power plants.--

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

1 (c) "Nuclear power plant" or "plant" is an electrical
2 power plant as defined in s. 403.503(13) ~~403.503(12)~~ that uses
3 nuclear materials for fuel.

4 (2) Within 6 months after the enactment of this act,
5 the commission shall establish, by rule, alternative cost
6 recovery mechanisms for the recovery of costs incurred in the
7 siting, design, licensing, and construction of a nuclear power
8 plant. Such mechanisms shall be designed to promote utility
9 investment in nuclear power plants and allow for the recovery
10 in rates of all prudently incurred costs, and shall include,
11 but are not limited to:

12 (a) Recovery through the capacity cost recovery clause
13 of any preconstruction costs.

14 (b) Recovery through an incremental increase in the
15 utility's capacity cost recovery clause rates of the carrying
16 costs on the utility's projected construction cost balance
17 associated with the nuclear power plant. To encourage
18 investment and provide certainty, for nuclear power plant need
19 petitions submitted on or before December 31, 2010, associated
20 carrying costs shall be equal to the pretax AFUDC in effect
21 upon this act becoming law. For nuclear power plants for which
22 need petitions are submitted after December 31, 2010, the
23 utility's existing pretax AFUDC rate is presumed to be
24 appropriate unless determined otherwise by the commission in
25 the determination of need for the nuclear power plant.

26
27 Reviser's note.--Paragraph (1)(c) is amended to
28 conform to the redesignation of s. 403.503(12)
29 as s. 403.503(13) by s. 20, ch. 2006-230, Laws
30 of Florida. Subsection (2) is amended to
31 confirm the editorial insertion of the word

1 "of" following the word "rates" to improve
2 clarity and correct sentence construction.

3
4 Section 55. Subsection (4) of section 370.063, Florida
5 Statutes, is amended to read:

6 370.063 Special recreational spiny lobster
7 license.--There is created a special recreational spiny
8 lobster license, to be issued to qualified persons as provided
9 by this section for the recreational harvest of spiny lobster
10 beginning August 5, 1994.

11 (4) As a condition precedent to the issuance of a
12 special recreational spiny lobster license, the applicant must
13 agree to file quarterly reports with the Fish and Wildlife
14 Conservation Commission in such form as the commission
15 requires, detailing the amount of the licenseholder's spiny
16 lobster harvest in the previous quarter, including the harvest
17 of other recreational harvesters aboard the licenseholder's
18 vessel.

19
20 Reviser's note.--Amended to conform to the
21 editorial insertion of the word "license"
22 following the word "lobster" to improve clarity
23 and correct sentence construction.

24
25 Section 56. Subsection (4) of section 375.065, Florida
26 Statutes, is amended to read:

27 375.065 Public beaches; financial and other assistance
28 by Department of Environmental Protection to local
29 governments.--

30 (4) In addition to the authorized assistance
31 procedures provided by this section, the Legislature urges the

1 Department of Environmental Protection to give priority to
2 applications relating to the acquisition of public beaches in
3 urban areas, and to make full use of the federal Land and
4 Water Conservation Fund Act of 1965, as amended, or other
5 applicable federal programs. This section is supplemental to
6 and shall not limit or repeal any provision of the Outdoor
7 Recreation and Conservation Act of 1963.

8
9 Reviser's note.--Amended to conform to the name
10 of the Outdoor Recreation and Conservation Act
11 of 1963 as referenced in s. 375.011.

12
13 Section 57. Subsections (3) and (5) of section 376.30,
14 Florida Statutes, are amended to read:

15 376.30 Legislative intent with respect to pollution of
16 surface and ground waters.--

17 (3) The Legislature intends by the enactment of ss.
18 376.30-376.317 ~~376.30-376.319~~ to exercise the police power of
19 the state by conferring upon the Department of Environmental
20 Protection the power to:

21 (a) Deal with the environmental and health hazards and
22 threats of danger and damage posed by such storage,
23 transportation, disposal, and related activities;

24 (b) Require the prompt containment and removal of
25 products occasioned thereby; and

26 (c) Establish a program which will enable the
27 department to:

28 1. Provide for expeditious restoration or replacement
29 of potable water systems or potable private wells of affected
30 persons where health hazards exist due to contamination from
31 pollutants (which may include provision of bottled water on a

1 temporary basis, after which a more stable and convenient
2 source of potable water shall be provided) and hazardous
3 substances, subject to the following conditions:

4 a. For the purposes of this subparagraph, the term
5 "restoration" means restoration of a contaminated potable
6 water supply to a level which meets applicable water quality
7 standards or applicable water quality criteria, as adopted by
8 rule, for the contaminant or contaminants present in the water
9 supply, or, where no such standards or criteria have been
10 adopted, to a level that is determined to be a safe, potable
11 level by the State Health Officer in the Department of Health,
12 through the installation of a filtration system and provision
13 of replacement filters as necessary or through employment of
14 repairs or another treatment method or methods designed to
15 remove or filter out contamination from the water supply; and
16 the term "replacement" means replacement of a well or well
17 field or connection to an alternative source of safe, potable
18 water.

19 b. For the purposes of the Inland Protection Trust
20 Fund and the drycleaning facility restoration funds in the
21 Water Quality Assurance Trust Fund as provided in s. 376.3078,
22 such restoration or replacement shall take precedence over
23 other uses of the unobligated moneys within the fund after
24 payment of amounts appropriated annually from the Inland
25 Protection Trust Fund for payments under any service contract
26 entered into by the department pursuant to s. 376.3075.

27 c. Funding for activities described in this
28 subparagraph shall not exceed \$10 million for any one county
29 for any one year, other than for the provision of bottled
30 water.

31

1 d. Funding for activities described in this
2 subparagraph shall not be available to fund any increase in
3 the capacity of a potable water system or potable private well
4 over the capacity which existed prior to such restoration or
5 replacement, unless such increase is the result of the use of
6 a more cost-effective alternative than other alternatives
7 available.

8 2. Provide for the inspection and supervision of
9 activities described in this subsection.

10 3. Guarantee the prompt payment of reasonable costs
11 resulting therefrom, including those administrative costs
12 incurred by the Department of Health in providing field and
13 laboratory services, toxicological risk assessment, and other
14 services to the department in the investigation of drinking
15 water contamination complaints.

16 (5) The Legislature further declares that it is the
17 intent of ss. 376.30-376.317 ~~376.30-376.319~~ to support and
18 complement applicable provisions of the Federal Water
19 Pollution Control Act, as amended, specifically those
20 provisions relating to the national contingency plan for
21 removal of pollutants.

22
23 Reviser's note.--Amended to conform to the
24 repeal of s. 376.319 by s. 18, ch. 99-4, Laws
25 of Florida.

26
27 Section 58. Section 376.301, Florida Statutes, is
28 amended to read:

29 376.301 Definitions of terms used in ss.
30 376.30-376.317 ~~376.30-376.319~~, 376.70, and 376.75.--When used
31

1 | in ss. 376.30-376.317 ~~376.30-376.319~~, 376.70, and 376.75,
2 | unless the context clearly requires otherwise, the term:

3 | (1) "Aboveground hazardous substance tank" means any
4 | stationary aboveground storage tank and onsite integral piping
5 | that contains hazardous substances which are liquid at
6 | standard temperature and pressure and has an individual
7 | storage capacity greater than 110 gallons.

8 | (2) "Additive effects" means a scientific principle
9 | that the toxicity that occurs as a result of exposure is the
10 | sum of the toxicities of the individual chemicals to which the
11 | individual is exposed.

12 | (3) "Antagonistic effects" means a scientific
13 | principle that the toxicity that occurs as a result of
14 | exposure is less than the sum of the toxicities of the
15 | individual chemicals to which the individual is exposed.

16 | (4) "Backlog" means reimbursement obligations incurred
17 | pursuant to s. 376.3071(12), prior to March 29, 1995, or
18 | authorized for reimbursement under the provisions of s.
19 | 376.3071(12), pursuant to chapter 95-2, Laws of Florida.
20 | Claims within the backlog are subject to adjustment, where
21 | appropriate.

22 | (5) "Barrel" means 42 U.S. gallons at 60 degrees
23 | Fahrenheit.

24 | (6) "Bulk product facility" means a waterfront
25 | location with at least one aboveground tank with a capacity
26 | greater than 30,000 gallons which is used for the storage of
27 | pollutants.

28 | (7) "Cattle-dipping vat" means any structure,
29 | excavation, or other facility constructed by any person, or
30 | the site where such structure, excavation, or other facility
31 | once existed, for the purpose of treating cattle or other

1 livestock with a chemical solution pursuant to or in
2 compliance with any local, state, or federal governmental
3 program for the prevention, suppression, control, or
4 eradication of any dangerous, contagious, or infectious
5 diseases.

6 (8) "Cleanup target level" means the concentration for
7 each contaminant identified by an applicable analytical test
8 method, in the medium of concern, at which a site
9 rehabilitation program is deemed complete.

10 (9) "Compression vessel" means any stationary
11 container, tank, or onsite integral piping system, or
12 combination thereof, which has a capacity of greater than 110
13 gallons, that is primarily used to store pollutants or
14 hazardous substances above atmospheric pressure or at a
15 reduced temperature in order to lower the vapor pressure of
16 the contents. Manifold compression vessels that function as a
17 single vessel shall be considered as one vessel.

18 (10) "Contaminant" means any physical, chemical,
19 biological, or radiological substance present in any medium
20 which may result in adverse effects to human health or the
21 environment or which creates an adverse nuisance,
22 organoleptic, or aesthetic condition in groundwater.

23 (11) "Contaminated site" means any contiguous land,
24 sediment, surface water, or groundwater areas that contain
25 contaminants that may be harmful to human health or the
26 environment.

27 (12) "Department" means the Department of
28 Environmental Protection.

29 (13) "Discharge" includes, but is not limited to, any
30 spilling, leaking, seeping, pouring, misapplying, emitting,
31 emptying, releasing, or dumping of any pollutant or hazardous

1 substance which occurs and which affects lands and the surface
2 and ground waters of the state not regulated by ss.
3 376.011-376.21.

4 (14) "Drycleaning facility" means a commercial
5 establishment that operates or has at some time in the past
6 operated for the primary purpose of drycleaning clothing and
7 other fabrics utilizing a process that involves any use of
8 drycleaning solvents. The term "drycleaning facility" includes
9 laundry facilities that use drycleaning solvents as part of
10 their cleaning process. The term does not include a facility
11 that operates or has at some time in the past operated as a
12 uniform rental company or a linen supply company regardless of
13 whether the facility operates as or was previously operated as
14 a drycleaning facility.

15 (15) "Drycleaning solvents" means any and all
16 nonaqueous solvents used in the cleaning of clothing and other
17 fabrics and includes perchloroethylene (also known as
18 tetrachloroethylene) and petroleum-based solvents, and their
19 breakdown products. For purposes of this definition,
20 "drycleaning solvents" only includes those drycleaning
21 solvents originating from use at a drycleaning facility or by
22 a wholesale supply facility.

23 (16) "Dry drop-off facility" means any commercial
24 retail store that receives from customers clothing and other
25 fabrics for drycleaning or laundering at an offsite
26 drycleaning facility and that does not clean the clothing or
27 fabrics at the store utilizing drycleaning solvents.

28 (17) "Engineering controls" means modifications to a
29 site to reduce or eliminate the potential for exposure to
30 petroleum products' chemicals of concern, drycleaning
31 solvents, or other contaminants. Such modifications may

1 include, but are not limited to, physical or hydraulic control
2 measures, capping, point of use treatments, or slurry walls.

3 (18) "Wholesale supply facility" means a commercial
4 establishment that supplies drycleaning solvents to
5 drycleaning facilities.

6 (19) "Facility" means a nonresidential location
7 containing, or which contained, any underground stationary
8 tank or tanks which contain hazardous substances or pollutants
9 and have individual storage capacities greater than 110
10 gallons, or any aboveground stationary tank or tanks which
11 contain pollutants which are liquids at standard ambient
12 temperature and pressure and have individual storage
13 capacities greater than 550 gallons. This subsection shall not
14 apply to facilities covered by chapter 377, or containers
15 storing solid or gaseous pollutants, and agricultural tanks
16 having storage capacities of less than 550 gallons.

17 (20) "Flow-through process tank" means an aboveground
18 tank that contains hazardous substances or specified mineral
19 acids as defined in s. 376.321 and that forms an integral part
20 of a production process through which there is a steady,
21 variable, recurring, or intermittent flow of materials during
22 the operation of the process. Flow-through process tanks
23 include, but are not limited to, seal tanks, vapor recovery
24 units, surge tanks, blend tanks, feed tanks, check and delay
25 tanks, batch tanks, oil-water separators, or tanks in which
26 mechanical, physical, or chemical change of a material is
27 accomplished.

28 (21) "Hazardous substances" means those substances
29 defined as hazardous substances in the Comprehensive
30 Environmental Response, Compensation and Liability Act of
31

1 1980, Pub. L. No. 96-510, 94 Stat. 2767, as amended by the
2 Superfund Amendments and Reauthorization Act of 1986.

3 (22) "Institutional controls" means the restriction on
4 use or access to a site to eliminate or minimize exposure to
5 petroleum products' chemicals of concern, drycleaning
6 solvents, or other contaminants. Such restrictions may
7 include, but are not limited to, deed restrictions,
8 restrictive covenants, or conservation easements.

9 (23) "Laundering on a wash, dry, and fold basis" means
10 the service provided by the owner or operator of a
11 coin-operated laundry to its customers whereby an employee of
12 the laundry washes, dries, and folds laundry for its
13 customers.

14 (24) "Marine fueling facility" means a commercial or
15 recreational coastal facility, excluding a bulk product
16 facility, providing fuel to vessels.

17 (25) "Natural attenuation" means a verifiable approach
18 to site rehabilitation that allows natural processes to
19 contain the spread of contamination and reduce the
20 concentrations of contaminants in contaminated groundwater and
21 soil. Natural attenuation processes may include the following:
22 sorption, biodegradation, chemical reactions with subsurface
23 materials, diffusion, dispersion, and volatilization.

24 (26) "Operator" means any person operating a facility,
25 whether by lease, contract, or other form of agreement.

26 (27) "Owner" means any person owning a facility.

27 (28) "Person" means any individual, partner, joint
28 venture, or corporation; any group of the foregoing, organized
29 or united for a business purpose; or any governmental entity.

30
31

1 (29) "Person in charge" means the person on the scene
2 who is in direct, responsible charge of a facility from which
3 pollutants are discharged, when the discharge occurs.

4 (30) "Person responsible for conducting site
5 rehabilitation" means the site owner, operator, or the person
6 designated by the site owner or operator on the reimbursement
7 application. Mortgage holders and trust holders may be
8 eligible to participate in the reimbursement program pursuant
9 to s. 376.3071(12).

10 (31) "Person responsible for site rehabilitation"
11 means the person performing site rehabilitation pursuant to s.
12 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701. Such
13 person may include, but is not limited to, any person who has
14 legal responsibility for site rehabilitation pursuant to this
15 chapter or chapter 403, the department when it conducts site
16 rehabilitation, a real property owner, a facility owner or
17 operator, any person responsible for brownfield site
18 rehabilitation, or any person who voluntarily rehabilitates a
19 site and seeks acknowledgment from the department for approval
20 of site rehabilitation program tasks.

21 (32) "Petroleum" includes:

22 (a) Oil, including crude petroleum oil and other
23 hydrocarbons, regardless of gravity, which are produced at the
24 well in liquid form by ordinary methods and which are not the
25 result of condensation of gas after it leaves the reservoir;
26 and

27 (b) All natural gas, including casinghead gas, and all
28 other hydrocarbons not defined as oil in paragraph (a).

29 (33) "Petroleum product" means any liquid fuel
30 commodity made from petroleum, including, but not limited to,
31 all forms of fuel known or sold as diesel fuel, kerosene, all

1 forms of fuel known or sold as gasoline, and fuels containing
2 a mixture of gasoline and other products, excluding liquefied
3 petroleum gas and American Society for Testing and Materials
4 (ASTM) grades no. 5 and no. 6 residual oils, bunker C residual
5 oils, intermediate fuel oils (IFO) used for marine bunkering
6 with a viscosity of 30 and higher, asphalt oils, and
7 petrochemical feedstocks.

8 (34) "Petroleum products' chemicals of concern" means
9 the constituents of petroleum products, including, but not
10 limited to, xylene, benzene, toluene, ethylbenzene,
11 naphthalene, and similar chemicals, and constituents in
12 petroleum products, including, but not limited to, methyl
13 tert-butyl ether (MTBE), lead, and similar chemicals found in
14 additives, provided the chemicals of concern are present as a
15 result of a discharge of petroleum products.

16 (35) "Petroleum storage system" means a stationary
17 tank not covered under the provisions of chapter 377, together
18 with any onsite integral piping or dispensing system
19 associated therewith, which is used, or intended to be used,
20 for the storage or supply of any petroleum product. Petroleum
21 storage systems may also include oil/water separators, and
22 other pollution control devices installed at petroleum product
23 terminals as defined in this chapter and bulk product
24 facilities pursuant to, or required by, permits or best
25 management practices in an effort to control surface discharge
26 of pollutants. Nothing herein shall be construed to allow a
27 continuing discharge in violation of department rules.

28 (36) "Pollutants" includes any "product" as defined in
29 s. 377.19(11), pesticides, ammonia, chlorine, and derivatives
30 thereof, excluding liquefied petroleum gas.
31

1 (37) "Pollution" means the presence on the land or in
2 the waters of the state of pollutants in quantities which are
3 or may be potentially harmful or injurious to human health or
4 welfare, animal or plant life, or property or which may
5 unreasonably interfere with the enjoyment of life or property,
6 including outdoor recreation.

7 (38) "Real property owner" means the individual or
8 entity that is vested with ownership, dominion, or legal or
9 rightful title to the real property, or which has a ground
10 lease interest in the real property, on which a drycleaning
11 facility or wholesale supply facility is or has ever been
12 located.

13 (39) "Response action" means any activity, including
14 evaluation, planning, design, engineering, construction, and
15 ancillary services, which is carried out in response to any
16 discharge, release, or threatened release of a hazardous
17 substance, pollutant, or other contaminant from a facility or
18 site identified by the department under the provisions of ss.
19 376.30-376.317 ~~376.30-376.319~~.

20 (40) "Response action contractor" means a person who
21 is carrying out any response action, including a person
22 retained or hired by such person to provide services relating
23 to a response action.

24 (41) "Risk reduction" means the lowering or
25 elimination of the level of risk posed to human health or the
26 environment through interim remedial actions, remedial action,
27 or institutional and, if appropriate, engineering controls.

28 (42) "Secretary" means the Secretary of Environmental
29 Protection.

30 (43) "Site rehabilitation" means the assessment of
31 site contamination and the remediation activities that reduce

1 | the levels of contaminants at a site through accepted
2 | treatment methods to meet the cleanup target levels
3 | established for that site. For purposes of sites subject to
4 | the Resource Conservation and Recovery Act, as amended, the
5 | term includes removal, decontamination, and corrective action
6 | of releases of hazardous substances.

7 | (44) "Source removal" means the removal of free
8 | product, or the removal of contaminants from soil or sediment
9 | that has been contaminated to the extent that leaching to
10 | groundwater or surface water has occurred or is occurring.

11 | (45) "Storage system" means a stationary tank not
12 | covered under the provisions of chapter 377, together with any
13 | onsite integral piping or dispensing system associated
14 | therewith, which is or has been used for the storage or supply
15 | of any petroleum product, pollutant, or hazardous substance as
16 | defined herein, and which is registered with the Department of
17 | Environmental Protection under this chapter or any rule
18 | adopted pursuant hereto.

19 | (46) "Synergistic effects" means a scientific
20 | principle that the toxicity that occurs as a result of
21 | exposure is more than the sum of the toxicities of the
22 | individual chemicals to which the individual is exposed.

23 | (47) "Temporary point of compliance" means the
24 | boundary represented by one or more designated monitoring
25 | wells at which groundwater cleanup target levels may not be
26 | exceeded while site rehabilitation is proceeding.

27 | (48) "Terminal facility" means any structure, group of
28 | structures, motor vehicle, rolling stock, pipeline, equipment,
29 | or related appurtenances which are used or capable of being
30 | used for one or more of the following purposes: pumping,
31 | refining, drilling for, producing, storing, handling,

1 transferring, or processing pollutants, provided such
2 pollutants are transferred over, under, or across any water,
3 estuaries, tidal flats, beaches, or waterfront lands,
4 including, but not limited to, any such facility and related
5 appurtenances owned or operated by a public utility or a
6 governmental or quasi-governmental body. In the event of a
7 ship-to-ship transfer of pollutants, the vessel going to or
8 coming from the place of transfer and a terminal facility
9 shall also be considered a terminal facility. For the purposes
10 of ss. 376.30-376.317 ~~376.30-376.319~~, the term "terminal
11 facility" shall not be construed to include spill response
12 vessels engaged in response activities related to removal of
13 pollutants, or temporary storage facilities created to
14 temporarily store recovered pollutants and matter, or
15 waterfront facilities owned and operated by governmental
16 entities acting as agents of public convenience for persons
17 engaged in the drilling for or pumping, storing, handling,
18 transferring, processing, or refining of pollutants. However,
19 each person engaged in the drilling for or pumping, storing,
20 handling, transferring, processing, or refining of pollutants
21 through a waterfront facility owned and operated by such a
22 governmental entity shall be construed as a terminal facility.

23 (49) "Transfer" or "transferred" includes unloading,
24 offloading, fueling, bunkering, lightering, removal of waste
25 pollutants, or other similar transfers, between terminal
26 facility and vessel or vessel and vessel.

27 (50) "Nearby real property owner" means the individual
28 or entity that is vested with ownership, dominion, or legal or
29 rightful title to real property, or that has a ground lease in
30 real property, onto which drycleaning solvent has migrated
31 through soil or groundwater from a drycleaning facility or

1 wholesale supply facility eligible for site rehabilitation
2 under s. 376.3078(3) or from a drycleaning facility or
3 wholesale supply facility that is approved by the department
4 for voluntary cleanup under s. 376.3078(11).

5

6 Reviser's note.--Amended to conform to the
7 repeal of s. 376.319 by s. 18, ch. 99-4, Laws
8 of Florida.

9

10 Section 59. Paragraphs (a), (f), and (j) of subsection
11 (1) and subsection (2) of section 376.303, Florida Statutes,
12 are amended to read:

13 376.303 Powers and duties of the Department of
14 Environmental Protection.--

15 (1) The department has the power and the duty to:

16 (a) Establish rules, including, but not limited to,
17 construction standards, permitting or registration of tanks,
18 maintenance and installation standards, and removal or
19 disposal standards, to implement the intent of ss.
20 376.30-376.317 ~~376.30-376.319~~ and to regulate underground and
21 aboveground facilities and their onsite integral piping
22 systems. Such rules may establish standards for underground
23 facilities which store hazardous substances or pollutants, and
24 marine fueling facilities and aboveground facilities, not
25 covered by chapter 377, which store pollutants. The
26 department shall register bulk product facilities and shall
27 issue annual renewals of such registrations. Requirements for
28 facilities with underground storage tanks having storage
29 capacities over 110 gallons that store hazardous substances
30 became effective on January 1, 1991. The department shall
31 maintain a compliance verification program for this section,

1 | which may include investigations or inspections to locate
2 | improperly abandoned tanks. The department may contract with
3 | other governmental agencies or private consultants to perform
4 | compliance verification activities. The contracts may provide
5 | for an advance of working capital to local governments to
6 | expedite the implementation of the compliance verification
7 | program. Counties with permit or registration fees for storage
8 | tanks or storage tank systems are not eligible for advance
9 | funding for the compliance verification program.

10 | (f) Establish a requirement that any facility or
11 | terminal facility covered by this act be subject to complete
12 | and thorough inspections at reasonable times. Any facility or
13 | terminal facility which has discharged a pollutant in
14 | violation of the provisions of ss. 376.30-376.317
15 | ~~376.30-376.319~~ shall be fully and carefully monitored by the
16 | department to ensure that such discharge does not continue to
17 | occur.

18 | (j) Bring an action on behalf of the state to enforce
19 | the liabilities imposed by ss. 376.30-376.317 ~~376.30-376.319~~.
20 | The provisions of ss. 403.121, 403.131, 403.141, and 403.161
21 | apply to enforcement under ss. 376.30-376.317 ~~376.30-376.319~~.

22 | (2) The powers and duties of the department under ss.
23 | 376.30-376.317 ~~376.30-376.319~~ shall extend to the boundaries
24 | of the state described in s. 1, Art. II of the State
25 | Constitution.

26 |
27 | Reviser's note.--Amended to conform to the
28 | repeal of s. 376.319 by s. 18, ch. 99-4, Laws
29 | of Florida.
30 |
31 |

1 Section 60. Subsections (1) and (5) of section
2 376.305, Florida Statutes, are amended to read:

3 376.305 Removal of prohibited discharges.--

4 (1) Any person discharging a pollutant as prohibited
5 by ss. 376.30-376.317 ~~376.30-376.319~~ shall immediately
6 undertake to contain, remove, and abate the discharge to the
7 satisfaction of the department. However, such an undertaking
8 to contain, remove, or abate a discharge shall not be deemed
9 an admission of responsibility for the discharge by the person
10 taking such action. Notwithstanding this requirement, the
11 department may undertake the removal of the discharge and may
12 contract and retain agents who shall operate under the
13 direction of the department.

14 (5) Nothing in ss. 376.30-376.317 ~~376.30-376.319~~ shall
15 affect the right of any person to render assistance in
16 containing or removing any pollutant or any rights which that
17 person may have against any third party whose acts or
18 omissions in any way have caused or contributed to the
19 discharge of the pollutant.

20
21 Reviser's note.--Amended to conform to the
22 repeal of s. 376.319 by s. 18, ch. 99-4, Laws
23 of Florida.

24
25 Section 61. Paragraph (a) of subsection (1) and
26 paragraph (c) of subsection (4) of section 376.307, Florida
27 Statutes, are amended to read:

28 376.307 Water Quality Assurance Trust Fund.--

29 (1) The Water Quality Assurance Trust Fund is intended
30 to serve as a broad-based fund for use in responding to
31 incidents of contamination that pose a serious danger to the

1 | quality of groundwater and surface water resources or
2 | otherwise pose a serious danger to the public health, safety,
3 | or welfare. Moneys in this fund may be used:

4 | (a) To carry out the provisions of ss. 376.30-376.317
5 | ~~376.30-376.319~~, relating to assessment, cleanup, restoration,
6 | monitoring, and maintenance of any site involving spills,
7 | discharges, or escapes of pollutants or hazardous substances
8 | which occur as a result of procedures taken by private and
9 | governmental entities involving the storage, transportation,
10 | and disposal of such products.

11 | (4) The trust fund shall be funded as follows:

12 | (c) All penalties, judgments, recoveries,
13 | reimbursements, and other fees and charges related to the
14 | enforcement of ss. 376.30-376.317 ~~376.30-376.319~~, other than
15 | penalties, judgments, and other fees and charges related to
16 | the enforcement of ss. 376.3071 and 376.3073.

17 |
18 | Reviser's note.--Amended to conform to the
19 | repeal of s. 376.319 by s. 18, ch. 99-4, Laws
20 | of Florida.

21 |
22 | Section 62. Paragraph (e) of subsection (1) and
23 | subsection (4) of section 376.3071, Florida Statutes, are
24 | amended to read:

25 | 376.3071 Inland Protection Trust Fund; creation;
26 | purposes; funding.--

27 | (1) FINDINGS.--In addition to the legislative findings
28 | set forth in s. 376.30, the Legislature finds and declares:

29 | (e) That it is necessary to fulfill the intent and
30 | purposes of ss. 376.30-376.317 ~~376.30-376.319~~, and further it
31 | is hereby determined to be in the best interest of, and

1 necessary for the protection of the public health, safety, and
2 general welfare of the residents of this state, and therefore
3 a paramount public purpose, to provide for the creation of a
4 nonprofit public benefit corporation as an instrumentality of
5 the state to assist in financing the functions provided in ss.
6 376.30-376.317 ~~376.30-376.319~~ and to authorize the department
7 to enter into one or more service contracts with such
8 corporation for the provision of financing services related to
9 such functions and to make payments thereunder from the amount
10 on deposit in the Inland Protection Trust Fund, subject to
11 annual appropriation by the Legislature.

12 (4) USES.--Whenever, in its determination, incidents
13 of inland contamination related to the storage of petroleum or
14 petroleum products may pose a threat to the environment or the
15 public health, safety, or welfare, the department shall
16 obligate moneys available in the fund to provide for:

17 (a) Prompt investigation and assessment of
18 contamination sites.

19 (b) Expeditious restoration or replacement of potable
20 water supplies as provided in s. 376.30(3)(c)1.

21 (c) Rehabilitation of contamination sites, which shall
22 consist of cleanup of affected soil, groundwater, and inland
23 surface waters, using the most cost-effective alternative that
24 is technologically feasible and reliable and that provides
25 adequate protection of the public health, safety, and welfare
26 and minimizes environmental damage, in accordance with the
27 site selection and cleanup criteria established by the
28 department under subsection (5), except that nothing herein
29 shall be construed to authorize the department to obligate
30 funds for payment of costs which may be associated with, but
31

1 are not integral to, site rehabilitation, such as the cost for
2 retrofitting or replacing petroleum storage systems.

3 (d) Maintenance and monitoring of contamination sites.

4 (e) Inspection and supervision of activities described
5 in this subsection.

6 (f) Payment of expenses incurred by the department in
7 its efforts to obtain from responsible parties the payment or
8 recovery of reasonable costs resulting from the activities
9 described in this subsection.

10 (g) Payment of any other reasonable costs of
11 administration, including those administrative costs incurred
12 by the Department of Health in providing field and laboratory
13 services, toxicological risk assessment, and other assistance
14 to the department in the investigation of drinking water
15 contamination complaints and costs associated with public
16 information and education activities.

17 (h) Establishment and implementation of the compliance
18 verification program as authorized in s. 376.303(1)(a),
19 including contracting with local governments or state agencies
20 to provide for the administration of such program through
21 locally administered programs, to minimize the potential for
22 further contamination sites.

23 (i) Funding of the provisions of ss. 376.305(6) and
24 376.3072.

25 (j) Activities related to removal and replacement of
26 petroleum storage systems, exclusive of costs of any tank,
27 piping, dispensing unit, or related hardware, if soil removal
28 is preapproved as a component of site rehabilitation and
29 requires removal of the tank where remediation is conducted
30 under s. 376.30711 or if such activities were justified in an
31

1 approved remedial action plan performed pursuant to subsection
2 (12).

3 (k) Activities related to reimbursement application
4 preparation and activities related to reimbursement
5 application examination by a certified public accountant
6 pursuant to subsection (12).

7 (l) Reasonable costs of restoring property as nearly
8 as practicable to the conditions which existed prior to
9 activities associated with contamination assessment or
10 remedial action taken under s. 376.303(4).

11 (m) Repayment of loans to the fund.

12 (n) Expenditure of sums from the fund to cover
13 ineligible sites or costs as set forth in subsection (13), if
14 the department in its discretion deems it necessary to do so.
15 In such cases, the department may seek recovery and
16 reimbursement of costs in the same manner and in accordance
17 with the same procedures as are established for recovery and
18 reimbursement of sums otherwise owed to or expended from the
19 fund.

20 (o) Payment of amounts payable under any service
21 contract entered into by the department pursuant to s.
22 376.3075, subject to annual appropriation by the Legislature.

23 (p) Petroleum remediation pursuant to s. 376.30711
24 throughout a state fiscal year. The department shall establish
25 a process to uniformly encumber appropriated funds throughout
26 a state fiscal year and shall allow for emergencies and
27 imminent threats to human health and the environment as
28 provided in paragraph (5)(a). This paragraph does not apply to
29 appropriations associated with the free product recovery
30 initiative of paragraph (5)(c) or the preapproved advanced
31 cleanup program of s. 376.30713.

1
2 The Inland Protection Trust Fund may only be used to fund the
3 activities in ss. 376.30-376.317 ~~376.30-376.319~~ except ss.
4 376.3078 and 376.3079. Amounts on deposit in the Inland
5 Protection Trust Fund in each fiscal year shall first be
6 applied or allocated for the payment of amounts payable by the
7 department pursuant to paragraph (o) under a service contract
8 entered into by the department pursuant to s. 376.3075 and
9 appropriated in each year by the Legislature prior to making
10 or providing for other disbursements from the fund. Nothing in
11 this subsection shall authorize the use of the Inland
12 Protection Trust Fund for cleanup of contamination caused
13 primarily by a discharge of solvents as defined in s.
14 206.9925(6), or polychlorinated biphenyls when their presence
15 causes them to be hazardous wastes, except solvent
16 contamination which is the result of chemical or physical
17 breakdown of petroleum products and is otherwise eligible.
18 Facilities used primarily for the storage of motor or diesel
19 fuels as defined in ss. 206.01 and 206.86 shall be presumed
20 not to be excluded from eligibility pursuant to this section.

21
22 Reviser's note.--Amended to conform to the
23 repeal of s. 376.319 by s. 18, ch. 99-4, Laws
24 of Florida.

25
26 Section 63. Subsections (1) and (4) of section
27 376.3075, Florida Statutes, are amended to read:

28 376.3075 Inland Protection Financing Corporation.--

29 (1) There is hereby created a nonprofit public benefit
30 corporation to be known as the "Inland Protection Financing
31 Corporation" for the purpose of financing the rehabilitation

1 of petroleum contamination sites pursuant to ss.
2 376.30-376.317 ~~376.30-376.319~~ and the payment, purchase, and
3 settlement of reimbursement obligations of the department
4 pursuant to s. 376.3071(12), existing as of December 31, 1996.
5 Such reimbursement obligations are referred to in this section
6 as existing reimbursement obligations. The corporation shall
7 terminate on July 1, 2025.

8 (4) The corporation is authorized to enter into one or
9 more service contracts with the department pursuant to which
10 the corporation shall provide services to the department in
11 connection with financing the functions and activities
12 provided for in ss. 376.30-376.317 ~~376.30-376.319~~. The
13 department may enter into one or more such service contracts
14 with the corporation and to provide for payments under such
15 contracts pursuant to s. 376.3071(4)(o), subject to annual
16 appropriation by the Legislature. The proceeds from such
17 service contracts may be used for the costs and expenses of
18 administration of the corporation after payments as set forth
19 in subsection (5). Each service contract shall have a term not
20 to exceed 10 years and shall terminate no later than July 1,
21 2025. The aggregate amount payable from the Inland Protection
22 Trust Fund under all such service contracts shall not exceed
23 \$65 million in any state fiscal year. Amounts annually
24 appropriated and applied to make payments under such service
25 contracts shall not include any funds derived from penalties
26 or other payments received from any property owner or private
27 party, including payments received from s. 376.3071(6)(b). In
28 compliance with provisions of s. 287.0641 and other applicable
29 provisions of law, the obligations of the department under
30 such service contracts shall not constitute a general
31 obligation of the state or a pledge of the faith and credit or

1 | taxing power of the state nor shall such obligations be
2 | construed in any manner as an obligation of the State Board of
3 | Administration or entities for which it invests funds, other
4 | than the department as provided in this section, but shall be
5 | payable solely from amounts available in the Inland Protection
6 | Trust Fund, subject to annual appropriation. In compliance
7 | with this subsection and s. 287.0582, the service contract
8 | shall expressly include the following statement: "The State of
9 | Florida's performance and obligation to pay under this
10 | contract is contingent upon an annual appropriation by the
11 | Legislature."

12 |
13 | Reviser's note.--Amended to conform to the
14 | repeal of s. 376.319 by s. 18, ch. 99-4, Laws
15 | of Florida.

16 |
17 | Section 64. Subsections (2) and (4) of section
18 | 376.30781, Florida Statutes, are amended to read:

19 | 376.30781 Partial tax credits for rehabilitation of
20 | drycleaning-solvent-contaminated sites and brownfield sites in
21 | designated brownfield areas; application process; rulemaking
22 | authority; revocation authority.--

23 | (2) Notwithstanding the requirements of paragraph
24 | (5)(a), tax credits allowed pursuant to s. ~~ss. 199.1055 and~~
25 | 220.1845 are available for any site rehabilitation conducted
26 | during the calendar year in which the applicable voluntary
27 | cleanup agreement or brownfield site rehabilitation agreement
28 | is executed, even if the site rehabilitation is conducted
29 | prior to the execution of that agreement or the designation of
30 | the brownfield area.

31 |

1 (4) The Department of Environmental Protection shall
2 be responsible for allocating the tax credits provided for in
3 s. 220.1845, not to exceed a total of ~~\$2~~^{\$5} million in tax
4 credits annually.

5
6 Reviser's note.--Subsection (2) is amended to
7 conform to the repeal of s. 199.1055 by s. 1,
8 ch. 2006-312, Laws of Florida. Subsection (4)
9 is amended to correct an apparent error and
10 facilitate correct interpretation. The original
11 bill and first engrossed version of House Bill
12 7131 contained five changes of the \$2 million
13 tax credit amount to \$5 million in ss.
14 199.1055, 220.1845, and 376.30781. The second
15 engrossed version and final act, which became
16 ch. 2006-291, Laws of Florida, reverted the
17 amount back to \$2 million in all but this
18 location.

19
20 Section 65. Paragraph (a) of subsection (3) of section
21 376.3079, Florida Statutes, is amended to read:

22 376.3079 Third-party liability insurance.--

23 (3) For purposes of this section and s. 376.3078, the
24 term:

25 (a) "Third-party liability" means the insured's
26 liability, other than for site rehabilitation costs and
27 property damage as applied to sites utilizing the provisions
28 of s. 376.3078(3) and (11) ~~378.3078(3) and (11)~~, for bodily
29 injury caused by an incident of contamination related to the
30 operation of a drycleaning facility or wholesale supply
31 facility.

1 Reviser's note.--Amended to correct an apparent
2 error. Section 378.3078 does not exist; s.
3 376.3078(3) and (11) relate to rehabilitation
4 liability and voluntary cleanup regarding
5 drycleaning facility restoration, respectively.
6

7 Section 66. Subsection (1) of section 376.308, Florida
8 Statutes, is amended to read:

9 376.308 Liabilities and defenses of facilities.--

10 (1) In any suit instituted by the department under ss.
11 376.30-376.317 ~~376.30-376.319~~, it is not necessary to plead or
12 prove negligence in any form or matter. The department need
13 only plead and prove that the prohibited discharge or other
14 polluting condition has occurred. The following persons shall
15 be liable to the department for any discharges or polluting
16 condition:

17 (a) Any person who caused a discharge or other
18 polluting condition or who owned or operated the facility, or
19 the stationary tanks or the nonresidential location which
20 constituted the facility, at the time the discharge occurred.

21 (b) In the case of a discharge of hazardous
22 substances, all persons specified in s. 403.727(4).

23 (c) In the case of a discharge of petroleum, petroleum
24 products, or drycleaning solvents, the owner of the facility,
25 the drycleaning facility, or the wholesale supply facility,
26 unless the owner can establish that he or she acquired title
27 to property contaminated by the activities of a previous owner
28 or operator or other third party, that he or she did not cause
29 or contribute to the discharge, and that he or she did not
30 know of the polluting condition at the time the owner acquired
31 title. If the owner acquired title subsequent to July 1, 1992,

1 or, in the case of a drycleaning facility or wholesale supply
2 facility, subsequent to July 1, 1994, he or she must also
3 establish by a preponderance of the evidence that he or she
4 undertook, at the time of acquisition, all appropriate inquiry
5 into the previous ownership and use of the property consistent
6 with good commercial or customary practice in an effort to
7 minimize liability. The court or hearing officer shall take
8 into account any specialized knowledge or experience on the
9 part of the defendant, the relationship of the purchase price
10 to the value of the property if uncontaminated, commonly known
11 or reasonably ascertainable information about the property,
12 the obviousness of the presence or likely presence of
13 contamination at the property, and the ability to detect such
14 contamination by appropriate inspection. In an action relating
15 to a discharge of petroleum, petroleum products, or
16 drycleaning solvents under chapter 403, the defenses and
17 definitions set forth herein shall apply.

18

19 Reviser's note.--Amended to conform to the
20 repeal of s. 376.319 by s. 18, ch. 99-4, Laws
21 of Florida.

22

23 Section 67. Section 376.309, Florida Statutes, is
24 amended to read:

25 376.309 Facilities, financial responsibility.--

26 (1) Each owner of a facility is required to establish
27 and maintain evidence of financial responsibility. Such
28 evidence of financial responsibility shall be the only
29 evidence required by the department that such owner has the
30 ability to meet the liabilities which may be incurred under
31 ss. 376.30-376.317 ~~376.30-376.319~~.

1 (2) Any claim brought pursuant to ss. 376.30-376.317
2 ~~376.30-376.319~~ may be brought directly against the bond, the
3 insurer, or any other person providing a facility with
4 evidence of financial responsibility.

5 (3) Each owner of a facility subject to the provisions
6 of ss. 376.30-376.317 ~~376.30-376.319~~ shall designate a person
7 in the state as his or her legal agent for service of process
8 under ss. 376.30-376.317 ~~376.30-376.319~~, and such designation
9 shall be filed with the Department of State. In the absence
10 of such designation, the Secretary of State shall be the
11 designated agent for purposes of service of process under ss.
12 376.30-376.317 ~~376.30-376.319~~.

13
14 Reviser's note.--Amended to conform to the
15 repeal of s. 376.319 by s. 18, ch. 99-4, Laws
16 of Florida.

17
18 Section 68. Section 376.313, Florida Statutes, is
19 amended to read:

20 376.313 Nonexclusiveness of remedies and individual
21 cause of action for damages under ss. 376.30-376.317
22 ~~376.30-376.319~~.--

23 (1) The remedies in ss. 376.30-376.317 ~~376.30-376.319~~
24 shall be deemed to be cumulative and not exclusive.

25 (2) Nothing in ss. 376.30-376.317 ~~376.30-376.319~~
26 requires the pursuit of any claim against the Water Quality
27 Assurance Trust Fund or the Inland Protection Trust Fund as a
28 condition precedent to any other remedy.

29 (3) Except as provided in s. 376.3078(3) and (11),
30 nothing contained in ss. 376.30-376.317 ~~376.30-376.319~~
31 prohibits any person from bringing a cause of action in a

1 court of competent jurisdiction for all damages resulting from
2 a discharge or other condition of pollution covered by ss.
3 376.30-376.317 ~~376.30-376.319~~. Nothing in this chapter shall
4 prohibit or diminish a party's right to contribution from
5 other parties jointly or severally liable for a prohibited
6 discharge of pollutants or hazardous substances or other
7 pollution conditions. Except as otherwise provided in
8 subsection (4) or subsection (5), in any such suit, it is not
9 necessary for such person to plead or prove negligence in any
10 form or manner. Such person need only plead and prove the fact
11 of the prohibited discharge or other pollutive condition and
12 that it has occurred. The only defenses to such cause of
13 action shall be those specified in s. 376.308.

14 (4) In any civil action brought after July 1, 1986,
15 against the owner or operator of a petroleum storage system
16 for damages arising from a petroleum storage system discharge,
17 the provisions of subsection (3) shall not apply if it can be
18 proven that, at the time of the discharge:

19 (a) The alleged damages resulted solely from a
20 discharge from a petroleum storage system which was installed,
21 replaced, or retrofitted, and maintained, in a manner
22 consistent with the construction, operation, repair, and
23 maintenance standards established for such systems under
24 chapter 62-761, Florida Administrative Code, as that chapter
25 may hereafter be amended. The requirement of consistency with
26 such standards may be satisfied only by being in compliance
27 with the standards at the time of the discharge, regardless of
28 the time specified for compliance under the schedule provided
29 in said chapter.

30 (b) A leak detection system or systems or a monitoring
31 well or wells were installed and operating in a manner

1 consistent with technical requirements of chapter 62-761,
2 Florida Administrative Code, as that chapter may hereafter be
3 amended; and

4 (c) All inventory, recordkeeping, and reporting
5 requirements of chapter 62-761, Florida Administrative Code,
6 as that chapter may hereafter be amended, have been and are
7 being complied with.

8
9 Any person bringing such an action must prove negligence to
10 recover damages under this subsection. For the purposes of
11 this subsection, noncompliance with this act, or any of the
12 rules promulgated pursuant hereto, as the same may hereafter
13 be amended, shall be prima facie evidence of negligence.

14 (5)(a) In any civil action against the owner or
15 operator of a drycleaning facility or a wholesale supply
16 facility, or the owner of the real property on which such
17 facility is located, if such facility is not eligible under s.
18 376.3078(3) and is not involved in voluntary cleanup under s.
19 376.3078(11), for damages arising from the discharge of
20 drycleaning solvents from a drycleaning facility or wholesale
21 supply facility, the provisions of subsection (3) shall not
22 apply if it can be proven that, at the time of the discharge
23 the alleged damages resulted solely from a discharge from a
24 drycleaning facility or wholesale supply facility that was in
25 compliance with department rules regulating drycleaning
26 facilities or wholesale supply facilities.

27 (b) Any person bringing such an action must prove
28 negligence in order to recover damages under this subsection.
29 For the purposes of this subsection, noncompliance with s.
30 376.303 or s. 376.3078, or any of the rules promulgated
31 pursuant thereto, or any applicable state or federal law or

1 regulation, as the same may hereafter be amended, shall be
2 prima facie evidence of negligence.

3 (6) The court, in issuing any final judgment in any
4 such action, may award costs of litigation (including
5 reasonable attorney's and expert witness fees) to any party,
6 whenever the court determines such an award is in the public
7 interest.

8
9 Reviser's note.--Amended to conform to the
10 repeal of s. 376.319 by s. 18, ch. 99-4, Laws
11 of Florida.

12
13 Section 69. Section 376.315, Florida Statutes, is
14 amended to read:

15 376.315 Construction of ss. 376.30-376.317
16 ~~376.30-376.319~~.--Sections 376.30-376.317 ~~376.30-376.319~~, being
17 necessary for the general welfare and the public health and
18 safety of the state and its inhabitants, shall be liberally
19 construed to effect the purposes set forth under ss.
20 376.30-376.317 ~~376.30-376.319~~ and the Federal Water Pollution
21 Control Act, as amended.

22
23 Reviser's note.--Amended to conform to the
24 repeal of s. 376.319 by s. 18, ch. 99-4, Laws
25 of Florida.

26
27 Section 70. Subsection (1) of section 376.317, Florida
28 Statutes, is amended to read:

29 376.317 Superseded laws; state preemption.--
30 (1) If any provision of ss. 376.30-376.317
31 ~~376.30-376.319~~ or of the rules developed pursuant to such

1 sections, which provision pertains to a facility maintained
2 for the purpose of the underground storage of petroleum
3 products for use as fuel in vehicles, including, but not
4 limited to, those vehicles used on and off roads, aircraft,
5 watercraft, and rail, is in conflict with any other provision,
6 limitation, or restriction which is now in effect under any
7 law of this state or any ordinance of a local government,
8 political subdivision, or municipality, or any rule or
9 regulation adopted thereunder, the provision of ss.
10 376.30-376.317 ~~376.30-376.319~~ shall control, except as
11 provided in subsection (3).

12

13 Reviser's note.--Amended to conform to the
14 repeal of s. 376.319 by s. 18, ch. 99-4, Laws
15 of Florida.

16

17 Section 71. Paragraph (d) of subsection (1) of section
18 376.82, Florida Statutes, is amended to read:

19 376.82 Eligibility criteria and liability
20 protection.--

21 (1) ELIGIBILITY.--Any person who has not caused or
22 contributed to the contamination of a brownfield site on or
23 after July 1, 1997, is eligible to participate in the
24 brownfield program established in ss. 376.77-376.85, subject
25 to the following:

26 (d) After July 1, 1997, petroleum and drycleaning
27 contamination sites shall not receive both restoration funding
28 assistance available for the discharge under this chapter and
29 any state assistance available under s. 288.107. Nothing in
30 this act shall affect the cleanup criteria, priority ranking,
31 and other rights and obligations inherent in petroleum

1 | contamination and drycleaning contamination site
2 | rehabilitation under ss. 376.30-376.317 ~~376.30-376.319~~, or the
3 | availability of economic incentives otherwise provided for by
4 | law.

5 |
6 | Reviser's note.--Amended to conform to the
7 | repeal of s. 376.319 by s. 18, ch. 99-4, Laws
8 | of Florida.

9 |
10 | Section 72. Paragraph (d) of subsection (1) of section
11 | 376.84, Florida Statutes, is amended to read:

12 | 376.84 Brownfield redevelopment economic
13 | incentives.--It is the intent of the Legislature that
14 | brownfield redevelopment activities be viewed as opportunities
15 | to significantly improve the utilization, general condition,
16 | and appearance of these sites. Different standards than those
17 | in place for new development, as allowed under current state
18 | and local laws, should be used to the fullest extent to
19 | encourage the redevelopment of a brownfield. State and local
20 | governments are encouraged to offer redevelopment incentives
21 | for this purpose, as an ongoing public investment in
22 | infrastructure and services, to help eliminate the public
23 | health and environmental hazards, and to promote the creation
24 | of jobs in these areas. Such incentives may include
25 | financial, regulatory, and technical assistance to persons and
26 | businesses involved in the redevelopment of the brownfield
27 | pursuant to this act.

28 | (1) Financial incentives and local incentives for
29 | redevelopment may include, but not be limited to:

1 (d) Waiver, reduction, or limitation by line of
2 business with respect to business ~~occupational license~~ taxes
3 pursuant to chapter 205.

4
5 Reviser's note.--Amended to conform to the
6 redesignation of occupational license taxes in
7 chapter 205 as business taxes by ch. 2006-152,
8 Laws of Florida.

9
10 Section 73. Subsection (24) of section 380.06, Florida
11 Statutes, is amended to read:

12 380.06 Developments of regional impact.--

13 (24) STATUTORY EXEMPTIONS.--

14 (a) Any proposed hospital is exempt from the
15 provisions of this section.

16 (b) Any proposed electrical transmission line or
17 electrical power plant is exempt from the provisions of this
18 section.

19 (c) Any proposed addition to an existing sports
20 facility complex is exempt from the provisions of this section
21 if the addition meets the following characteristics:

22 1. It would not operate concurrently with the
23 scheduled hours of operation of the existing facility.

24 2. Its seating capacity would be no more than 75
25 percent of the capacity of the existing facility.

26 3. The sports facility complex property is owned by a
27 public body prior to July 1, 1983.

28
29 This exemption does not apply to any pari-mutuel facility.

30 (d) Any proposed addition or cumulative additions
31 subsequent to July 1, 1988, to an existing sports facility

1 complex owned by a state university is exempt if the increased
2 seating capacity of the complex is no more than 30 percent of
3 the capacity of the existing facility.

4 (e) Any addition of permanent seats or parking spaces
5 for an existing sports facility located on property owned by a
6 public body prior to July 1, 1973, is exempt from the
7 provisions of this section if future additions do not expand
8 existing permanent seating or parking capacity more than 15
9 percent annually in excess of the prior year's capacity.

10 (f) Any increase in the seating capacity of an
11 existing sports facility having a permanent seating capacity
12 of at least 50,000 spectators is exempt from the provisions of
13 this section, provided that such an increase does not increase
14 permanent seating capacity by more than 5 percent per year and
15 not to exceed a total of 10 percent in any 5-year period, and
16 provided that the sports facility notifies the appropriate
17 local government within which the facility is located of the
18 increase at least 6 months prior to the initial use of the
19 increased seating, in order to permit the appropriate local
20 government to develop a traffic management plan for the
21 traffic generated by the increase. Any traffic management plan
22 shall be consistent with the local comprehensive plan, the
23 regional policy plan, and the state comprehensive plan.

24 (g) Any expansion in the permanent seating capacity or
25 additional improved parking facilities of an existing sports
26 facility is exempt from the provisions of this section, if the
27 following conditions exist:

28 1.a. The sports facility had a permanent seating
29 capacity on January 1, 1991, of at least 41,000 spectator
30 seats;

31

1 b. The sum of such expansions in permanent seating
2 capacity does not exceed a total of 10 percent in any 5-year
3 period and does not exceed a cumulative total of 20 percent
4 for any such expansions; or

5 c. The increase in additional improved parking
6 facilities is a one-time addition and does not exceed 3,500
7 parking spaces serving the sports facility; and

8 2. The local government having jurisdiction of the
9 sports facility includes in the development order or
10 development permit approving such expansion under this
11 paragraph a finding of fact that the proposed expansion is
12 consistent with the transportation, water, sewer and
13 stormwater drainage provisions of the approved local
14 comprehensive plan and local land development regulations
15 relating to those provisions.

16
17 Any owner or developer who intends to rely on this statutory
18 exemption shall provide to the department a copy of the local
19 government application for a development permit. Within 45
20 days of receipt of the application, the department shall
21 render to the local government an advisory and nonbinding
22 opinion, in writing, stating whether, in the department's
23 opinion, the prescribed conditions exist for an exemption
24 under this paragraph. The local government shall render the
25 development order approving each such expansion to the
26 department. The owner, developer, or department may appeal the
27 local government development order pursuant to s. 380.07,
28 within 45 days after the order is rendered. The scope of
29 review shall be limited to the determination of whether the
30 conditions prescribed in this paragraph exist. If any sports
31 facility expansion undergoes development of regional impact

1 review, all previous expansions which were exempt under this
2 paragraph shall be included in the development of regional
3 impact review.

4 (h) Expansion to port harbors, spoil disposal sites,
5 navigation channels, turning basins, harbor berths, and other
6 related inwater harbor facilities of ports listed in s.
7 403.021(9)(b), port transportation facilities and projects
8 listed in s. 311.07(3)(b), and intermodal transportation
9 facilities identified pursuant to s. 311.09(3) are exempt from
10 the provisions of this section when such expansions, projects,
11 or facilities are consistent with comprehensive master plans
12 that are in compliance with the provisions of s. 163.3178.

13 (i) Any proposed facility for the storage of any
14 petroleum product or any expansion of an existing facility is
15 exempt from the provisions of this section.

16 (j) Any renovation or redevelopment within the same
17 land parcel which does not change land use or increase density
18 or intensity of use.

19 (k) Waterport and marina development, including dry
20 storage facilities, are exempt from the provisions of this
21 section.

22 (l) Any proposed development within an urban service
23 boundary established under s. 163.3177(14) is exempt from the
24 provisions of this section if the local government having
25 jurisdiction over the area where the development is proposed
26 has adopted the urban service boundary, has entered into a
27 binding agreement with jurisdictions that would be impacted
28 and with the Department of Transportation regarding the
29 mitigation of impacts on state and regional transportation
30 facilities, and has adopted a proportionate share methodology
31 pursuant to s. 163.3180(16).

1 (m) Any proposed development within a rural land
2 stewardship area created under s. 163.3177(11)(d) is exempt
3 from the provisions of this section if the local government
4 that has adopted the rural land stewardship area has entered
5 into a binding agreement with jurisdictions that would be
6 impacted and the Department of Transportation regarding the
7 mitigation of impacts on state and regional transportation
8 facilities, and has adopted a proportionate share methodology
9 pursuant to s. 163.3180(16).

10 (n) Any proposed development or redevelopment within
11 an area designated as an urban infill and redevelopment area
12 under s. 163.2517 is exempt from this section if the local
13 government has entered into a binding agreement with
14 jurisdictions that would be impacted and the Department of
15 Transportation regarding the mitigation of impacts on state
16 and regional transportation facilities, and has adopted a
17 proportionate share methodology pursuant to s. 163.3180(16).

18 (o) The establishment, relocation, or expansion of any
19 military installation as defined in s. 163.3175, is exempt
20 from this section.

21 (p) Any self-storage warehousing that does not allow
22 retail or other services is exempt from this section.

23 (q) Any proposed nursing home or assisted living
24 facility is exempt from this section.

25 (r) Any development identified in an airport master
26 plan and adopted into the comprehensive plan pursuant to s.
27 163.3177(6)(k) is exempt from this section.

28 (s) Any development identified in a campus master plan
29 and adopted pursuant to s. 1013.30 is exempt from this
30 section.

31

1 (t) Any development in a specific area plan which is
2 prepared pursuant to s. 163.3245 and adopted into the
3 comprehensive plan is exempt from this section.

4 (u) Any development within a county with a research
5 and education authority created by special act and that is
6 also within a research and development park that is operated
7 or managed by a research and development authority pursuant to
8 part V of chapter 159 is exempt from this section.

9
10 If a use is exempt from review as a development of regional
11 impact under paragraphs (a)-(t), ~~except for paragraph (u)~~, but
12 will be part of a larger project that is subject to review as
13 a development of regional impact, the impact of the exempt use
14 must be included in the review of the larger project.

15
16 Reviser's note.--Amended to improve clarity and
17 eliminate redundancy.

18
19 Section 74. Paragraph (c) of subsection (3) of section
20 380.23, Florida Statutes, is amended to read:

21 380.23 Federal consistency.--

22 (3) Consistency review shall be limited to review of
23 the following activities, uses, and projects to ensure that
24 such activities, uses, and projects are conducted in
25 accordance with the state's coastal management program:

26 (c) Federally licensed or permitted activities
27 affecting land or water uses when such activities are in or
28 seaward of the jurisdiction of local governments required to
29 develop a coastal zone protection element as provided in s.
30 380.24 and when such activities involve:

- 1 1. Permits and licenses required under the Rivers and
2 Harbors Act of 1899, 33 U.S.C. ss. 401 et seq., as amended.
- 3 2. Permits and licenses required under the Marine
4 Protection, Research and Sanctuaries Act of 1972, 33 U.S.C.
5 ss. 1401-1445 and 16 U.S.C. ss. 1431-1445, as amended.
- 6 3. Permits and licenses required under the Federal
7 Water Pollution Control Act of 1972, 33 U.S.C. ss. 1251 et
8 seq., as amended, unless such permitting activities have been
9 delegated to the state pursuant to said act.
- 10 4. Permits and licenses relating to the transportation
11 of hazardous substance materials or transportation and dumping
12 which are issued pursuant to the Hazardous Materials
13 Transportation Act, 49 U.S.C. ss. 1501 et seq., as amended, or
14 33 U.S.C. s. 1321, as amended.
- 15 5. Permits and licenses required under 15 U.S.C. ss.
16 717-717w, 3301-3432, 42 U.S.C. ss. 7101-7352, and 43 U.S.C.
17 ss. 1331-1356 for construction and operation of interstate gas
18 pipelines and storage facilities.
- 19 6. Permits and licenses required for the siting and
20 construction of any new electrical power plants as defined in
21 s. 403.503(13) ~~403.503(12)~~, as amended, and the licensing and
22 relicensing of hydroelectric power plants under the Federal
23 Power Act, 16 U.S.C. ss. 791a et seq., as amended.
- 24 7. Permits and licenses required under the Mining Law
25 of 1872, 30 U.S.C. ss. 21 et seq., as amended; the Mineral
26 Lands Leasing Act, 30 U.S.C. ss. 181 et seq., as amended; the
27 Mineral Leasing Act for Acquired Lands, 30 U.S.C. ss. 351 et
28 seq., as amended; the Federal Land Policy and Management Act,
29 43 U.S.C. ss. 1701 et seq., as amended; the Mining in the
30 Parks Act, 16 U.S.C. ss. 1901 et seq., as amended; and the OCS
31 Lands Act, 43 U.S.C. ss. 1331 et seq., as amended, for

1 drilling, mining, pipelines, geological and geophysical
2 activities, or rights-of-way on public lands and permits and
3 licenses required under the Indian Mineral Development Act, 25
4 U.S.C. ss. 2101 et seq., as amended.

5 8. Permits and licenses for areas leased under the OCS
6 Lands Act, 43 U.S.C. ss. 1331 et seq., as amended, including
7 leases and approvals of exploration, development, and
8 production plans.

9 9. Permits and licenses required under the Deepwater
10 Port Act of 1974, 33 U.S.C. ss. 1501 et seq., as amended.

11 10. Permits required for the taking of marine mammals
12 under the Marine Mammal Protection Act of 1972, as amended, 16
13 U.S.C. s. 1374.

14
15 Reviser's note.--Amended to conform to the
16 redesignation of s. 403.503(12) as s.
17 403.503(13) by s. 20, ch. 2006-230, Laws of
18 Florida.

19
20 Section 75. Paragraph (i) of subsection (3) of section
21 381.028, Florida Statutes, is amended to read:

22 381.028 Adverse medical incidents.--

23 (3) DEFINITIONS.--As used in s. 25, Art. X of the
24 State Constitution and this act, the term:

25 (i) "Privacy restrictions imposed by federal law"
26 means the provisions relating to the disclosure of patient
27 privacy information under federal law, including, but not
28 limited to, the Health Insurance Portability and
29 Accountability Act of 1996 (HIPAA), Pub. L. No. 104-191
30 ~~104-91~~, and its implementing regulations, the Federal Privacy
31 Act, 5 U.S.C. s. 552(a), and its implementing regulations, and

1 any other federal law, including, but not limited to, federal
2 common law and decisional law, that would prohibit the
3 disclosure of patient privacy information.

4
5 Reviser's note.--Amended to conform to context.

6 The Health Insurance Portability and
7 Accountability Act of 1996 is Pub. L. No.
8 104-191.

9
10 Section 76. Subsection (4) of section 400.0073,
11 Florida Statutes, is amended to read:

12 400.0073 State and local ombudsman council
13 investigations.--

14 (4) If the ombudsman or any state or local council
15 member is not allowed to enter a long-term care facility, the
16 administrator of the facility shall be considered to have
17 interfered with a representative of the office, the state
18 council, or the local council in the performance of official
19 duties as described in s. 400.0083(1) and to have committed a
20 violation of this part. The ombudsman shall report a
21 facility's refusal to allow entry to the agency, and the
22 agency shall record the report and take it into consideration
23 when determining actions allowable under s. 400.102, s.
24 400.121, s. 429.14 ~~400.414~~, s. 429.19 ~~400.419~~, s. 429.69
25 ~~400.6194~~, or s. 429.71 ~~400.6196~~.

26
27 Reviser's note.--Amended to conform to the
28 transfer of sections comprising parts III and
29 VII of chapter 400 to parts I and II of chapter
30 429 by ss. 2, 3, ch. 2006-197, Laws of Florida.

1 Section 77. Paragraph (a) of subsection (2) and
2 subsection (4) of section 400.0074, Florida Statutes, are
3 amended to read:

4 400.0074 Local ombudsman council onsite administrative
5 assessments.--

6 (2) An onsite administrative assessment conducted by a
7 local council shall be subject to the following conditions:

8 (a) To the extent possible and reasonable, the
9 administrative assessments shall not duplicate the efforts of
10 the agency surveys and inspections conducted under part ~~parts~~
11 ~~II, III, and VII~~ of this chapter and parts I and II of chapter
12 429.

13 (4) An onsite administrative assessment may not be
14 accomplished by forcible entry. However, if the ombudsman or a
15 state or local council member is not allowed to enter a
16 long-term care facility, the administrator of the facility
17 shall be considered to have interfered with a representative
18 of the office, the state council, or the local council in the
19 performance of official duties as described in s. 400.0083(1)
20 and to have committed a violation of this part. The ombudsman
21 shall report the refusal by a facility to allow entry to the
22 agency, and the agency shall record the report and take it
23 into consideration when determining actions allowable under s.
24 400.102, s. 400.121, s. 429.14 ~~400.414~~, s. 429.19 ~~400.419~~, s.
25 429.69 ~~400.6194~~, or s. 429.71 ~~400.6196~~.

26
27 Reviser's note.--Amended to conform to the
28 transfer of sections comprising parts III and
29 VII of chapter 400 to parts I and II of chapter
30 429 by ss. 2, 3, ch. 2006-197, Laws of Florida.
31

1 Section 78. Paragraph (a) of subsection (2) of section
2 400.0075, Florida Statutes, is amended to read:

3 400.0075 Complaint notification and resolution
4 procedures.--

5 (2)(a) Upon referral from a local council, the state
6 council shall assume the responsibility for the disposition of
7 the complaint. If a long-term care facility fails to take
8 action on a complaint by the state council, the state council
9 may, after obtaining approval from the ombudsman and a
10 majority of the state council members:

11 1. In accordance with s. 400.0077, publicize the
12 complaint, the recommendations of the local or state council,
13 and the response of the long-term care facility.

14 2. Recommend to the department and the agency a series
15 of facility reviews pursuant to s. 400.19, s. 429.34 ~~400.434~~,
16 or s. 429.67 ~~400.619~~ to ensure correction and nonrecurrence of
17 conditions that give rise to complaints against a long-term
18 care facility.

19 3. Recommend to the department and the agency that the
20 long-term care facility no longer receive payments under any
21 state assistance program, including Medicaid.

22 4. Recommend to the department and the agency that
23 procedures be initiated for revocation of the long-term care
24 facility's license in accordance with chapter 120.

25
26 Reviser's note.--Amended to conform to the
27 transfer of sections comprising parts III and
28 VII of chapter 400 to parts I and II of chapter
29 429 by ss. 2, 3, ch. 2006-197, Laws of Florida.
30
31

1 Section 79. Subsection (16) of section 400.506,
2 Florida Statutes, is amended to read:

3 400.506 Licensure of nurse registries; requirements;
4 penalties.--

5 (16) Each nurse registry shall prepare and maintain a
6 comprehensive emergency management plan that is consistent
7 with the criteria in this subsection and with the local
8 special needs plan. The plan shall be updated annually. The
9 plan shall include the means by which the nurse registry will
10 continue to provide the same type and quantity of services to
11 its patients who evacuate to special needs shelters which were
12 being provided to those patients prior to evacuation. The plan
13 shall specify how the nurse registry shall facilitate the
14 provision of continuous care by persons referred for contract
15 to persons who are registered pursuant to s. 252.355 during an
16 emergency that interrupts the provision of care or services in
17 private residences ~~residencies~~. Nurse registries may establish
18 links to local emergency operations centers to determine a
19 mechanism by which to approach specific areas within a
20 disaster area in order for a provider to reach its clients.
21 Nurse registries shall demonstrate a good faith effort to
22 comply with the requirements of this subsection by documenting
23 attempts of staff to follow procedures outlined in the nurse
24 registry's comprehensive emergency management plan which
25 support a finding that the provision of continuing care has
26 been attempted for patients identified as needing care by the
27 nurse registry and registered under s. 252.355 in the event of
28 an emergency under subsection (1).

29 (a) All persons referred for contract who care for
30 persons registered pursuant to s. 252.355 must include in the
31 patient record a description of how care will be continued

1 during a disaster or emergency that interrupts the provision
2 of care in the patient's home. It shall be the responsibility
3 of the person referred for contract to ensure that continuous
4 care is provided.

5 (b) Each nurse registry shall maintain a current
6 prioritized list of patients in private residences who are
7 registered pursuant to s. 252.355 and are under the care of
8 persons referred for contract and who need continued services
9 during an emergency. This list shall indicate, for each
10 patient, if the client is to be transported to a special needs
11 shelter and if the patient is receiving skilled nursing
12 services. Nurse registries shall make this list available to
13 county health departments and to local emergency management
14 agencies upon request.

15 (c) Each person referred for contract who is caring
16 for a patient who is registered pursuant to s. 252.355 shall
17 provide a list of the patient's medication and equipment needs
18 to the nurse registry. Each person referred for contract shall
19 make this information available to county health departments
20 and to local emergency management agencies upon request.

21 (d) Each person referred for contract shall not be
22 required to continue to provide care to patients in emergency
23 situations that are beyond the person's control and that make
24 it impossible to provide services, such as when roads are
25 impassable or when patients do not go to the location
26 specified in their patient records.

27 (e) The comprehensive emergency management plan
28 required by this subsection is subject to review and approval
29 by the county health department. During its review, the county
30 health department shall contact state and local health and
31 medical stakeholders when necessary. The county health

1 department shall complete its review to ensure that the plan
2 complies with the criteria in the Agency for Health Care
3 Administration rules within 90 days after receipt of the plan
4 and shall either approve the plan or advise the nurse registry
5 of necessary revisions. If a nurse registry fails to submit a
6 plan or fails to submit requested information or revisions to
7 the county health department within 30 days after written
8 notification from the county health department, the county
9 health department shall notify the Agency for Health Care
10 Administration. The agency shall notify the nurse registry
11 that its failure constitutes a deficiency, subject to a fine
12 of \$5,000 per occurrence. If the plan is not submitted,
13 information is not provided, or revisions are not made as
14 requested, the agency may impose the fine.

15 (f) The Agency for Health Care Administration shall
16 adopt rules establishing minimum criteria for the
17 comprehensive emergency management plan and plan updates
18 required by this subsection, with the concurrence of the
19 Department of Health and in consultation with the Department
20 of Community Affairs.

21
22 Reviser's note.--Amended to improve clarity and
23 conform to context.

24
25 Section 80. Paragraph (b) of subsection (2) of section
26 402.164, Florida Statutes, is amended to read:

27 402.164 Legislative intent; definitions.--

28 (2) As used in ss. 402.164-402.167, the term:

29 (b) "Client" means a client of the Agency for Persons
30 with Disabilities, the Agency for Health Care Administration,
31 the Department of Children and Family Services, or the

1 Department of Elderly Affairs, as defined in s. 393.063, s.
2 394.67, s. 397.311, or s. 400.960, a forensic client or client
3 as defined in s. 916.106, a child or youth as defined in s.
4 39.01, a child as defined in s. 827.01, a family as defined in
5 s. 414.0252, a participant as defined in s. 429.901 ~~400.551~~, a
6 resident as defined in s. 429.02, a Medicaid recipient or
7 recipient as defined in s. 409.901, a child receiving child
8 care as defined in s. 402.302, a disabled adult as defined in
9 s. 410.032 or s. 410.603, or a victim as defined in s. 39.01
10 or s. 415.102 as each definition applies within its respective
11 chapter.

12

13 Reviser's note.--Amended to confirm the
14 substitution by the editors of a reference to
15 s. 429.901 for a reference to s. 400.551, which
16 was transferred by s. 4, ch. 2006-197, Laws of
17 Florida.

18

19 Section 81. Paragraphs (a) and (b) of subsection (1)
20 and paragraph (b) of subsection (3) of section 403.091,
21 Florida Statutes, are amended to read:

22 403.091 Inspections.--

23 (1)(a) Any duly authorized representative of the
24 department may at any reasonable time enter and inspect, for
25 the purpose of ascertaining the state of compliance with the
26 law or rules and regulations of the department, any property,
27 premises, or place, except a building which is used
28 exclusively for a private residence, on or at which:

29 1. A hazardous waste generator, transporter, or
30 facility or other air or water contaminant source;

31

1 2. A discharger, including any nondomestic discharger
2 which introduces any pollutant into a publicly owned treatment
3 works;

4 3. Any facility, as defined in s. 376.301; or

5 4. A resource recovery and management facility

6
7 is located or is being constructed or installed or where
8 records which are required under this chapter, ss.
9 376.30-376.317 ~~376.30-376.319~~, or department rule are kept.

10 (b) Any duly authorized representative may at
11 reasonable times have access to and copy any records required
12 under this chapter or ss. 376.30-376.317 ~~376.30-376.319~~;
13 inspect any monitoring equipment or method; sample for any
14 pollutants as defined in s. 376.301, effluents, or wastes
15 which the owner or operator of such source may be discharging
16 or which may otherwise be located on or underlying the owner's
17 or operator's property; and obtain any other information
18 necessary to determine compliance with permit conditions or
19 other requirements of this chapter, ss. 376.30-376.317
20 ~~376.30-376.319~~, or department rules.

21 (3)

22 (b) Upon proper affidavit being made, an inspection
23 warrant may be issued under the provisions of this chapter or
24 ss. 376.30-376.317 ~~376.30-376.319~~:

25 1. When it appears that the properties to be inspected
26 may be connected with or contain evidence of the violation of
27 any of the provisions of this chapter or ss. 376.30-376.317
28 ~~376.30-376.319~~ or any rule properly promulgated thereunder; or

29 2. When the inspection sought is an integral part of a
30 larger scheme of systematic routine inspections which are
31 necessary to, and consistent with, the continuing efforts of

1 the department to ensure compliance with the provisions of
2 this chapter or ss. 376.30-376.317 ~~376.30-376.319~~ and any
3 rules adopted thereunder.

4
5 Reviser's note.--Amended to conform to the
6 repeal of s. 376.319 by s. 18, ch. 99-4, Laws
7 of Florida.

8
9 Section 82. Subsection (1) of section 403.5175,
10 Florida Statutes, is amended to read:

11 403.5175 Existing electrical power plant site
12 certification.--

13 (1) An electric utility that owns or operates an
14 existing electrical power plant as defined in s. 403.503(13)
15 ~~403.503(12)~~ may apply for certification of an existing power
16 plant and its site in order to obtain all agency licenses
17 necessary to ensure compliance with federal or state
18 environmental laws and regulation using the centrally
19 coordinated, one-stop licensing process established by this
20 part. An application for site certification under this section
21 must be in the form prescribed by department rule.
22 Applications must be reviewed and processed using the same
23 procedural steps and notices as for an application for a new
24 facility, except that a determination of need by the Public
25 Service Commission is not required.

26
27 Reviser's note.--Amended to conform to the
28 redesignation of s. 403.503(12) as s.
29 403.503(13) by s. 20, ch. 2006-230, Laws of
30 Florida.

1 Section 83. Paragraph (d) of subsection (2) of section
2 403.526, Florida Statutes, is amended to read:

3 403.526 Preliminary statements of issues, reports, and
4 project analyses; studies.--

5 (2)

6 (d) When an agency whose agency head is a collegial
7 body, such as a commission, board, or council, is required to
8 submit a report pursuant to this section and is required by
9 its own internal procedures to have the report reviewed by its
10 agency head prior to finalization, the agency may submit to
11 the department a draft version of the report by the deadline
12 indicated in paragraph (a), and shall submit a final version
13 of the report after review by the agency head, ~~and~~ no later
14 than 15 days after the deadline indicated in paragraph (a).

15
16 Reviser's note.--Amended to confirm the
17 deletion by the editors of the word "and"
18 following the word "head" to improve clarity.

19
20 Section 84. Paragraph (h) of subsection (1) of section
21 403.5271, Florida Statutes, is amended to read:

22 403.5271 Alternate corridors.--

23 (1) No later than 45 days before the originally
24 scheduled certification hearing, any party may propose
25 alternate transmission line corridor routes for consideration
26 under the provisions of this act.

27 (h) When an agency whose agency head is a collegial
28 body, such as a commission, board, or council, is required to
29 submit a report pursuant to this section and is required by
30 its own internal procedures to have the report reviewed by its
31 agency head prior to finalization, the agency may submit to

1 the department a draft version of the report by the deadline
2 indicated in paragraph (f), and shall submit a final version
3 of the report after review by the agency head ~~and~~ no later
4 than 7 days after the deadline indicated in paragraph (f).

5
6 Reviser's note.--Amended to confirm the
7 deletion by the editors of the word "and"
8 following the word "head" to improve clarity.

9
10 Section 85. Subsection (2) of section 403.528, Florida
11 Statutes, is amended to read:

12 403.528 Alteration of time limits.--

13 (2) A comprehensive application encompassing more than
14 one proposed transmission line may be good cause for
15 alteration ~~alternation~~ of time limits.

16
17 Reviser's note.--Amended to confirm the
18 substitution by the editors of the word
19 "alteration" for the word "alternation" to
20 conform to context.

21
22 Section 86. Subsections (2), (3), and (5) of section
23 403.7043, Florida Statutes, are amended to read:

24 403.7043 Compost standards and applications.--

25 (2) ~~Within 6 months after October 1, 1988,~~ The
26 department shall ~~initiate rulemaking to~~ establish standards
27 for the production of compost ~~and shall complete and~~
28 ~~promulgate those rules within 12 months after initiating the~~
29 ~~process of rulemaking~~, including rules establishing:

30 (a) Requirements necessary to produce hygienically
31 safe compost products for varying applications.

1 (b) A classification scheme for compost based on: the
2 types of waste composted, including at least one type
3 containing only yard trash; the maturity of the compost,
4 including at least three degrees of decomposition for fresh,
5 semimature, and mature; and the levels of organic and
6 inorganic constituents in the compost. This scheme shall
7 address:

- 8 1. Methods for measurement of the compost maturity.
- 9 2. Particle sizes.
- 10 3. Moisture content.
- 11 4. Average levels of organic and inorganic
12 constituents, including heavy metals, for such classes of
13 compost as the department establishes, and the analytical
14 methods to determine those levels.

15 (3) The department's rules ~~Within 6 months after~~
16 ~~October 1, 1988, the department shall initiate rulemaking to~~
17 ~~prescribe the allowable uses and application rates of compost~~
18 ~~and shall complete and promulgate those rules within 12 months~~
19 ~~after initiating the process of rulemaking,~~ based on the
20 following criteria:

21 (a) The total quantity of organic and inorganic
22 constituents, including heavy metals, allowed to be applied
23 through the addition of compost to the soil per acre per year.

24 (b) The allowable uses of compost based on maturity
25 and type of compost.

26 (5) The provisions of s. 403.706 shall not prohibit
27 any county or municipality which had ~~has~~ in place a memorandum
28 of understanding or other written agreement as of October 1,
29 1988, from proceeding with plans to build a compost facility.

30
31

1 Reviser's note.--Subsections (2) and (3), which
2 relate to initial rulemaking, are amended to
3 delete provisions that have served their
4 purpose. Subsection (5) is amended to conform
5 to context.

6
7 Section 87. Subsection (13) of section 403.708,
8 Florida Statutes, is amended to read:

9 403.708 Prohibition; penalty.--

10 (13) ~~In accordance with the following schedule,~~ No
11 person who knows or who should know of the nature of the
12 following ~~such~~ solid waste shall dispose of such solid waste
13 in landfills:

14 (a) ~~Lead-acid batteries, after January 1, 1989.~~
15 Lead-acid batteries also shall not be disposed of in any
16 waste-to-energy facility ~~after January 1, 1989~~. To encourage
17 proper collection and recycling, all persons who sell
18 lead-acid batteries at retail shall accept used lead-acid
19 batteries as trade-ins for new lead-acid batteries.

20 (b) ~~Used oil, after October 1, 1988.~~

21 (c) ~~Yard trash, after January 1, 1992,~~ except in
22 unlined landfills classified by department rule. Yard trash
23 that is source separated from solid waste may be accepted at a
24 solid waste disposal area where the area provides and
25 maintains separate yard trash composting facilities. The
26 department recognizes that incidental amounts of yard trash
27 may be disposed of in lined landfills. In any enforcement
28 action taken pursuant to this paragraph, the department shall
29 consider the difficulty of removing incidental amounts of yard
30 trash from a mixed solid waste stream.

31 (d) ~~White goods, after January 1, 1990.~~

1
2 ~~Prior to the effective dates specified in paragraphs (a) (d),~~
3 ~~the department shall identify and assist in developing~~
4 ~~alternative disposal, processing, or recycling options for the~~
5 ~~solid wastes identified in paragraphs (a) (d).~~

6
7 Reviser's note.--Amended to delete provisions
8 that have served their purpose.

9
10 Section 88. Paragraph (f) of subsection (3) of section
11 408.036, Florida Statutes, is amended to read:

12 408.036 Projects subject to review; exemptions.--

13 (3) EXEMPTIONS.--Upon request, the following projects
14 are subject to exemption from the provisions of subsection
15 (1):

16 (f) For the creation of a single nursing home within a
17 district by combining licensed beds from two or more licensed
18 nursing homes within such district, regardless of subdistrict
19 boundaries, if 50 percent of the beds in the created nursing
20 home are transferred from the only nursing home in a county
21 and its utilization data demonstrate that it had an occupancy
22 rate of less than 75 percent for the 12-month period ending 90
23 days before the request for the exemption. This paragraph is
24 repealed upon the expiration of the moratorium established in
25 s. 408.0435(1) ~~651.1185(1)~~.

26
27 Reviser's note.--Amended to conform to the
28 redesignation of s. 651.1185 as s. 408.0435 by
29 s. 1, ch. 2006-161, Laws of Florida.

1 Section 89. Section 408.802, Florida Statutes, is
2 amended to read:

3 408.802 Applicability.--The provisions of this part
4 apply to the provision of services that require licensure as
5 defined in this part and to the following entities licensed,
6 registered, or certified by the agency, as described in
7 chapters 112, 383, 390, 394, 395, 400, 429, 440, 483, and 765:

8 (1) Laboratories authorized to perform testing under
9 the Drug-Free Workplace Act, as provided under ss. 112.0455
10 and 440.102.

11 (2) Birth centers, as provided under chapter 383.

12 (3) Abortion clinics, as provided under chapter 390.

13 (4) Crisis stabilization units, as provided under
14 parts I and IV of chapter 394.

15 (5) Short-term residential treatment facilities, as
16 provided under parts I and IV of chapter 394.

17 (6) Residential treatment facilities, as provided
18 under part IV of chapter 394.

19 (7) Residential treatment centers for children and
20 adolescents, as provided under part IV of chapter 394.

21 (8) Hospitals, as provided under part I of chapter
22 395.

23 (9) Ambulatory surgical centers, as provided under
24 part I of chapter 395.

25 (10) Mobile surgical facilities, as provided under
26 part I of chapter 395.

27 (11) Private review agents, as provided under part I
28 of chapter 395.

29 (12) Health care risk managers, as provided under part
30 I of chapter 395.

31

- 1 (13) Nursing homes, as provided under part II of
2 chapter 400.
- 3 (14) Assisted living facilities, as provided under
4 part I ~~III~~ of chapter 429 ~~400~~.
- 5 (15) Home health agencies, as provided under part III
6 ~~IV~~ of chapter 400.
- 7 (16) Nurse registries, as provided under part III ~~IV~~
8 of chapter 400.
- 9 (17) Companion services or homemaker services
10 providers, as provided under part III ~~IV~~ of chapter 400.
- 11 (18) Adult day care centers, as provided under part
12 III ~~V~~ of chapter 429 ~~400~~.
- 13 (19) Hospices, as provided under part IV ~~VI~~ of chapter
14 400.
- 15 (20) Adult family-care homes, as provided under part
16 II ~~VII~~ of chapter 429 ~~400~~.
- 17 (21) Homes for special services, as provided under
18 part V ~~VIII~~ of chapter 400.
- 19 (22) Transitional living facilities, as provided under
20 part V ~~VIII~~ of chapter 400.
- 21 (23) Prescribed pediatric extended care centers, as
22 provided under part VI ~~IX~~ of chapter 400.
- 23 (24) Home medical equipment providers, as provided
24 under part VII ~~X~~ of chapter 400.
- 25 (25) Intermediate care facilities for persons with
26 developmental disabilities, as provided under part VIII ~~XI~~ of
27 chapter 400.
- 28 (26) Health care services pools, as provided under
29 part IX ~~XII~~ of chapter 400.
- 30 (27) Health care clinics, as provided under part X
31 ~~XIII~~ of chapter 400.

1 (28) Clinical laboratories, as provided under part I
2 of chapter 483.

3 (29) Multiphasic health testing centers, as provided
4 under part II of chapter 483.

5 (30) Organ and tissue procurement agencies, as
6 provided under chapter 765.

7
8 Reviser's note.--Amended to conform to the
9 redesignation of former parts III, V, and VII
10 of chapter 400 as parts I, III, and II of
11 chapter 429, respectively, by ss. 2, 3, 4, ch.
12 2006-197, Laws of Florida.

13
14 Section 90. Subsection (3) of section 408.803, Florida
15 Statutes, is amended to read:

16 408.803 Definitions.--As used in this part, the term:

17 (3) "Authorizing statute" means the statute
18 authorizing the licensed operation of a provider listed in s.
19 408.802 and includes chapters 112, 383, 390, 394, 395, 400,
20 429, 440, 483, and 765.

21
22 Reviser's note.--Amended to conform to the
23 redesignation of former parts III, V, and VII
24 of chapter 400 as chapter 429 by ch. 2006-197,
25 Laws of Florida.

26
27 Section 91. Paragraph (b) of subsection (7) of section
28 408.806, Florida Statutes, is amended to read:

29 408.806 License application process.--

30 (7)
31

1 (b) An initial inspection is not required for
2 companion services or homemaker services providers, as
3 provided under part III ~~IV~~ of chapter 400, or for health care
4 services pools, as provided under part IX ~~XII~~ of chapter 400.

5
6 Reviser's note.--Amended to conform to the
7 redesignation of parts within chapter 400
8 necessitated by the redesignation of former
9 parts III, V, and VIII as chapter 429 by ch.
10 2006-197, Laws of Florida.

11
12 Section 92. Subsections (14), (15), (16), (17), (18),
13 (19), (20), (21), (22), (23), (24), (25), and (26) of section
14 408.820, Florida Statutes, are amended to read:

15 408.820 Exemptions.--Except as prescribed in
16 authorizing statutes, the following exemptions shall apply to
17 specified requirements of this part:

18 (14) Assisted living facilities, as provided under
19 part I ~~III~~ of chapter 429 ~~400~~, are exempt from s. 408.810(10).

20 (15) Home health agencies, as provided under part III
21 ~~IV~~ of chapter 400, are exempt from s. 408.810(10).

22 (16) Nurse registries, as provided under part III ~~IV~~
23 of chapter 400, are exempt from s. 408.810(6) and (10).

24 (17) Companion services or homemaker services
25 providers, as provided under part III ~~IV~~ of chapter 400, are
26 exempt from s. 408.810(6)-(10).

27 (18) Adult day care centers, as provided under part
28 III ~~V~~ of chapter 429 ~~400~~, are exempt from s. 408.810(10).

29 (19) Adult family-care homes, as provided under part
30 II ~~VII~~ of chapter 429 ~~400~~, are exempt from s. 408.810(7)-(10).

1 (20) Homes for special services, as provided under
2 part V ~~VIII~~ of chapter 400, are exempt from s.
3 408.810(7)-(10).

4 (21) Transitional living facilities, as provided under
5 part V ~~VIII~~ of chapter 400, are exempt from s.
6 408.810(7)-(10).

7 (22) Prescribed pediatric extended care centers, as
8 provided under part VI ~~IX~~ of chapter 400, are exempt from s.
9 408.810(10).

10 (23) Home medical equipment providers, as provided
11 under part VII ~~X~~ of chapter 400, are exempt from s.
12 408.810(10).

13 (24) Intermediate care facilities for persons with
14 developmental disabilities, as provided under part VIII ~~IX~~ of
15 chapter 400, are exempt from s. 408.810(7).

16 (25) Health care services pools, as provided under
17 part IX ~~XII~~ of chapter 400, are exempt from s.
18 408.810(6)-(10).

19 (26) Health care clinics, as provided under part X
20 ~~XIII~~ of chapter 400, are exempt from ss. 408.809 and
21 408.810(1), (6), (7), and (10).

22
23 Reviser's note.--Amended to conform to the
24 redesignation of former parts III, V, and VII
25 of chapter 400 as parts I, III, and II of
26 chapter 429, respectively, by ss. 2, 3, 4, ch.
27 2006-197, Laws of Florida.

28
29 Section 93. Section 408.832, Florida Statutes, is
30 amended to read:
31

1 408.832 Conflicts.--In case of conflict between the
2 provisions of part II of chapter 408 and the authorizing
3 statutes governing the licensure of health care providers by
4 the Agency for Health Care Administration found in s. 112.0455
5 and chapters 383, 390, 394, 395, 400, 429, 440, 483, and 765,
6 the provisions of part II of chapter 408 shall prevail.

7
8 Reviser's note.--Amended to conform to the
9 redesignation of former parts III, V, and VII
10 of chapter 400 as chapter 429 pursuant to ch.
11 2006-197, Laws of Florida.

12
13 Section 94. Paragraph (a) of subsection (3) of section
14 409.1685, Florida Statutes, is amended to read:

15 409.1685 Children in foster care; annual report to
16 Legislature.--The Department of Children and Family Services
17 shall submit a written report to the substantive committees of
18 the Legislature concerning the status of children in foster
19 care and concerning the judicial review mandated by part X of
20 chapter 39. This report shall be submitted by March 1 of each
21 year and shall include the following information for the prior
22 calendar year:

23 (3) The number of termination of parental rights
24 proceedings instituted during that period which shall include:

25 (a) The number of termination of parental rights
26 proceedings initiated pursuant to former s. 39.703; and

27
28 Reviser's note.--Amended to clarify the status
29 of referenced s. 39.703, which was repealed by
30 s. 35, ch. 2006-86, Laws of Florida.

31

1 Section 95. Paragraph (e) of subsection (4) of section
2 409.221, Florida Statutes, is amended to read:

3 409.221 Consumer-directed care program.--

4 (4) CONSUMER-DIRECTED CARE.--

5 (e) Services.--Consumers shall use the budget
6 allowance only to pay for home and community-based services
7 that meet the consumer's long-term care needs and are a
8 cost-efficient use of funds. Such services may include, but
9 are not limited to, the following:

10 1. Personal care.

11 2. Homemaking and chores, including housework, meals,
12 shopping, and transportation.

13 3. Home modifications and assistive devices which may
14 increase the consumer's independence or make it possible to
15 avoid institutional placement.

16 4. Assistance in taking self-administered medication.

17 5. Day care and respite care services, including those
18 provided by nursing home facilities pursuant to s. 400.141(6)
19 or by adult day care facilities licensed pursuant to s.
20 429.907 ~~400.554~~.

21 6. Personal care and support services provided in an
22 assisted living facility.

23
24 Reviser's note.--Amended to conform to the
25 transfer of s. 400.554 to s. 429.907 by s. 4,
26 ch. 2006-197, Laws of Florida.

27
28 Section 96. Paragraph (a) of subsection (2) of section
29 409.908, Florida Statutes, is amended to read:

30 409.908 Reimbursement of Medicaid providers.--Subject
31 to specific appropriations, the agency shall reimburse

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

28 (2)(a)1. Reimbursement to nursing homes licensed under
29 part II of chapter 400 and state-owned-and-operated
30 intermediate care facilities for the developmentally disabled
31

1 licensed under part VIII ~~¶~~ of chapter 400 must be made
2 prospectively.

3 2. Unless otherwise limited or directed in the General
4 Appropriations Act, reimbursement to hospitals licensed under
5 part I of chapter 395 for the provision of swing-bed nursing
6 home services must be made on the basis of the average
7 statewide nursing home payment, and reimbursement to a
8 hospital licensed under part I of chapter 395 for the
9 provision of skilled nursing services must be made on the
10 basis of the average nursing home payment for those services
11 in the county in which the hospital is located. When a
12 hospital is located in a county that does not have any
13 community nursing homes, reimbursement shall be determined by
14 averaging the nursing home payments in counties that surround
15 the county in which the hospital is located. Reimbursement to
16 hospitals, including Medicaid payment of Medicare copayments,
17 for skilled nursing services shall be limited to 30 days,
18 unless a prior authorization has been obtained from the
19 agency. Medicaid reimbursement may be extended by the agency
20 beyond 30 days, and approval must be based upon verification
21 by the patient's physician that the patient requires
22 short-term rehabilitative and recuperative services only, in
23 which case an extension of no more than 15 days may be
24 approved. Reimbursement to a hospital licensed under part I of
25 chapter 395 for the temporary provision of skilled nursing
26 services to nursing home residents who have been displaced as
27 the result of a natural disaster or other emergency may not
28 exceed the average county nursing home payment for those
29 services in the county in which the hospital is located and is
30 limited to the period of time which the agency considers
31

1 necessary for continued placement of the nursing home
2 residents in the hospital.

3

4 Reviser's note.--Amended to conform to the
5 transfer of sections comprising parts III, V,
6 and VII of chapter 400 to chapter 429 by ss. 2,
7 3, and 4, ch. 2006-197, Laws of Florida.

8

9 Section 97. Paragraph (b) of subsection (4) of section
10 409.912, Florida Statutes, is amended to read:

11 409.912 Cost-effective purchasing of health care.--The
12 agency shall purchase goods and services for Medicaid
13 recipients in the most cost-effective manner consistent with
14 the delivery of quality medical care. To ensure that medical
15 services are effectively utilized, the agency may, in any
16 case, require a confirmation or second physician's opinion of
17 the correct diagnosis for purposes of authorizing future
18 services under the Medicaid program. This section does not
19 restrict access to emergency services or poststabilization
20 care services as defined in 42 C.F.R. part 438.114. Such
21 confirmation or second opinion shall be rendered in a manner
22 approved by the agency. The agency shall maximize the use of
23 prepaid per capita and prepaid aggregate fixed-sum basis
24 services when appropriate and other alternative service
25 delivery and reimbursement methodologies, including
26 competitive bidding pursuant to s. 287.057, designed to
27 facilitate the cost-effective purchase of a case-managed
28 continuum of care. The agency shall also require providers to
29 minimize the exposure of recipients to the need for acute
30 inpatient, custodial, and other institutional care and the
31 inappropriate or unnecessary use of high-cost services. The

1 agency shall contract with a vendor to monitor and evaluate
2 the clinical practice patterns of providers in order to
3 identify trends that are outside the normal practice patterns
4 of a provider's professional peers or the national guidelines
5 of a provider's professional association. The vendor must be
6 able to provide information and counseling to a provider whose
7 practice patterns are outside the norms, in consultation with
8 the agency, to improve patient care and reduce inappropriate
9 utilization. The agency may mandate prior authorization, drug
10 therapy management, or disease management participation for
11 certain populations of Medicaid beneficiaries, certain drug
12 classes, or particular drugs to prevent fraud, abuse, overuse,
13 and possible dangerous drug interactions. The Pharmaceutical
14 and Therapeutics Committee shall make recommendations to the
15 agency on drugs for which prior authorization is required. The
16 agency shall inform the Pharmaceutical and Therapeutics
17 Committee of its decisions regarding drugs subject to prior
18 authorization. The agency is authorized to limit the entities
19 it contracts with or enrolls as Medicaid providers by
20 developing a provider network through provider credentialing.
21 The agency may competitively bid single-source-provider
22 contracts if procurement of goods or services results in
23 demonstrated cost savings to the state without limiting access
24 to care. The agency may limit its network based on the
25 assessment of beneficiary access to care, provider
26 availability, provider quality standards, time and distance
27 standards for access to care, the cultural competence of the
28 provider network, demographic characteristics of Medicaid
29 beneficiaries, practice and provider-to-beneficiary standards,
30 appointment wait times, beneficiary use of services, provider
31 turnover, provider profiling, provider licensure history,

1 previous program integrity investigations and findings, peer
2 review, provider Medicaid policy and billing compliance
3 records, clinical and medical record audits, and other
4 factors. Providers shall not be entitled to enrollment in the
5 Medicaid provider network. The agency shall determine
6 instances in which allowing Medicaid beneficiaries to purchase
7 durable medical equipment and other goods is less expensive to
8 the Medicaid program than long-term rental of the equipment or
9 goods. The agency may establish rules to facilitate purchases
10 in lieu of long-term rentals in order to protect against fraud
11 and abuse in the Medicaid program as defined in s. 409.913.
12 The agency may seek federal waivers necessary to administer
13 these policies.

14 (4) The agency may contract with:

15 (b) An entity that is providing comprehensive
16 behavioral health care services to certain Medicaid recipients
17 through a capitated, prepaid arrangement pursuant to the
18 federal waiver provided for by s. 409.905(5). Such an entity
19 must be licensed under chapter 624, chapter 636, or chapter
20 641 and must possess the clinical systems and operational
21 competence to manage risk and provide comprehensive behavioral
22 health care to Medicaid recipients. As used in this paragraph,
23 the term "comprehensive behavioral health care services" means
24 covered mental health and substance abuse treatment services
25 that are available to Medicaid recipients. The secretary of
26 the Department of Children and Family Services shall approve
27 provisions of procurements related to children in the
28 department's care or custody prior to enrolling such children
29 in a prepaid behavioral health plan. Any contract awarded
30 under this paragraph must be competitively procured. In
31 developing the behavioral health care prepaid plan procurement

1 document, the agency shall ensure that the procurement
2 document requires the contractor to develop and implement a
3 plan to ensure compliance with s. 394.4574 related to services
4 provided to residents of licensed assisted living facilities
5 that hold a limited mental health license. Except as provided
6 in subparagraph 8., and except in counties where the Medicaid
7 managed care pilot program is authorized pursuant to s.
8 409.91211, the agency shall seek federal approval to contract
9 with a single entity meeting these requirements to provide
10 comprehensive behavioral health care services to all Medicaid
11 recipients not enrolled in a Medicaid managed care plan
12 authorized under s. 409.91211 or a Medicaid health maintenance
13 organization in an AHCA area. In an AHCA area where the
14 Medicaid managed care pilot program is authorized pursuant to
15 s. 409.91211 in one or more counties, the agency may procure a
16 contract with a single entity to serve the remaining counties
17 as an AHCA area or the remaining counties may be included with
18 an adjacent AHCA area and shall be subject to this paragraph.
19 Each entity must offer sufficient choice of providers in its
20 network to ensure recipient access to care and the opportunity
21 to select a provider with whom they are satisfied. The network
22 shall include all public mental health hospitals. To ensure
23 unimpaired access to behavioral health care services by
24 Medicaid recipients, all contracts issued pursuant to this
25 paragraph shall require 80 percent of the capitation paid to
26 the managed care plan, including health maintenance
27 organizations, to be expended for the provision of behavioral
28 health care services. In the event the managed care plan
29 expends less than 80 percent of the capitation paid pursuant
30 to this paragraph for the provision of behavioral health care
31 services, the difference shall be returned to the agency. The

1 agency shall provide the managed care plan with a
2 certification letter indicating the amount of capitation paid
3 during each calendar year for the provision of behavioral
4 health care services pursuant to this section. The agency may
5 reimburse for substance abuse treatment services on a
6 fee-for-service basis until the agency finds that adequate
7 funds are available for capitated, prepaid arrangements.

8 1. By January 1, 2001, the agency shall modify the
9 contracts with the entities providing comprehensive inpatient
10 and outpatient mental health care services to Medicaid
11 recipients in Hillsborough, Highlands, Hardee, Manatee, and
12 Polk Counties, to include substance abuse treatment services.

13 2. By July 1, 2003, the agency and the Department of
14 Children and Family Services shall execute a written agreement
15 that requires collaboration and joint development of all
16 policy, budgets, procurement documents, contracts, and
17 monitoring plans that have an impact on the state and Medicaid
18 community mental health and targeted case management programs.

19 3. Except as provided in subparagraph 8., by July 1,
20 2006, the agency and the Department of Children and Family
21 Services shall contract with managed care entities in each
22 AHCA area except area 6 or arrange to provide comprehensive
23 inpatient and outpatient mental health and substance abuse
24 services through capitated prepaid arrangements to all
25 Medicaid recipients who are eligible to participate in such
26 plans under federal law and regulation. In AHCA areas where
27 eligible individuals number less than 150,000, the agency
28 shall contract with a single managed care plan to provide
29 comprehensive behavioral health services to all recipients who
30 are not enrolled in a Medicaid health maintenance organization
31 or a Medicaid capitated managed care plan authorized under s.

1 409.91211. The agency may contract with more than one
2 comprehensive behavioral health provider to provide care to
3 recipients who are not enrolled in a Medicaid capitated
4 managed care plan authorized under s. 409.91211 or a Medicaid
5 health maintenance organization in AHCA areas where the
6 eligible population exceeds 150,000. In an AHCA area where the
7 Medicaid managed care pilot program is authorized pursuant to
8 s. 409.91211 in one or more counties, the agency may procure a
9 contract with a single entity to serve the remaining counties
10 as an AHCA area or the remaining counties may be included with
11 an adjacent AHCA area and shall be subject to this paragraph.
12 Contracts for comprehensive behavioral health providers
13 awarded pursuant to this section shall be competitively
14 procured. Both for-profit and not-for-profit corporations
15 shall be eligible to compete. Managed care plans contracting
16 with the agency under subsection (3) shall provide and receive
17 payment for the same comprehensive behavioral health benefits
18 as provided in AHCA rules, including handbooks incorporated by
19 reference. In AHCA area 11, the agency shall contract with at
20 least two comprehensive behavioral health care providers to
21 provide behavioral health care to recipients in that area who
22 are enrolled in, or assigned to, the MediPass program. One of
23 the behavioral health care contracts shall be with the
24 existing provider service network pilot project, as described
25 in paragraph (d), for the purpose of demonstrating the
26 cost-effectiveness of the provision of quality mental health
27 services through a public hospital-operated managed care
28 model. Payment shall be at an agreed-upon capitated rate to
29 ensure cost savings. Of the recipients in area 11 who are
30 assigned to MediPass under the provisions of s.
31 409.9122(2)(k), a minimum of 50,000 of those MediPass-enrolled

1 recipients shall be assigned to the existing provider service
2 network in area 11 for their behavioral care.

3 4. By October 1, 2003, the agency and the department
4 shall submit a plan to the Governor, the President of the
5 Senate, and the Speaker of the House of Representatives which
6 provides for the full implementation of capitated prepaid
7 behavioral health care in all areas of the state.

8 a. Implementation shall begin in 2003 in those AHCA
9 areas of the state where the agency is able to establish
10 sufficient capitation rates.

11 b. If the agency determines that the proposed
12 capitation rate in any area is insufficient to provide
13 appropriate services, the agency may adjust the capitation
14 rate to ensure that care will be available. The agency and the
15 department may use existing general revenue to address any
16 additional required match but may not over-obligate existing
17 funds on an annualized basis.

18 c. Subject to any limitations provided for in the
19 General Appropriations Act, the agency, in compliance with
20 appropriate federal authorization, shall develop policies and
21 procedures that allow for certification of local and state
22 funds.

23 5. Children residing in a statewide inpatient
24 psychiatric program, or in a Department of Juvenile Justice or
25 a Department of Children and Family Services residential
26 program approved as a Medicaid behavioral health overlay
27 services provider shall not be included in a behavioral health
28 care prepaid health plan or any other Medicaid managed care
29 plan pursuant to this paragraph.

30 6. In converting to a prepaid system of delivery, the
31 agency shall in its procurement document require an entity

1 providing only comprehensive behavioral health care services
2 to prevent the displacement of indigent care patients by
3 enrollees in the Medicaid prepaid health plan providing
4 behavioral health care services from facilities receiving
5 state funding to provide indigent behavioral health care, to
6 facilities licensed under chapter 395 which do not receive
7 state funding for indigent behavioral health care, or
8 reimburse the unsubsidized facility for the cost of behavioral
9 health care provided to the displaced indigent care patient.

10 7. Traditional community mental health providers under
11 contract with the Department of Children and Family Services
12 pursuant to part IV of chapter 394, child welfare providers
13 under contract with the Department of Children and Family
14 Services in areas 1 and 6, and inpatient mental health
15 providers licensed pursuant to chapter 395 must be offered an
16 opportunity to accept or decline a contract to participate in
17 any provider network for prepaid behavioral health services.

18 8. For fiscal year 2004-2005, all Medicaid eligible
19 children, except children in areas 1 and 6, whose cases are
20 open for child welfare services in the HomeSafeNet system,
21 shall be enrolled in MediPass or in Medicaid fee-for-service
22 and all their behavioral health care services including
23 inpatient, outpatient psychiatric, community mental health,
24 and case management shall be reimbursed on a fee-for-service
25 basis. Beginning July 1, 2005, such children, who are open for
26 child welfare services in the HomeSafeNet system, shall
27 receive their behavioral health care services through a
28 specialty prepaid plan operated by community-based lead
29 agencies either through a single agency or formal agreements
30 among several agencies. The specialty prepaid plan must result
31 in savings to the state comparable to savings achieved in

1 other Medicaid managed care and prepaid programs. Such plan
2 must provide mechanisms to maximize state and local revenues.
3 The specialty prepaid plan shall be developed by the agency
4 and the Department of Children and Family Services. The agency
5 is authorized to seek any federal waivers to implement this
6 initiative.

7
8 Reviser's note.--Amended to confirm the
9 insertion by the editors of the word "to"
10 following the word "pursuant" to improve
11 clarity.

12
13 Section 98. Paragraph (e) of subsection (4) of section
14 409.91211, Florida Statutes, is amended to read:

15 409.91211 Medicaid managed care pilot program.--

16 (4)

17 (e) After a recipient has made a selection or has been
18 enrolled in a capitated managed care network, the recipient
19 shall have 90 days in which to voluntarily disenroll and
20 select another capitated managed care network. After 90 days,
21 no further changes may be made except for cause. Cause shall
22 include, but not be limited to, poor quality of care, lack of
23 access to necessary specialty services, an unreasonable delay
24 or denial of service, inordinate or inappropriate changes of
25 primary care providers, service access impairments due to
26 significant changes in the geographic location of services, or
27 fraudulent enrollment. The agency may require a recipient to
28 use the capitated managed care network's grievance process as
29 specified in paragraph(3)(g)(3)(g) prior to the agency's
30 determination of cause, except in cases in which immediate
31 risk of permanent damage to the recipient's health is alleged.

1 The grievance process, when used, must be completed in time to
2 permit the recipient to disenroll no later than the first day
3 of the second month after the month the disenrollment request
4 was made. If the capitated managed care network, as a result
5 of the grievance process, approves an enrollee's request to
6 disenroll, the agency is not required to make a determination
7 in the case. The agency must make a determination and take
8 final action on a recipient's request so that disenrollment
9 occurs no later than the first day of the second month after
10 the month the request was made. If the agency fails to act
11 within the specified timeframe, the recipient's request to
12 disenroll is deemed to be approved as of the date agency
13 action was required. Recipients who disagree with the agency's
14 finding that cause does not exist for disenrollment shall be
15 advised of their right to pursue a Medicaid fair hearing to
16 dispute the agency's finding.

17
18 Reviser's note.--Amended to substitute a
19 reference to paragraph (3)(q), relating to
20 grievance procedures, for a reference to
21 paragraph (3)(g), relating to a process for
22 validating the growth of per-member costs.

23
24 Section 99. Paragraph (d) of subsection (1) of section
25 419.001, Florida Statutes, is amended to read:

26 419.001 Site selection of community residential
27 homes.--

28 (1) For the purposes of this section, the following
29 definitions shall apply:

30 (d) "Resident" means any of the following: a frail
31 elder as defined in s. 429.65 ~~400.618~~; a physically disabled

1 or handicapped person as defined in s. 760.22(7)(a); a
2 developmentally disabled person as defined in s. 393.063; a
3 nondangerous mentally ill person as defined in s. 394.455(18);
4 or a child who is found to be dependent or a child in need of
5 services as defined in s. 39.01(14), s. 984.03(9) or (12), or
6 s. 985.03.

7
8 Reviser's note.--Amended to conform to the
9 redesignation of s. 400.618 as s. 429.65 by s.
10 3, ch. 2006-197, Laws of Florida.

11
12 Section 100. Section 421.49, Florida Statutes, is
13 amended to read:

14 421.49 Area of operation of housing authorities for
15 defense housing.--In the development or the administration of
16 projects, under ss. 421.46-421.48 ~~421.37-421.48~~, to assure the
17 availability of safe and sanitary dwellings for persons
18 engaged in national defense activities or in otherwise
19 carrying out the purposes of such law, or in the
20 administration of such projects in accordance with the
21 provisions of the housing authorities law, a housing authority
22 of a city may exercise its powers within the territorial
23 boundaries of said city and an area within 10 miles from said
24 boundaries, excluding the area within the territorial
25 boundaries of any other city which has heretofore established
26 a housing authority.

27
28 Reviser's note.--Amended to conform to the
29 repeal of ss. 421.37-421.45 by s. 60, ch.
30 2001-62, Laws of Florida.

1 Section 101. Paragraph (b) of subsection (3) of
2 section 429.07, Florida Statutes, is amended to read:

3 429.07 License required; fee, display.--

4 (3) Any license granted by the agency must state the
5 maximum resident capacity of the facility, the type of care
6 for which the license is granted, the date the license is
7 issued, the expiration date of the license, and any other
8 information deemed necessary by the agency. Licenses shall be
9 issued for one or more of the following categories of care:
10 standard, extended congregate care, limited nursing services,
11 or limited mental health.

12 (b) An extended congregate care license shall be
13 issued to facilities providing, directly or through contract,
14 services beyond those authorized in paragraph (a), including
15 acts performed pursuant to part I of chapter 464 by persons
16 licensed thereunder, and supportive services defined by rule
17 to persons who otherwise would be disqualified from continued
18 residence in a facility licensed under this part.

19 1. In order for extended congregate care services to
20 be provided in a facility licensed under this part, the agency
21 must first determine that all requirements established in law
22 and rule are met and must specifically designate, on the
23 facility's license, that such services may be provided and
24 whether the designation applies to all or part of a facility.
25 Such designation may be made at the time of initial licensure
26 or relicensure, or upon request in writing by a licensee under
27 this part. Notification of approval or denial of such request
28 shall be made within 90 days after receipt of such request and
29 all necessary documentation. Existing facilities qualifying to
30 provide extended congregate care services must have maintained
31 a standard license and may not have been subject to

1 administrative sanctions during the previous 2 years, or since
2 initial licensure if the facility has been licensed for less
3 than 2 years, for any of the following reasons:

4 a. A class I or class II violation;

5 b. Three or more repeat or recurring class III
6 violations of identical or similar resident care standards as
7 specified in rule from which a pattern of noncompliance is
8 found by the agency;

9 c. Three or more class III violations that were not
10 corrected in accordance with the corrective action plan
11 approved by the agency;

12 d. Violation of resident care standards resulting in a
13 requirement to employ the services of a consultant pharmacist
14 or consultant dietitian;

15 e. Denial, suspension, or revocation of a license for
16 another facility under this part in which the applicant for an
17 extended congregate care license has at least 25 percent
18 ownership interest; or

19 f. Imposition of a moratorium on admissions or
20 initiation of injunctive proceedings.

21 2. Facilities that are licensed to provide extended
22 congregate care services shall maintain a written progress
23 report on each person who receives such services, which report
24 describes the type, amount, duration, scope, and outcome of
25 services that are rendered and the general status of the
26 resident's health. A registered nurse, or appropriate
27 designee, representing the agency shall visit such facilities
28 at least quarterly to monitor residents who are receiving
29 extended congregate care services and to determine if the
30 facility is in compliance with this part and with rules that
31 relate to extended congregate care. One of these visits may be

1 | in conjunction with the regular survey. The monitoring visits
2 | may be provided through contractual arrangements with
3 | appropriate community agencies. A registered nurse shall
4 | serve as part of the team that inspects such facility. The
5 | agency may waive one of the required yearly monitoring visits
6 | for a facility that has been licensed for at least 24 months
7 | to provide extended congregate care services, if, during the
8 | inspection, the registered nurse determines that extended
9 | congregate care services are being provided appropriately, and
10 | if the facility has no class I or class II violations and no
11 | uncorrected class III violations. Before such decision is
12 | made, the agency shall consult with the long-term care
13 | ombudsman council for the area in which the facility is
14 | located to determine if any complaints have been made and
15 | substantiated about the quality of services or care. The
16 | agency may not waive one of the required yearly monitoring
17 | visits if complaints have been made and substantiated.

18 | 3. Facilities that are licensed to provide extended
19 | congregate care services shall:

20 | a. Demonstrate the capability to meet unanticipated
21 | resident service needs.

22 | b. Offer a physical environment that promotes a
23 | homelike setting, provides for resident privacy, promotes
24 | resident independence, and allows sufficient congregate space
25 | as defined by rule.

26 | c. Have sufficient staff available, taking into
27 | account the physical plant and firesafety features of the
28 | building, to assist with the evacuation of residents in an
29 | emergency, as necessary.

30 | d. Adopt and follow policies and procedures that
31 | maximize resident independence, dignity, choice, and

1 decisionmaking to permit residents to age in place to the
2 extent possible, so that moves due to changes in functional
3 status are minimized or avoided.

4 e. Allow residents or, if applicable, a resident's
5 representative, designee, surrogate, guardian, or attorney in
6 fact to make a variety of personal choices, participate in
7 developing service plans, and share responsibility in
8 decisionmaking.

9 f. Implement the concept of managed risk.

10 g. Provide, either directly or through contract, the
11 services of a person licensed pursuant to part I of chapter
12 464.

13 h. In addition to the training mandated in s. 429.52,
14 provide specialized training as defined by rule for facility
15 staff.

16 4. Facilities licensed to provide extended congregate
17 care services are exempt from the criteria for continued
18 residency as set forth in rules adopted under s. 429.41.
19 Facilities so licensed shall adopt their own requirements
20 within guidelines for continued residency set forth by the
21 department in rule. However, such facilities may not serve
22 residents who require 24-hour nursing supervision. Facilities
23 licensed to provide extended congregate care services shall
24 provide each resident with a written copy of facility policies
25 governing admission and retention.

26 5. The primary purpose of extended congregate care
27 services is to allow residents, as they become more impaired,
28 the option of remaining in a familiar setting from which they
29 would otherwise be disqualified for continued residency. A
30 facility licensed to provide extended congregate care services
31 may also admit an individual who exceeds the admission

1 criteria for a facility with a standard license, if the
2 individual is determined appropriate for admission to the
3 extended congregate care facility.

4 6. Before admission of an individual to a facility
5 licensed to provide extended congregate care services, the
6 individual must undergo a medical examination as provided in
7 s. 429.26(4) ~~400.26(4)~~ and the facility must develop a
8 preliminary service plan for the individual.

9 7. When a facility can no longer provide or arrange
10 for services in accordance with the resident's service plan
11 and needs and the facility's policy, the facility shall make
12 arrangements for relocating the person in accordance with s.
13 429.28(1)(k).

14 8. Failure to provide extended congregate care
15 services may result in denial of extended congregate care
16 license renewal.

17 9. No later than January 1 of each year, the
18 department, in consultation with the agency, shall prepare and
19 submit to the Governor, the President of the Senate, the
20 Speaker of the House of Representatives, and the chairs of
21 appropriate legislative committees, a report on the status of,
22 and recommendations related to, extended congregate care
23 services. The status report must include, but need not be
24 limited to, the following information:

25 a. A description of the facilities licensed to provide
26 such services, including total number of beds licensed under
27 this part.

28 b. The number and characteristics of residents
29 receiving such services.

30 c. The types of services rendered that could not be
31 provided through a standard license.

1 d. An analysis of deficiencies cited during licensure
2 inspections.

3 e. The number of residents who required extended
4 congregate care services at admission and the source of
5 admission.

6 f. Recommendations for statutory or regulatory
7 changes.

8 g. The availability of extended congregate care to
9 state clients residing in facilities licensed under this part
10 and in need of additional services, and recommendations for
11 appropriations to subsidize extended congregate care services
12 for such persons.

13 h. Such other information as the department considers
14 appropriate.

15
16 Reviser's note.--Amended to confirm the
17 substitution by the editors of a reference to
18 s. 429.26(4) for a reference to s. 400.26(4) to
19 correct an apparent error. Section 400.26 was
20 repealed in 1970; s. 429.26(4) relates to
21 medical examinations.

22
23 Section 102. Subsection (2) of section 429.35, Florida
24 Statutes, is amended to read:

25 429.35 Maintenance of records; reports.--

26 (2) Within 60 days after the date of the biennial
27 inspection visit or within 30 days after the date of any
28 interim visit, the agency shall forward the results of the
29 inspection to the local ombudsman council in whose planning
30 and service area, as defined in part II of chapter 400, the
31 facility is located; to at least one public library or, in the

1 absence of a public library, the county seat in the county in
2 which the inspected assisted living facility is located; and,
3 when appropriate, to the district Adult Services and Mental
4 Health Program Offices.

5
6 Reviser's note.--Amended to confirm the
7 insertion by the editors of the words "of
8 chapter 400" following the cite to "part II" to
9 improve clarity; planning and service areas are
10 defined in s. 400.021(15) within part II of
11 chapter 400.

12
13 Section 103. Subsection (1) of section 429.69, Florida
14 Statutes, is amended to read:

15 429.69 Denial, revocation, or suspension of a
16 license.--The agency may deny, suspend, or revoke a license
17 for any of the following reasons:

18 (1) Failure of any of the persons required to undergo
19 background screening under s. 429.67 ~~400.619~~ to meet the level
20 1 screening standards of s. 435.03, unless an exemption from
21 disqualification has been provided by the agency.

22
23 Reviser's note.--Amended to confirm the
24 substitution by the editors of a reference to
25 s. 429.67 for a reference to s. 400.619 to
26 conform to the transfer of s. 400.619 to s.
27 429.67 by s. 3, ch. 2006-197, Laws of Florida.

28
29 Section 104. Paragraph (h) of subsection (1) of
30 section 429.73, Florida Statutes, is amended to read:

31

1 429.73 Rules and standards relating to adult
2 family-care homes.--

3 (1) The department, in consultation with the
4 Department of Health, the Department of Children and Family
5 Services, and the agency shall, by rule, establish minimum
6 standards to ensure the health, safety, and well-being of each
7 resident in the adult family-care home. The rules must
8 address:

9 (h) Procedures to protect the residents' rights as
10 provided in s. 429.85 ~~400.628~~.

11
12 Reviser's note.--Amended to confirm the
13 substitution by the editors of a reference to
14 s. 429.85 for a reference to s. 400.628 to
15 conform to the transfer of s. 400.628 to s.
16 429.85 by s. 3, ch. 2006-197, Laws of Florida.

17
18 Section 105. Section 429.903, Florida Statutes, is
19 amended to read:

20 429.903 Applicability.--Any facility that comes within
21 the definition of an adult day care center which is not exempt
22 under s. 429.905 ~~400.553~~ must be licensed by the agency as an
23 adult day care center.

24
25 Reviser's note.--Amended to confirm the
26 substitution by the editors of a reference to
27 s. 429.905 for a reference to s. 400.553 to
28 conform to the transfer of s. 400.553 to s.
29 429.905 by s. 4, ch. 2006-197, Laws of Florida.

1 Section 106. Subsection (1) and paragraph (d) of
2 subsection (2) of section 429.909, Florida Statutes, are
3 amended to read:

4 429.909 Application for license.--

5 (1) An application for a license to operate an adult
6 day care center must be made to the agency on forms furnished
7 by the agency and must be accompanied by the appropriate
8 license fee unless the applicant is exempt from payment of the
9 fee as provided in s. 429.907(4) ~~400.554(4)~~.

10 (2) The applicant for licensure must furnish:

11 (d) Proof of compliance with level 2 background
12 screening as required under s. 429.919 ~~400.5572~~.

13
14 Reviser's note.--Subsection (1) is amended to
15 confirm the substitution by the editors of a
16 reference to s. 429.907(4) for a reference to
17 s. 400.554(4) to conform to the transfer of s.
18 400.554 to s. 429.907 by s. 4, ch. 2006-197,
19 Laws of Florida. Paragraph (2)(d) is amended to
20 confirm the substitution by the editors of a
21 reference to s. 429.919 for a reference to s.
22 400.5572 to conform to the transfer of s.
23 400.5572 to s. 429.919 by s. 4, ch. 2006-197.

24
25 Section 107. Subsection (1) of section 429.915,
26 Florida Statutes, is amended to read:

27 429.915 Expiration of license; renewal; conditional
28 license or permit.--

29 (1) A license issued for the operation of an adult day
30 care center, unless sooner suspended or revoked, expires 2
31 years after the date of issuance. The agency shall notify a

1 | licensee at least 120 days before the expiration date that
2 | license renewal is required to continue operation. The
3 | notification must be provided electronically or by mail
4 | delivery. At least 90 days prior to the expiration date, an
5 | application for renewal must be submitted to the agency. A
6 | license shall be renewed, upon the filing of an application on
7 | forms furnished by the agency, if the applicant has first met
8 | the requirements of this part and of the rules adopted under
9 | this part. The applicant must file with the application
10 | satisfactory proof of financial ability to operate the center
11 | in accordance with the requirements of this part and in
12 | accordance with the needs of the participants to be served and
13 | an affidavit of compliance with the background screening
14 | requirements of s. 429.919 ~~400.5572~~.

15 |
16 | Reviser's note.--Amended to confirm the
17 | substitution by the editors of a reference to
18 | s. 429.919 for a reference to s. 400.5572 to
19 | conform to the transfer of s. 400.5572 to s.
20 | 429.919 by s. 4, ch. 2006-197, Laws of Florida.

21 |
22 | Section 108. Paragraph (c) of subsection (2) of
23 | section 429.919, Florida Statutes, is amended to read:

24 | 429.919 Background screening.--

25 | (2) The owner or administrator of an adult day care
26 | center must conduct level 1 background screening as set forth
27 | in chapter 435 on all employees hired on or after October 1,
28 | 1998, who provide basic services or supportive and optional
29 | services to the participants. Such persons satisfy this
30 | requirement if:
31 |

1 (c) The person required to be screened is employed by
2 a corporation or business entity or related corporation or
3 business entity that owns, operates, or manages more than one
4 facility or agency licensed under chapter 400 or this chapter
5 ~~this chapter or chapter 429~~, and for whom a level 1 screening
6 was conducted by the corporation or business entity as a
7 condition of initial or continued employment.

8
9 Reviser's note.--Amended to confirm the
10 substitution by the editors of the words
11 "chapter 400 or this chapter" for a reference
12 to "this chapter or chapter 429" to conform to
13 the transfer of some material in chapter 400 to
14 chapter 429 by ch. 2006-197, Laws of Florida,
15 and to correct an apparent error.

16
17 Section 109. Paragraph (ff) of subsection (2) of
18 section 435.03, Florida Statutes, is amended to read:

19 435.03 Level 1 screening standards.--

20 (2) Any person for whom employment screening is
21 required by statute must not have been found guilty of,
22 regardless of adjudication, or entered a plea of nolo
23 contendere or guilty to, any offense prohibited under any of
24 the following provisions of the Florida Statutes or under any
25 similar statute of another jurisdiction:

26 (ff) Section 916.1075 ~~916.0175~~, relating to sexual
27 misconduct with certain forensic clients and reporting of such
28 sexual misconduct.

29
30 Reviser's note.--Amended to correct an apparent
31 error and facilitate correct interpretation.

1 The cited section does not exist; s. 916.1075
2 relates to prohibition of sexual misconduct
3 with forensic clients.
4

5 Section 110. Paragraph (pp) of subsection (2) of
6 section 435.04, Florida Statutes, is amended to read:
7 435.04 Level 2 screening standards.--

8 (2) The security background investigations under this
9 section must ensure that no persons subject to the provisions
10 of this section have been found guilty of, regardless of
11 adjudication, or entered a plea of nolo contendere or guilty
12 to, any offense prohibited under any of the following
13 provisions of the Florida Statutes or under any similar
14 statute of another jurisdiction:

15 (pp) Section 916.1075 ~~916.0175~~, relating to sexual
16 misconduct with certain forensic clients and reporting of such
17 sexual misconduct.
18

19 Reviser's note.--Amended to correct an apparent
20 error and facilitate correct interpretation.
21 The cited section does not exist; s. 916.1075
22 relates to prohibition of sexual misconduct
23 with forensic clients.
24

25 Section 111. Paragraph (t) of subsection (1) and
26 subsection (4) of section 456.072, Florida Statutes, are
27 amended to read:

28 456.072 Grounds for discipline; penalties;
29 enforcement.--
30
31

1 (1) The following acts shall constitute grounds for
2 which the disciplinary actions specified in subsection (2) may
3 be taken:

4 (t) Failing to identify through written notice, which
5 may include the wearing of a name tag, or orally to a patient
6 the type of license under which the practitioner is
7 practicing. Any advertisement for health care services naming
8 the practitioner must identify the type of license the
9 practitioner holds. This paragraph does not apply to a
10 practitioner while the practitioner is providing services in a
11 facility licensed under chapter 394, chapter 395, ~~or~~ chapter
12 400, or chapter 429. Each board, or the department where there
13 is no board, is authorized by rule to determine how its
14 practitioners may comply with this disclosure requirement.

15 (4) In addition to any other discipline imposed
16 through final order, or citation, entered on or after July 1,
17 2001, under this section or discipline imposed through final
18 order, or citation, entered on or after July 1, 2001, for a
19 violation of any practice act, the board, or the department
20 when there is no board, shall assess costs related to the
21 investigation and prosecution of the case. The costs related
22 to the investigation and prosecution include, but are not
23 limited to, salaries and benefits of personnel, costs related
24 to the time spent by the attorney and other personnel working
25 on the case, and any other expenses incurred by the department
26 for the case. The board, or the department when there is ~~is~~ no
27 board, shall determine the amount of costs to be assessed
28 after its consideration of an affidavit of itemized costs and
29 any written objections thereto. In any case where the board or
30 the department imposes a fine or assessment and the fine or
31 assessment is not paid within a reasonable time, the

1 reasonable time to be prescribed in the rules of the board, or
2 the department when there is no board, or in the order
3 assessing the fines or costs, the department or the Department
4 of Legal Affairs may contract for the collection of, or bring
5 a civil action to recover, the fine or assessment.

6
7 Reviser's note.--Paragraph (1)(t) is amended to
8 conform to the fact that chapter 400 was split
9 into chapters 400 and 429 by ss. 2, 3, and 4,
10 ch. 2006-197, Laws of Florida. Subsection (4)
11 is amended to confirm the editorial
12 substitution of the word "is" for the word "in"
13 to correct an apparent error and facilitate
14 correct interpretation.

15
16 Section 112. Paragraph (e) of subsection (4) of
17 section 458.348, Florida Statutes, is amended to read:

18 458.348 Formal supervisory relationships, standing
19 orders, and established protocols; notice; standards.--

20 (4) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE
21 SETTINGS.--A physician who supervises an advanced registered
22 nurse practitioner or physician assistant at a medical office
23 other than the physician's primary practice location, where
24 the advanced registered nurse practitioner or physician
25 assistant is not under the onsite supervision of a supervising
26 physician, must comply with the standards set forth in this
27 subsection. For the purpose of this subsection, a physician's
28 "primary practice location" means the address reflected on the
29 physician's profile published pursuant to s. 456.041.

30 (e) This subsection does not apply to health care
31 services provided in facilities licensed under chapter 395 or

1 | in conjunction with a college of medicine, a college of
2 | nursing, an accredited graduate medical program, or a nursing
3 | education program; offices where the only service being
4 | performed is hair removal by an advanced registered nurse
5 | practitioner or physician assistant; not-for-profit,
6 | family-planning clinics that are not licensed pursuant to
7 | chapter 390; rural and federally qualified health centers;
8 | health care services provided in a nursing home licensed under
9 | part II of chapter 400, an assisted living facility licensed
10 | under part I ~~III~~ of chapter 429 ~~400~~, a continuing care
11 | facility licensed under chapter 651, or a retirement community
12 | consisting of independent living units and a licensed nursing
13 | home or assisted living facility; anesthesia services provided
14 | in accordance with law; health care services provided in a
15 | designated rural health clinic; health care services provided
16 | to persons enrolled in a program designed to maintain elderly
17 | persons and persons with disabilities in a home or
18 | community-based setting; university primary care student
19 | health centers; school health clinics; or health care services
20 | provided in federal, state, or local government facilities.

21

22 | Reviser's note.--Amended to conform to the
23 | redesignation of part III of chapter 400 as
24 | part I of chapter 429 by s. 2, ch. 2006-197,
25 | Laws of Florida.

26

27 | Section 113. Subsection (3) of section 458.3485,
28 | Florida Statutes, is amended to read:

29 | 458.3485 Medical assistant.--

30 | (3) CERTIFICATION.--Medical assistants may be
31 | certified by the American Association of Medical Assistants or

1 as a Registered Medical Assistant by the American ~~Society of~~
2 Medical Technologists.

3

4 Reviser's note.--Amended to correct the name of
5 the credentialing organization.

6

7 Section 114. Paragraph (e) of subsection (3) of
8 section 459.025, Florida Statutes, is amended to read:

9 459.025 Formal supervisory relationships, standing
10 orders, and established protocols; notice; standards.--

11 (3) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE
12 SETTINGS.--An osteopathic physician who supervises an advanced
13 registered nurse practitioner or physician assistant at a
14 medical office other than the osteopathic physician's primary
15 practice location, where the advanced registered nurse
16 practitioner or physician assistant is not under the onsite
17 supervision of a supervising osteopathic physician, must
18 comply with the standards set forth in this subsection. For
19 the purpose of this subsection, an osteopathic physician's
20 "primary practice location" means the address reflected on the
21 physician's profile published pursuant to s. 456.041.

22 (e) This subsection does not apply to health care
23 services provided in facilities licensed under chapter 395 or
24 in conjunction with a college of medicine or college of
25 nursing or an accredited graduate medical or nursing education
26 program; offices where the only service being performed is
27 hair removal by an advanced registered nurse practitioner or
28 physician assistant; not-for-profit, family-planning clinics
29 that are not licensed pursuant to chapter 390; rural and
30 federally qualified health centers; health care services
31 provided in a nursing home licensed under part II of chapter

1 400, an assisted living facility licensed under part I ~~III~~ of
2 chapter 429 ~~400~~, a continuing care facility licensed under
3 chapter 651, or a retirement community consisting of
4 independent living units and either a licensed nursing home or
5 assisted living facility; anesthesia services provided in
6 accordance with law; health care services provided in a
7 designated rural health clinic; health care services provided
8 to persons enrolled in a program designed to maintain elderly
9 persons and persons with disabilities in a home or
10 community-based setting; university primary care student
11 health centers; school health clinics; or health care services
12 provided in federal, state, or local government facilities.

13

14 Reviser's note.--Amended to conform to the
15 redesignation of part III of chapter 400 as
16 part I of chapter 429 by s. 2, ch. 2006-197,
17 Laws of Florida.

18

19 Section 115. Paragraph (a) of subsection (1) of
20 section 482.242, Florida Statutes, is amended to read:

21 482.242 Preemption.--

22 (1) This chapter is intended as comprehensive and
23 exclusive regulation of pest control in this state. The
24 provisions of this chapter preempt to the state all regulation
25 of the activities and operations of pest control services,
26 including the pesticides used pursuant to labeling and
27 registration approved under part I of chapter 487. No local
28 government or political subdivision of the state may enact or
29 enforce an ordinance that regulates pest control, except that
30 the preemption in this section does not prohibit a local

31

1 government or political subdivision from enacting an ordinance
2 regarding any of the following:

3 (a) Local business taxes ~~occupational licenses~~ adopted
4 pursuant to chapter 205.

5
6 Reviser's note.--Amended to conform to the
7 redesignation of occupational license taxes in
8 chapter 205 as business taxes by ch. 2006-152,
9 Laws of Florida.

10
11 Section 116. Subsection (5) of section 483.285,
12 Florida Statutes, is amended to read:

13 483.285 Application of part; exemptions.--This part
14 applies to all multiphasic health testing centers within the
15 state, but does not apply to:

16 (5) A home health agency licensed under part III ~~IV~~ of
17 chapter 400.

18
19 Reviser's note.--Amended to conform to the
20 transfer of sections comprising former part III
21 of chapter 400 to chapter 429 by s. 2, ch.
22 2006-197, Laws of Florida.

23
24 Section 117. Subsection (1) of section 489.127,
25 Florida Statutes, is amended to read:

26 489.127 Prohibitions; penalties.--

27 (1) No person shall:

28 (a) Falsely hold himself or herself or a business
29 organization out as a licensee, certificateholder, or
30 registrant;

31

1 (b) Falsely impersonate a certificateholder or
2 registrant;

3 (c) Present as his or her own the certificate,
4 registration, or certificate of authority of another;

5 (d) Knowingly give false or forged evidence to the
6 board or a member thereof;

7 (e) Use or attempt to use a certificate, registration,
8 or certificate of authority which has been suspended or
9 revoked;

10 (f) Engage in the business or act in the capacity of a
11 contractor or advertise himself or herself or a business
12 organization as available to engage in the business or act in
13 the capacity of a contractor without being duly registered or
14 certified or having a certificate of authority;

15 (g) Operate a business organization engaged in
16 contracting after 60 days following the termination of its
17 only qualifying agent without designating another primary
18 qualifying agent, except as provided in ss. 489.119 and
19 489.1195;

20 (h) Commence or perform work for which a building
21 permit is required pursuant to part VII of chapter 553 without
22 such building permit being in effect; or

23 (i) Willfully or deliberately disregard or violate any
24 municipal or county ordinance relating to uncertified or
25 unregistered contractors.

26
27 For purposes of this subsection, a person or business
28 organization operating on an inactive or suspended
29 certificate, registration, or certificate of authority is not
30 duly certified or registered and is considered unlicensed. A
31 business tax receipt ~~An occupational license certificate~~

1 issued under the authority of chapter 205 is not a license for
2 purposes of this part.

3

4 Reviser's note.--Amended to conform to the
5 redesignation of occupational license taxes in
6 chapter 205 as business taxes by ch. 2006-152,
7 Laws of Florida.

8

9 Section 118. Paragraph (b) of subsection (1) of
10 section 489.128, Florida Statutes, is amended to read:

11 489.128 Contracts entered into by unlicensed
12 contractors unenforceable.--

13 (1) As a matter of public policy, contracts entered
14 into on or after October 1, 1990, by an unlicensed contractor
15 shall be unenforceable in law or in equity by the unlicensed
16 contractor.

17 (b) For purposes of this section, an individual or
18 business organization may not be considered unlicensed for
19 failing to have a business tax receipt ~~an occupational license~~
20 ~~certificate~~ issued under the authority of chapter 205. A
21 business organization may not be considered unlicensed for
22 failing to have a certificate of authority as required by ss.
23 489.119 and 489.127. For purposes of this section, a business
24 organization entering into the contract may not be considered
25 unlicensed if, before the date established by paragraph (c),
26 an individual possessing a license required by this part
27 concerning the scope of the work to be performed under the
28 contract has submitted an application for a certificate of
29 authority designating that individual as a qualifying agent
30 for the business organization entering into the contract, and
31 the application was not acted upon by the department or

1 applicable board within the time limitations imposed by s.
2 120.60.

3

4 Reviser's note.--Amended to conform to the
5 redesignation of occupational license taxes in
6 chapter 205 as business taxes by ch. 2006-152,
7 Laws of Florida.

8

9 Section 119. Paragraph (c) of subsection (3) of
10 section 489.131, Florida Statutes, is amended to read:

11 489.131 Applicability.--

12 (3) Nothing in this part limits the power of a
13 municipality or county:

14 (c) To collect business ~~occupational license~~ taxes,
15 subject to s. 205.065, and inspection fees for engaging in
16 contracting or examination fees from persons who are
17 registered with the board pursuant to local examination
18 requirements and issue business ~~occupational license~~ tax
19 receipts certificates. However, nothing in this part shall be
20 construed to require general contractors, building
21 contractors, or residential contractors to obtain additional
22 business ~~occupational license~~ tax receipts certificates for
23 specialty work when such specialty work is performed by
24 employees of such contractors on projects for which they have
25 substantially full responsibility and such contractors do not
26 hold themselves out to the public as being specialty
27 contractors.

28

29 Reviser's note.--Amended to conform to the
30 redesignation of occupational license taxes in

31

1 chapter 205 as business taxes by ch. 2006-152,
2 Laws of Florida.

3
4 Section 120. Paragraph (b) of subsection (1) of
5 section 489.532, Florida Statutes, is amended to read:

6 489.532 Contracts entered into by unlicensed
7 contractors unenforceable.--

8 (1) As a matter of public policy, contracts entered
9 into on or after October 1, 1990, by an unlicensed contractor
10 shall be unenforceable in law or in equity by the unlicensed
11 contractor.

12 (b) For purposes of this section, an individual or
13 business organization shall not be considered unlicensed for
14 failing to have a business tax receipt ~~an occupational license~~
15 ~~certificate~~ issued under the authority of chapter 205.

16
17 Reviser's note.--Amended to conform to the
18 redesignation of occupational license taxes in
19 chapter 205 as business taxes by ch. 2006-152,
20 Laws of Florida.

21
22 Section 121. Subsection (1) of section 497.461,
23 Florida Statutes, is amended to read:

24 497.461 Surety bonding as alternative to trust
25 deposit.--

26 (1) In lieu of depositing funds into a trust as
27 required by s. 497.458(1) ~~497.548(1)~~ or s. 497.464, a preneed
28 licensee may elect annually, at its discretion, to comply with
29 this section by filing annually a written request with, and
30 receiving annual approval from, the licensing authority.

31

1 Reviser's note.--Amended to correct an apparent
2 error and facilitate correct interpretation.
3 The cited section does not exist; s. 497.458(1)
4 relates to trust funds for preneed contracts
5 for funeral services or burial services.
6

7 Section 122. Paragraphs (g) and (h) of subsection (3)
8 of section 499.029, Florida Statutes, are amended to read:

9 499.029 Cancer Drug Donation Program.--

10 (3) As used in this section:

11 (g) "Health care clinic" means a health care clinic
12 licensed under part X ~~XIII~~ of chapter 400.

13 (h) "Hospice" means a corporation licensed under part
14 IV ~~VI~~ of chapter 400.

15
16 Reviser's note.--Amended to conform to the
17 redesignation of part XIII of chapter 400 as
18 part X and part VI as part IV incident to the
19 transfer of former parts III, V, and VII to new
20 chapter 429 by ch. 2006-197, Laws of Florida.
21

22 Section 123. Subsection (3) of section 500.511,
23 Florida Statutes, is amended to read:

24 500.511 Fees; enforcement; preemption.--

25 (3) PREEMPTION OF AUTHORITY TO REGULATE.--Regulation
26 of bottled water plants, water vending machines, water vending
27 machine operators, and packaged ice plants is preempted by the
28 state. No county or municipality may adopt or enforce any
29 ordinance that regulates the licensure or operation of bottled
30 water plants, water vending machines, or packaged ice plants,
31 unless it is determined that unique conditions exist within

1 | the county which require the county to regulate such entities
2 | in order to protect the public health. This subsection does
3 | not prohibit a county or municipality from requiring a
4 | business ~~an occupational license~~ tax pursuant to chapter 205.

5 |
6 | Reviser's note.--Amended to conform to the
7 | redesignation of occupational license taxes as
8 | business taxes in chapter 205 by ch. 2006-152,
9 | Laws of Florida.

10 |
11 | Section 124. Subsection (1) of section 501.016,
12 | Florida Statutes, is amended to read:

13 | 501.016 Health studios; security requirements.--Each
14 | health studio that sells contracts for health studio services
15 | shall meet the following requirements:

16 | (1) Each health studio shall maintain for each
17 | separate business location a bond issued by a surety company
18 | admitted to do business in this state. The principal sum of
19 | the bond shall be \$50,000, and the bond, when required, shall
20 | be obtained before a business tax receipt ~~an occupational~~
21 | ~~license~~ may be issued under chapter 205. Upon issuance of a
22 | business tax receipt ~~an occupational license~~, the licensing
23 | authority shall immediately notify the department of such
24 | issuance in a manner established by the department by rule.
25 | The bond shall be in favor of the state for the benefit of any
26 | person injured as a result of a violation of ss.

27 | 501.012-501.019. The aggregate liability of the surety to all
28 | persons for all breaches of the conditions of the bonds
29 | provided herein shall in no event exceed the amount of the
30 | bond. The original surety bond required by this section shall
31 | be filed with the department.

1 Reviser's note.--Amended to conform to the
2 redesignation of occupational licenses as
3 business tax receipts in chapter 205 by ch.
4 2006-152, Laws of Florida.

5
6 Section 125. Paragraph (b) of subsection (3) of
7 section 501.143, Florida Statutes, is amended to read:

8 501.143 Dance Studio Act.--

9 (3) REGISTRATION OF BALLROOM DANCE STUDIOS.--

10 (b) Any person applying for or renewing a local
11 business tax receipt ~~occupational license~~ to engage in
12 business as a ballroom dance studio must exhibit an active
13 registration certificate from the department before the local
14 business tax receipt ~~occupational license~~ may be issued or
15 reissued under chapter 205.

16
17 Reviser's note.--Amended to conform to the
18 redesignation of occupational licenses as
19 business tax receipts in chapter 205 by ch.
20 2006-152, Laws of Florida.

21
22 Section 126. Subsection (9) of section 501.160,
23 Florida Statutes, is amended to read:

24 501.160 Rental or sale of essential commodities during
25 a declared state of emergency; prohibition against
26 unconscionable prices.--

27 (9) Upon a declaration of a state of emergency by the
28 Governor, in order to protect the health, safety, and welfare
29 of residents, any person who offers goods and services for
30 sale to the public during the duration of the emergency and
31 who does not possess a business tax receipt ~~an occupational~~

1 ~~license~~ under s. 205.032 or s. 205.042 commits a misdemeanor
2 of the second degree, punishable as provided in s. 775.082 or
3 s. 775.083. During a declared emergency, this subsection does
4 not apply to religious, charitable, fraternal, civic,
5 educational, or social organizations. During a declared
6 emergency and when there is an allegation of price gouging
7 against the person, failure to possess a license constitutes
8 reasonable cause to detain the person, provided that the
9 detention shall only be made in a reasonable manner and only
10 for a reasonable period of time sufficient for an inquiry into
11 the circumstances surrounding the failure to possess a
12 license.

13

14 Reviser's note.--Amended to conform to the
15 redesignation of occupational licenses as
16 business tax receipts in chapter 205 by ch.
17 2006-152, Laws of Florida.

18

19 Section 127. Paragraph (c) of subsection (4) of
20 section 509.233, Florida Statutes, is amended to read:

21 509.233 Public food service establishment
22 requirements; local exemption for dogs in designated outdoor
23 portions; pilot program.--

24 (4) LIMITATIONS ON EXEMPTION; PERMIT REQUIREMENTS.--

25 (c) In order to protect the health, safety, and
26 general welfare of the public, the local exemption ordinance
27 shall include such regulations and limitations as deemed
28 necessary by the participating local government and shall
29 include, but not be limited to, the following requirements:

30 1. All public food service establishment employees
31 shall wash their hands promptly after touching, petting, or

1 otherwise handling dogs. Employees shall be prohibited from
2 touching, petting, or otherwise handling dogs while serving
3 food or beverages or handling tableware or before entering
4 other parts of the public food service establishment.

5 2. Patrons in a designated outdoor area shall be
6 advised that they should wash their hands before eating.
7 Waterless hand sanitizer shall be provided at all tables in
8 the designated outdoor area.

9 3. Employees and patrons shall be instructed that they
10 shall not allow dogs to come into contact with serving dishes,
11 utensils, tableware, linens, paper products, or any other
12 items involved in food service operations.

13 4. Patrons shall keep their dogs on a leash at all
14 times and shall keep their dogs under reasonable control.

15 5. Dogs shall not be allowed on chairs, tables, or
16 other furnishings.

17 6. All table and chair surfaces shall be cleaned and
18 sanitized with an approved product between seating of patrons.
19 Spilled food and drink shall be removed from the floor or
20 ground between seating of patrons.

21 7. Accidents involving dog waste shall be cleaned
22 immediately and the area sanitized with an approved product. A
23 kit with the appropriate materials for this purpose shall be
24 kept near the designated outdoor area.

25 8. A sign or signs reminding employees of the
26 applicable rules shall be posted on premises in a manner and
27 place as determined by the local permitting authority.

28 9. A sign or signs reminding patrons of the applicable
29 rules shall be posted on premises in a manner and place as
30 determined by the local permitting authority.

31

1 10. A sign or signs shall be posted in a manner and
2 place as determined by the local permitting authority that
3 places the public on notice that the designated outdoor area
4 is available for the use of patrons and patrons' dogs.

5 11. Dogs shall not be permitted to travel through
6 indoor or nondesignated outdoor portions of the public food
7 service establishment, and ingress and egress to the
8 designated outdoor portions of the public food service
9 establishment must not require entrance into or passage
10 through any indoor area of the food establishment.

11
12 Reviser's note.--Amended to improve clarity and
13 facilitate correct interpretation.

14
15 Section 128. Subsection (9) of section 516.05, Florida
16 Statutes, is amended to read:

17 516.05 License.--

18 (9) A licensee who ~~that~~ is the subject of a voluntary
19 or involuntary bankruptcy filing must report such filing to
20 the office within 7 business days after the filing date.

21
22 Reviser's note.--Amended to improve clarity and
23 facilitate correct interpretation.

24
25 Section 129. Section 551.101, Florida Statutes, is
26 amended to read:

27 551.101 Slot machine gaming authorized.--Any licensed
28 pari-mutuel facility located in Miami-Dade County or Broward
29 County existing at the time of adoption of s. 23, Art. X of
30 the State Constitution that has conducted live racing or games
31 during calendar years 2002 and 2003 may possess slot machines

1 and conduct slot machine gaming at the location where the
2 pari-mutuel permitholder is authorized to conduct pari-mutuel
3 wagering activities pursuant to such permitholder's valid
4 pari-mutuel permit provided that a majority of voters in a
5 countywide referendum have approved slot machines at such
6 facility in the respective county. Notwithstanding any other
7 provision of law, it is not a crime for a person to
8 participate in slot machine gaming at a pari-mutuel facility
9 licensed to possess slot machines and conduct slot machine
10 gaming or to participate in slot machine gaming described in
11 this chapter.

12

13 Reviser's note.--Amended to improve clarity and
14 facilitate correct interpretation.

15

16 Section 130. Section 559.939, Florida Statutes, is
17 amended to read:

18 559.939 State preemption.--No municipality or county
19 or other political subdivision of this state shall have
20 authority to levy or collect any registration fee or tax, as a
21 regulatory measure, or to require the registration or bonding
22 in any manner of any seller of travel who is registered or
23 complies with all applicable provisions of this part, unless
24 that authority is provided for by special or general act of
25 the Legislature. Any ordinance, resolution, or regulation of
26 any municipality or county or other political subdivision of
27 this state which is in conflict with any provision of this
28 part is preempted by this part. The provisions of this
29 section do not apply to any local business ~~occupational~~ tax
30 levied pursuant to chapter 205.

31

1 Reviser's note.--Amended to conform to the
2 redesignation of local occupational taxes as
3 local business taxes in chapter 205 by ch.
4 2006-152, Laws of Florida.
5

6 Section 131. Subsection (3) of section 607.0130,
7 Florida Statutes, is amended to read:

8 607.0130 Powers of Department of State.--

9 (3) The Department of State may, based upon its
10 findings hereunder or as provided in s. 213.053(15)
11 ~~215.053(15)~~, bring an action in circuit court to collect any
12 penalties, fees, or taxes determined to be due and owing the
13 state and to compel any filing, qualification, or registration
14 required by law. In connection with such proceeding the
15 department may, without prior approval by the court, file a
16 lis pendens against any property owned by the corporation and
17 may further certify any findings to the Department of Legal
18 Affairs for the initiation of any action permitted pursuant to
19 s. 607.0505 which the Department of Legal Affairs may deem
20 appropriate.
21

22 Reviser's note.--Amended to improve clarity and
23 facilitate correct interpretation. Section
24 215.053(15) does not exist; section 213.053(15)
25 provides for recovery of fees and penalties due
26 and owing the state.
27

28 Section 132. Subsection (1) and paragraph (a) of
29 subsection (2) of section 607.193, Florida Statutes, are
30 amended to read:

31 607.193 Supplemental corporate fee.--

1 (1) In addition to any other taxes imposed by law, an
2 annual supplemental corporate fee of \$88.75 is imposed on each
3 business entity that is authorized to transact business in
4 this state and is required to file an annual report with the
5 Department of State under s. 607.1622, s. 608.4511 ~~608.452~~, or
6 s. 620.1210.

7 (2)(a) The business entity shall remit the
8 supplemental corporate fee to the Department of State at the
9 time it files the annual report required by s. 607.1622, s.
10 608.4511 ~~608.452~~, or s. 620.1210.

11
12 Reviser's note.--Amended to improve clarity and
13 facilitate correct interpretation. Section
14 608.4511 references the annual report for the
15 Department of State, and s. 608.452 references
16 fees.

17
18 Section 133. Subsection (5) of section 620.2113,
19 Florida Statutes, is amended to read:

20 620.2113 Appraisal rights; definitions.--The following
21 definitions apply to this section and ss. 620.2114-620.2124:

22 (5) "Interest" means interest from the effective date
23 of the appraisal event to which the limited partner objects
24 until the date of payment, at the rate of interest described
25 in s. 620.1107(2) ~~620.107(2)~~, determined as of the effective
26 date of the appraisal event.

27
28 Reviser's note.--Amended to improve clarity and
29 facilitate correct interpretation. Section
30 620.107 was repealed by s. 25, ch. 2005-267,
31 Laws of Florida, and did not reference interest

1 rates; s. 620.1107(2) does relate to interest
2 rates.

3
4 Section 134. Paragraph (c) of subsection (2) of
5 section 620.2118, Florida Statutes, is amended to read:

6 620.2118 Appraisal notice and form.--

7 (2) The appraisal notice must be sent no earlier than
8 the date the appraisal event became effective and no later
9 than 10 days after such date and must:

10 (c) Be accompanied by:

11 1. Financial statements of the limited partnership
12 that issued the limited partner interests to be appraised,
13 consisting of a balance sheet as of the end of the fiscal year
14 ending not more than 15 months prior to the date of the
15 limited partnership's appraisal notice, an income statement
16 for that year, a cash flow statement for that year, and the
17 latest available interim financial statements, if any.

18 2. A copy of ss. 620.2113-620.2124 ~~620.2213-620.2224~~.

19
20 Reviser's note.--Amended to improve clarity and
21 facilitate correct interpretation. Sections
22 620.2213-620.2224 do not exist. Limited partner
23 appraisals are referenced in ss.
24 620.2113-620.2124.

25
26 Section 135. Subsection (3) of section 620.8911,
27 Florida Statutes, is amended to read:

28 620.8911 Definitions.--As used in this section and ss.
29 620.8912-620.8923:

30
31

1 (3) "Converted organization" means the organization
2 into which a converting organization converts pursuant to ss.
3 620.8912-620.8915 ~~620.8902-620.8905~~.

4
5 Reviser's note.--Amended to improve clarity and
6 facilitate correct interpretation. Sections
7 620.8902-620.8905 were repealed by s. 25, ch.
8 2005-267, Laws of Florida. Sections
9 620.8912-620.8915 were created by s. 22, ch.
10 2005-267, and cover conversion organizations.

11
12 Section 136. Paragraph (c) of subsection (1) of
13 section 624.5105, Florida Statutes, is amended to read:

14 624.5105 Community contribution tax credit;
15 authorization; limitations; eligibility and application
16 requirements; administration; definitions; expiration.--

17 (1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.--

18 (c) The total amount of tax credit which may be
19 granted for all programs approved under this section and ss.
20 212.08(5)(p) ~~212.08(5)(q)~~ and 220.183 is \$10.5 million
21 annually for projects that provide homeownership opportunities
22 for low-income or very-low-income households as defined in s.
23 420.9071(19) and (28) and \$3.5 million annually for all other
24 projects.

25
26 Reviser's note.--Amended to conform to the
27 repeal of former s. 212.08(5)(p) by s. 2, ch.
28 2006-2, Laws of Florida, and the subsequent
29 redesignation of paragraphs.

1 Section 137. Paragraph (a) of subsection (1) of
2 section 626.022, Florida Statutes, is amended to read:

3 626.022 Scope of part.--

4 (1) This part applies as to insurance agents, service
5 representatives, adjusters, and insurance agencies; as to any
6 and all kinds of insurance; and as to stock insurers, mutual
7 insurers, reciprocal insurers, and all other types of
8 insurers, except that:

9 (a) It does not apply as to reinsurance, except that
10 ss. 626.011-626.022 ~~626.011-626.031~~, ss. 626.112-626.181
11 ~~626.102-626.181~~, ss. 626.191-626.211, ss. 626.291-626.301, s.
12 626.331, ss. 626.342-626.521, ss. 626.541-626.591, and ss.
13 626.601-626.711 shall apply as to reinsurance intermediaries
14 as defined in s. 626.7492.

15
16 Reviser's note.--Amended to conform to the
17 repeal of ss. 626.031, 626.102, and others in
18 the cited range of sections by s. 72, ch.
19 2002-206, Laws of Florida.

20
21 Section 138. Subsection (4) of section 626.171,
22 Florida Statutes, is amended to read:

23 626.171 Application for license as an agent, customer
24 representative, adjuster, service representative, managing
25 general agent, or reinsurance intermediary.--

26 (4) An applicant for a license as an agent, customer
27 representative, adjuster, service representative, managing
28 general agent, or reinsurance intermediary must submit a set
29 of the individual applicant's fingerprints, or, if the
30 applicant is not an individual, ~~by~~ a set of the fingerprints
31 of the sole proprietor, majority owner, partners, officers,

1 and directors, to the department and must pay the fingerprint
2 processing fee set forth in s. 624.501. Fingerprints shall be
3 used to investigate the applicant's qualifications pursuant to
4 s. 626.201. The fingerprints shall be taken by a law
5 enforcement agency, designated examination center, or other
6 department-approved entity. The department shall require all
7 designated examination centers to have fingerprinting
8 equipment and to take fingerprints from any applicant or
9 prospective applicant who pays the applicable fee. The
10 department may not approve an application for licensure as an
11 agent, customer service representative, adjuster, service
12 representative, managing general agent, or reinsurance
13 intermediary if fingerprints have not been submitted.

14
15 Reviser's note.--Amended to confirm the
16 editorial deletion of the word "by" preceding
17 the word "a" to improve clarity and facilitate
18 correct interpretation.

19
20 Section 139. Paragraph (j) of subsection (1) of
21 section 626.935, Florida Statutes, is amended to read:

22 626.935 Suspension, revocation, or refusal of surplus
23 lines agent's license.--

24 (1) The department shall deny an application for,
25 suspend, revoke, or refuse to renew the appointment of a
26 surplus lines agent and all other licenses and appointments
27 held by the licensee under this code, upon any of the
28 following grounds:

29 (j) For any other applicable cause for which the
30 license of a general lines agent could be suspended, revoked,
31 or refused under s. 626.611 or s. 626.621 ~~616.621~~.

1 Reviser's note.--Amended to improve clarity and
2 facilitate correct interpretation. Section
3 616.621 does not exist. Section 626.621
4 references grounds for discretionary refusal,
5 suspension, or revocation of an agent's
6 license.

7
8 Section 140. Paragraph (g) of subsection (3) of
9 section 626.9912, Florida Statutes, is amended to read:
10 626.9912 Viatical settlement provider license
11 required; application for license.--

12 (3) In the application, the applicant must provide all
13 of the following:

14 (g) A general description of the method the viatical
15 settlement provider will use in determining life expectancies,
16 including a description of the applicant's intended receipt of
17 life expectancies ~~the applicant's intended receipt of life~~
18 ~~expectancies~~, the applicant's intended use of life expectancy
19 providers, and the written plan or plans of policies and
20 procedures used to determine life expectancies.

21
22 Reviser's note.--Amended to improve clarity and
23 facilitate correct interpretation.

24
25 Section 141. Paragraph (b) of subsection (2) and
26 paragraphs (c), (d), (n), and (v) of subsection (6) of section
27 627.351, Florida Statutes, as amended by section 21 of chapter
28 2007-1, Laws of Florida, are amended to read:

29 627.351 Insurance risk apportionment plans.--
30 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--

31

1 (b) The department shall require all insurers holding
2 a certificate of authority to transact property insurance on a
3 direct basis in this state, other than joint underwriting
4 associations and other entities formed pursuant to this
5 section, to provide windstorm coverage to applicants from
6 areas determined to be eligible pursuant to paragraph (c) who
7 in good faith are entitled to, but are unable to procure, such
8 coverage through ordinary means; or it shall adopt a
9 reasonable plan or plans for the equitable apportionment or
10 sharing among such insurers of windstorm coverage, which may
11 include formation of an association for this purpose. As used
12 in this subsection, the term "property insurance" means
13 insurance on real or personal property, as defined in s.
14 624.604, including insurance for fire, industrial fire, allied
15 lines, farmowners multiperil, homeowners' multiperil,
16 commercial multiperil, and mobile homes, and including
17 liability coverages on all such insurance, but excluding
18 inland marine as defined in s. 624.607(3) and excluding
19 vehicle insurance as defined in s. 624.605(1)(a) other than
20 insurance on mobile homes used as permanent dwellings. The
21 department shall adopt rules that provide a formula for the
22 recovery and repayment of any deferred assessments.

23 1. For the purpose of this section, properties
24 eligible for such windstorm coverage are defined as dwellings,
25 buildings, and other structures, including mobile homes which
26 are used as dwellings and which are tied down in compliance
27 with mobile home tie-down requirements prescribed by the
28 Department of Highway Safety and Motor Vehicles pursuant to s.
29 320.8325, and the contents of all such properties. An
30 applicant or policyholder is eligible for coverage only if an
31

1 offer of coverage cannot be obtained by or for the applicant
2 or policyholder from an admitted insurer at approved rates.
3 2.a.(I) All insurers required to be members of such
4 association shall participate in its writings, expenses, and
5 losses. Surplus of the association shall be retained for the
6 payment of claims and shall not be distributed to the member
7 insurers. Such participation by member insurers shall be in
8 the proportion that the net direct premiums of each member
9 insurer written for property insurance in this state during
10 the preceding calendar year bear to the aggregate net direct
11 premiums for property insurance of all member insurers, as
12 reduced by any credits for voluntary writings, in this state
13 during the preceding calendar year. For the purposes of this
14 subsection, the term "net direct premiums" means direct
15 written premiums for property insurance, reduced by premium
16 for liability coverage and for the following if included in
17 allied lines: rain and hail on growing crops; livestock;
18 association direct premiums booked; National Flood Insurance
19 Program direct premiums; and similar deductions specifically
20 authorized by the plan of operation and approved by the
21 department. A member's participation shall begin on the first
22 day of the calendar year following the year in which it is
23 issued a certificate of authority to transact property
24 insurance in the state and shall terminate 1 year after the
25 end of the calendar year during which it no longer holds a
26 certificate of authority to transact property insurance in the
27 state. The commissioner, after review of annual statements,
28 other reports, and any other statistics that the commissioner
29 deems necessary, shall certify to the association the
30 aggregate direct premiums written for property insurance in
31 this state by all member insurers.

1 (II) Effective July 1, 2002, the association shall
2 operate subject to the supervision and approval of a board of
3 governors who are the same individuals that have been
4 appointed by the Treasurer to serve on the board of governors
5 of the Citizens Property Insurance Corporation.

6 (III) The plan of operation shall provide a formula
7 whereby a company voluntarily providing windstorm coverage in
8 affected areas will be relieved wholly or partially from
9 apportionment of a regular assessment pursuant to
10 sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II).

11 (IV) A company which is a member of a group of
12 companies under common management may elect to have its
13 credits applied on a group basis, and any company or group may
14 elect to have its credits applied to any other company or
15 group.

16 (V) There shall be no credits or relief from
17 apportionment to a company for emergency assessments collected
18 from its policyholders under sub-sub-subparagraph d.(III).

19 (VI) The plan of operation may also provide for the
20 award of credits, for a period not to exceed 3 years, from a
21 regular assessment pursuant to sub-sub-subparagraph d.(I) or
22 sub-sub-subparagraph d.(II) as an incentive for taking
23 policies out of the Residential Property and Casualty Joint
24 Underwriting Association. In order to qualify for the
25 exemption under this sub-sub-subparagraph, the take-out plan
26 must provide that at least 40 percent of the policies removed
27 from the Residential Property and Casualty Joint Underwriting
28 Association cover risks located in Dade, Broward, and Palm
29 Beach Counties or at least 30 percent of the policies so
30 removed cover risks located in Dade, Broward, and Palm Beach
31 Counties and an additional 50 percent of the policies so

1 removed cover risks located in other coastal counties, and
2 must also provide that no more than 15 percent of the policies
3 so removed may exclude windstorm coverage. With the approval
4 of the department, the association may waive these geographic
5 criteria for a take-out plan that removes at least the lesser
6 of 100,000 Residential Property and Casualty Joint
7 Underwriting Association policies or 15 percent of the total
8 number of Residential Property and Casualty Joint Underwriting
9 Association policies, provided the governing board of the
10 Residential Property and Casualty Joint Underwriting
11 Association certifies that the take-out plan will materially
12 reduce the Residential Property and Casualty Joint
13 Underwriting Association's 100-year probable maximum loss from
14 hurricanes. With the approval of the department, the board
15 may extend such credits for an additional year if the insurer
16 guarantees an additional year of renewability for all policies
17 removed from the Residential Property and Casualty Joint
18 Underwriting Association, or for 2 additional years if the
19 insurer guarantees 2 additional years of renewability for all
20 policies removed from the Residential Property and Casualty
21 Joint Underwriting Association.

22 b. Assessments to pay deficits in the association
23 under this subparagraph shall be included as an appropriate
24 factor in the making of rates as provided in s. 627.3512.

25 c. The Legislature finds that the potential for
26 unlimited deficit assessments under this subparagraph may
27 induce insurers to attempt to reduce their writings in the
28 voluntary market, and that such actions would worsen the
29 availability problems that the association was created to
30 remedy. It is the intent of the Legislature that insurers
31 remain fully responsible for paying regular assessments and

1 collecting emergency assessments for any deficits of the
2 association; however, it is also the intent of the Legislature
3 to provide a means by which assessment liabilities may be
4 amortized over a period of years.

5 d.(I) When the deficit incurred in a particular
6 calendar year is 10 percent or less of the aggregate statewide
7 direct written premium for property insurance for the prior
8 calendar year for all member insurers, the association shall
9 levy an assessment on member insurers in an amount equal to
10 the deficit.

11 (II) When the deficit incurred in a particular
12 calendar year exceeds 10 percent of the aggregate statewide
13 direct written premium for property insurance for the prior
14 calendar year for all member insurers, the association shall
15 levy an assessment on member insurers in an amount equal to
16 the greater of 10 percent of the deficit or 10 percent of the
17 aggregate statewide direct written premium for property
18 insurance for the prior calendar year for member insurers. Any
19 remaining deficit shall be recovered through emergency
20 assessments under sub-sub-subparagraph (III).

21 (III) Upon a determination by the board of directors
22 that a deficit exceeds the amount that will be recovered
23 through regular assessments on member insurers, pursuant to
24 sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the
25 board shall levy, after verification by the department,
26 emergency assessments to be collected by member insurers and
27 by underwriting associations created pursuant to this section
28 which write property insurance, upon issuance or renewal of
29 property insurance policies other than National Flood
30 Insurance policies in the year or years following levy of the
31 regular assessments. The amount of the emergency assessment

1 collected in a particular year shall be a uniform percentage
2 of that year's direct written premium for property insurance
3 for all member insurers and underwriting associations,
4 excluding National Flood Insurance policy premiums, as
5 annually determined by the board and verified by the
6 department. The department shall verify the arithmetic
7 calculations involved in the board's determination within 30
8 days after receipt of the information on which the
9 determination was based. Notwithstanding any other provision
10 of law, each member insurer and each underwriting association
11 created pursuant to this section shall collect emergency
12 assessments from its policyholders without such obligation
13 being affected by any credit, limitation, exemption, or
14 deferment. The emergency assessments so collected shall be
15 transferred directly to the association on a periodic basis as
16 determined by the association. The aggregate amount of
17 emergency assessments levied under this sub-sub-subparagraph
18 in any calendar year may not exceed the greater of 10 percent
19 of the amount needed to cover the original deficit, plus
20 interest, fees, commissions, required reserves, and other
21 costs associated with financing of the original deficit, or 10
22 percent of the aggregate statewide direct written premium for
23 property insurance written by member insurers and underwriting
24 associations for the prior year, plus interest, fees,
25 commissions, required reserves, and other costs associated
26 with financing the original deficit. The board may pledge the
27 proceeds of the emergency assessments under this
28 sub-sub-subparagraph as the source of revenue for bonds, to
29 retire any other debt incurred as a result of the deficit or
30 events giving rise to the deficit, or in any other way that
31 the board determines will efficiently recover the deficit. The

1 emergency assessments under this sub-sub-subparagraph shall
2 continue as long as any bonds issued or other indebtedness
3 incurred with respect to a deficit for which the assessment
4 was imposed remain outstanding, unless adequate provision has
5 been made for the payment of such bonds or other indebtedness
6 pursuant to the document governing such bonds or other
7 indebtedness. Emergency assessments collected under this
8 sub-sub-subparagraph are not part of an insurer's rates, are
9 not premium, and are not subject to premium tax, fees, or
10 commissions; however, failure to pay the emergency assessment
11 shall be treated as failure to pay premium.

12 (IV) Each member insurer's share of the total regular
13 assessments under sub-sub-subparagraph (I) or
14 sub-sub-subparagraph (II) shall be in the proportion that the
15 insurer's net direct premium for property insurance in this
16 state, for the year preceding the assessment bears to the
17 aggregate statewide net direct premium for property insurance
18 of all member insurers, as reduced by any credits for
19 voluntary writings for that year.

20 (V) If regular deficit assessments are made under
21 sub-sub-subparagraph (I) or sub-sub-subparagraph (II), or by
22 the Residential Property and Casualty Joint Underwriting
23 Association under sub-subparagraph (6)(b)3.a. or
24 sub-subparagraph (6)(b)3.b., the association shall levy upon
25 the association's policyholders, as part of its next rate
26 filing, or by a separate rate filing solely for this purpose,
27 a market equalization surcharge in a percentage equal to the
28 total amount of such regular assessments divided by the
29 aggregate statewide direct written premium for property
30 insurance for member insurers for the prior calendar year.
31 Market equalization surcharges under this sub-sub-subparagraph

1 are not considered premium and are not subject to commissions,
2 fees, or premium taxes; however, failure to pay a market
3 equalization surcharge shall be treated as failure to pay
4 premium.

5 e. The governing body of any unit of local government,
6 any residents of which are insured under the plan, may issue
7 bonds as defined in s. 125.013 or s. 166.101 to fund an
8 assistance program, in conjunction with the association, for
9 the purpose of defraying deficits of the association. In order
10 to avoid needless and indiscriminate proliferation,
11 duplication, and fragmentation of such assistance programs,
12 any unit of local government, any residents of which are
13 insured by the association, may provide for the payment of
14 losses, regardless of whether or not the losses occurred
15 within or outside of the territorial jurisdiction of the local
16 government. Revenue bonds may not be issued until validated
17 pursuant to chapter 75, unless a state of emergency is
18 declared by executive order or proclamation of the Governor
19 pursuant to s. 252.36 making such findings as are necessary to
20 determine that it is in the best interests of, and necessary
21 for, the protection of the public health, safety, and general
22 welfare of residents of this state and the protection and
23 preservation of the economic stability of insurers operating
24 in this state, and declaring it an essential public purpose to
25 permit certain municipalities or counties to issue bonds as
26 will provide relief to claimants and policyholders of the
27 association and insurers responsible for apportionment of plan
28 losses. Any such unit of local government may enter into such
29 contracts with the association and with any other entity
30 created pursuant to this subsection as are necessary to carry
31 out this paragraph. Any bonds issued under this

1 sub-subparagraph shall be payable from and secured by moneys
2 received by the association from assessments under this
3 subparagraph, and assigned and pledged to or on behalf of the
4 unit of local government for the benefit of the holders of
5 such bonds. The funds, credit, property, and taxing power of
6 the state or of the unit of local government shall not be
7 pledged for the payment of such bonds. If any of the bonds
8 remain unsold 60 days after issuance, the department shall
9 require all insurers subject to assessment to purchase the
10 bonds, which shall be treated as admitted assets; each insurer
11 shall be required to purchase that percentage of the unsold
12 portion of the bond issue that equals the insurer's relative
13 share of assessment liability under this subsection. An
14 insurer shall not be required to purchase the bonds to the
15 extent that the department determines that the purchase would
16 endanger or impair the solvency of the insurer. The authority
17 granted by this sub-subparagraph is additional to any bonding
18 authority granted by subparagraph 6.

19 3. The plan shall also provide that any member with a
20 surplus as to policyholders of \$20 million or less writing 25
21 percent or more of its total countrywide property insurance
22 premiums in this state may petition the department, within the
23 first 90 days of each calendar year, to qualify as a limited
24 apportionment company. The apportionment of such a member
25 company in any calendar year for which it is qualified shall
26 not exceed its gross participation, which shall not be
27 affected by the formula for voluntary writings. In no event
28 shall a limited apportionment company be required to
29 participate in any apportionment of losses pursuant to
30 sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II)
31 in the aggregate which exceeds \$50 million after payment of

1 available plan funds in any calendar year. However, a limited
2 apportionment company shall collect from its policyholders any
3 emergency assessment imposed under sub-sub-subparagraph
4 2.d.(III). The plan shall provide that, if the department
5 determines that any regular assessment will result in an
6 impairment of the surplus of a limited apportionment company,
7 the department may direct that all or part of such assessment
8 be deferred. However, there shall be no limitation or
9 deferment of an emergency assessment to be collected from
10 policyholders under sub-sub-subparagraph 2.d.(III).

11 4. The plan shall provide for the deferment, in whole
12 or in part, of a regular assessment of a member insurer under
13 sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II),
14 but not for an emergency assessment collected from
15 policyholders under sub-sub-subparagraph 2.d.(III), if, in the
16 opinion of the commissioner, payment of such regular
17 assessment would endanger or impair the solvency of the member
18 insurer. In the event a regular assessment against a member
19 insurer is deferred in whole or in part, the amount by which
20 such assessment is deferred may be assessed against the other
21 member insurers in a manner consistent with the basis for
22 assessments set forth in sub-sub-subparagraph 2.d.(I) or
23 sub-sub-subparagraph 2.d.(II).

24 5.a. The plan of operation may include deductibles and
25 rules for classification of risks and rate modifications
26 consistent with the objective of providing and maintaining
27 funds sufficient to pay catastrophe losses.

28 b. The association may require arbitration of a rate
29 filing under s. 627.062(6). It is the intent of the
30 Legislature that the rates for coverage provided by the
31 association be actuarially sound and not competitive with

1 approved rates charged in the admitted voluntary market such
2 that the association functions as a residual market mechanism
3 to provide insurance only when the insurance cannot be
4 procured in the voluntary market. The plan of operation shall
5 provide a mechanism to assure that, beginning no later than
6 January 1, 1999, the rates charged by the association for each
7 line of business are reflective of approved rates in the
8 voluntary market for hurricane coverage for each line of
9 business in the various areas eligible for association
10 coverage.

11 c. The association shall provide for windstorm
12 coverage on residential properties in limits up to \$10 million
13 for commercial lines residential risks and up to \$1 million
14 for personal lines residential risks. If coverage with the
15 association is sought for a residential risk valued in excess
16 of these limits, coverage shall be available to the risk up to
17 the replacement cost or actual cash value of the property, at
18 the option of the insured, if coverage for the risk cannot be
19 located in the authorized market. The association must accept
20 a commercial lines residential risk with limits above \$10
21 million or a personal lines residential risk with limits above
22 \$1 million if coverage is not available in the authorized
23 market. The association may write coverage above the limits
24 specified in this subparagraph with or without facultative or
25 other reinsurance coverage, as the association determines
26 appropriate.

27 d. The plan of operation must provide objective
28 criteria and procedures, approved by the department, to be
29 uniformly applied for all applicants in determining whether an
30 individual risk is so hazardous as to be uninsurable. In
31

1 making this determination and in establishing the criteria and
2 procedures, the following shall be considered:

3 (I) Whether the likelihood of a loss for the
4 individual risk is substantially higher than for other risks
5 of the same class; and

6 (II) Whether the uncertainty associated with the
7 individual risk is such that an appropriate premium cannot be
8 determined.

9
10 The acceptance or rejection of a risk by the association
11 pursuant to such criteria and procedures must be construed as
12 the private placement of insurance, and the provisions of
13 chapter 120 do not apply.

14 e. If the risk accepts an offer of coverage through
15 the market assistance program or through a mechanism
16 established by the association, either before the policy is
17 issued by the association or during the first 30 days of
18 coverage by the association, and the producing agent who
19 submitted the application to the association is not currently
20 appointed by the insurer, the insurer shall:

21 (I) Pay to the producing agent of record of the
22 policy, for the first year, an amount that is the greater of
23 the insurer's usual and customary commission for the type of
24 policy written or a fee equal to the usual and customary
25 commission of the association; or

26 (II) Offer to allow the producing agent of record of
27 the policy to continue servicing the policy for a period of
28 not less than 1 year and offer to pay the agent the greater of
29 the insurer's or the association's usual and customary
30 commission for the type of policy written.

31

1 | If the producing agent is unwilling or unable to accept
2 | appointment, the new insurer shall pay the agent in accordance
3 | with sub-sub-subparagraph (I). Subject to the provisions of s.
4 | 627.3517, the policies issued by the association must provide
5 | that if the association obtains an offer from an authorized
6 | insurer to cover the risk at its approved rates under either a
7 | standard policy including wind coverage or, if consistent with
8 | the insurer's underwriting rules as filed with the department,
9 | a basic policy including wind coverage, the risk is no longer
10 | eligible for coverage through the association. Upon
11 | termination of eligibility, the association shall provide
12 | written notice to the policyholder and agent of record stating
13 | that the association policy must be canceled as of 60 days
14 | after the date of the notice because of the offer of coverage
15 | from an authorized insurer. Other provisions of the insurance
16 | code relating to cancellation and notice of cancellation do
17 | not apply to actions under this sub-subparagraph.

18 | f. When the association enters into a contractual
19 | agreement for a take-out plan, the producing agent of record
20 | of the association policy is entitled to retain any unearned
21 | commission on the policy, and the insurer shall:

22 | (I) Pay to the producing agent of record of the
23 | association policy, for the first year, an amount that is the
24 | greater of the insurer's usual and customary commission for
25 | the type of policy written or a fee equal to the usual and
26 | customary commission of the association; or

27 | (II) Offer to allow the producing agent of record of
28 | the association policy to continue servicing the policy for a
29 | period of not less than 1 year and offer to pay the agent the
30 | greater of the insurer's or the association's usual and
31 | customary commission for the type of policy written.

1
2 If the producing agent is unwilling or unable to accept
3 appointment, the new insurer shall pay the agent in accordance
4 with sub-sub-subparagraph (I).

5 6.a. The plan of operation may authorize the formation
6 of a private nonprofit corporation, a private nonprofit
7 unincorporated association, a partnership, a trust, a limited
8 liability company, or a nonprofit mutual company which may be
9 empowered, among other things, to borrow money by issuing
10 bonds or by incurring other indebtedness and to accumulate
11 reserves or funds to be used for the payment of insured
12 catastrophe losses. The plan may authorize all actions
13 necessary to facilitate the issuance of bonds, including the
14 pledging of assessments or other revenues.

15 b. Any entity created under this subsection, or any
16 entity formed for the purposes of this subsection, may sue and
17 be sued, may borrow money; issue bonds, notes, or debt
18 instruments; pledge or sell assessments, market equalization
19 surcharges and other surcharges, rights, premiums, contractual
20 rights, projected recoveries from the Florida Hurricane
21 Catastrophe Fund, other reinsurance recoverables, and other
22 assets as security for such bonds, notes, or debt instruments;
23 enter into any contracts or agreements necessary or proper to
24 accomplish such borrowings; and take other actions necessary
25 to carry out the purposes of this subsection. The association
26 may issue bonds or incur other indebtedness, or have bonds
27 issued on its behalf by a unit of local government pursuant to
28 subparagraph (6)(p)2. ~~(6)(g)2.~~, in the absence of a hurricane
29 or other weather-related event, upon a determination by the
30 association subject to approval by the department that such
31 action would enable it to efficiently meet the financial

1 obligations of the association and that such financings are
2 reasonably necessary to effectuate the requirements of this
3 subsection. Any such entity may accumulate reserves and retain
4 surpluses as of the end of any association year to provide for
5 the payment of losses incurred by the association during that
6 year or any future year. The association shall incorporate and
7 continue the plan of operation and articles of agreement in
8 effect on the effective date of chapter 76-96, Laws of
9 Florida, to the extent that it is not inconsistent with
10 chapter 76-96, and as subsequently modified consistent with
11 chapter 76-96. The board of directors and officers currently
12 serving shall continue to serve until their successors are
13 duly qualified as provided under the plan. The assets and
14 obligations of the plan in effect immediately prior to the
15 effective date of chapter 76-96 shall be construed to be the
16 assets and obligations of the successor plan created herein.

17 c. In recognition of s. 10, Art. I of the State
18 Constitution, prohibiting the impairment of obligations of
19 contracts, it is the intent of the Legislature that no action
20 be taken whose purpose is to impair any bond indenture or
21 financing agreement or any revenue source committed by
22 contract to such bond or other indebtedness issued or incurred
23 by the association or any other entity created under this
24 subsection.

25 7. On such coverage, an agent's remuneration shall be
26 that amount of money payable to the agent by the terms of his
27 or her contract with the company with which the business is
28 placed. However, no commission will be paid on that portion of
29 the premium which is in excess of the standard premium of that
30 company.

31

1 8. Subject to approval by the department, the
2 association may establish different eligibility requirements
3 and operational procedures for any line or type of coverage
4 for any specified eligible area or portion of an eligible area
5 if the board determines that such changes to the eligibility
6 requirements and operational procedures are justified due to
7 the voluntary market being sufficiently stable and competitive
8 in such area or for such line or type of coverage and that
9 consumers who, in good faith, are unable to obtain insurance
10 through the voluntary market through ordinary methods would
11 continue to have access to coverage from the association. When
12 coverage is sought in connection with a real property
13 transfer, such requirements and procedures shall not provide
14 for an effective date of coverage later than the date of the
15 closing of the transfer as established by the transferor, the
16 transferee, and, if applicable, the lender.

17 9. Notwithstanding any other provision of law:

18 a. The pledge or sale of, the lien upon, and the
19 security interest in any rights, revenues, or other assets of
20 the association created or purported to be created pursuant to
21 any financing documents to secure any bonds or other
22 indebtedness of the association shall be and remain valid and
23 enforceable, notwithstanding the commencement of and during
24 the continuation of, and after, any rehabilitation,
25 insolvency, liquidation, bankruptcy, receivership,
26 conservatorship, reorganization, or similar proceeding against
27 the association under the laws of this state or any other
28 applicable laws.

29 b. No such proceeding shall relieve the association of
30 its obligation, or otherwise affect its ability to perform its
31 obligation, to continue to collect, or levy and collect,

1 assessments, market equalization or other surcharges,
2 projected recoveries from the Florida Hurricane Catastrophe
3 Fund, reinsurance recoverables, or any other rights, revenues,
4 or other assets of the association pledged.

5 c. Each such pledge or sale of, lien upon, and
6 security interest in, including the priority of such pledge,
7 lien, or security interest, any such assessments, emergency
8 assessments, market equalization or renewal surcharges,
9 projected recoveries from the Florida Hurricane Catastrophe
10 Fund, reinsurance recoverables, or other rights, revenues, or
11 other assets which are collected, or levied and collected,
12 after the commencement of and during the pendency of or after
13 any such proceeding shall continue unaffected by such
14 proceeding.

15 d. As used in this subsection, the term "financing
16 documents" means any agreement, instrument, or other document
17 now existing or hereafter created evidencing any bonds or
18 other indebtedness of the association or pursuant to which any
19 such bonds or other indebtedness has been or may be issued and
20 pursuant to which any rights, revenues, or other assets of the
21 association are pledged or sold to secure the repayment of
22 such bonds or indebtedness, together with the payment of
23 interest on such bonds or such indebtedness, or the payment of
24 any other obligation of the association related to such bonds
25 or indebtedness.

26 e. Any such pledge or sale of assessments, revenues,
27 contract rights or other rights or assets of the association
28 shall constitute a lien and security interest, or sale, as the
29 case may be, that is immediately effective and attaches to
30 such assessments, revenues, contract, or other rights or
31 assets, whether or not imposed or collected at the time the

1 | pledge or sale is made. Any such pledge or sale is effective,
2 | valid, binding, and enforceable against the association or
3 | other entity making such pledge or sale, and valid and binding
4 | against and superior to any competing claims or obligations
5 | owed to any other person or entity, including policyholders in
6 | this state, asserting rights in any such assessments,
7 | revenues, contract, or other rights or assets to the extent
8 | set forth in and in accordance with the terms of the pledge or
9 | sale contained in the applicable financing documents, whether
10 | or not any such person or entity has notice of such pledge or
11 | sale and without the need for any physical delivery,
12 | recordation, filing, or other action.

13 | f. There shall be no liability on the part of, and no
14 | cause of action of any nature shall arise against, any member
15 | insurer or its agents or employees, agents or employees of the
16 | association, members of the board of directors of the
17 | association, or the department or its representatives, for any
18 | action taken by them in the performance of their duties or
19 | responsibilities under this subsection. Such immunity does not
20 | apply to actions for breach of any contract or agreement
21 | pertaining to insurance, or any willful tort.

22 | (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

23 | (c) The plan of operation of the corporation:

24 | 1. Must provide for adoption of residential property
25 | and casualty insurance policy forms and commercial residential
26 | and nonresidential property insurance forms, which forms must
27 | be approved by the office prior to use. The corporation shall
28 | adopt the following policy forms:

29 | a. Standard personal lines policy forms that are
30 | comprehensive multiperil policies providing full coverage of a
31 | residential property equivalent to the coverage provided in

1 | the private insurance market under an HO-3, HO-4, or HO-6
2 | policy.

3 | b. Basic personal lines policy forms that are policies
4 | similar to an HO-8 policy or a dwelling fire policy that
5 | provide coverage meeting the requirements of the secondary
6 | mortgage market, but which coverage is more limited than the
7 | coverage under a standard policy.

8 | c. Commercial lines residential and nonresidential
9 | policy forms that are generally similar to the basic perils of
10 | full coverage obtainable for commercial residential structures
11 | and commercial nonresidential structures in the admitted
12 | voluntary market.

13 | d. Personal lines and commercial lines residential
14 | property insurance forms that cover the peril of wind only.
15 | The forms are applicable only to residential properties
16 | located in areas eligible for coverage under the high-risk
17 | account referred to in sub-subparagraph (b)2.a.

18 | e. Commercial lines nonresidential property insurance
19 | forms that cover the peril of wind only. The forms are
20 | applicable only to nonresidential properties located in areas
21 | eligible for coverage under the high-risk account referred to
22 | in sub-subparagraph (b)2.a.

23 | f. The corporation may adopt variations of the policy
24 | forms listed in sub-subparagraphs a.-e. that contain more
25 | restrictive coverage.

26 | 2.a. Must provide that the corporation adopt a program
27 | in which the corporation and authorized insurers enter into
28 | quota share primary insurance agreements for hurricane
29 | coverage, as defined in s. 627.4025(2)(a), for eligible risks,
30 | and adopt property insurance forms for eligible risks which
31 |

1 cover the peril of wind only. As used in this subsection, the
2 term:

3 (I) "Quota share primary insurance" means an
4 arrangement in which the primary hurricane coverage of an
5 eligible risk is provided in specified percentages by the
6 corporation and an authorized insurer. The corporation and
7 authorized insurer are each solely responsible for a specified
8 percentage of hurricane coverage of an eligible risk as set
9 forth in a quota share primary insurance agreement between the
10 corporation and an authorized insurer and the insurance
11 contract. The responsibility of the corporation or authorized
12 insurer to pay its specified percentage of hurricane losses of
13 an eligible risk, as set forth in the quota share primary
14 insurance agreement, may not be altered by the inability of
15 the other party to the agreement to pay its specified
16 percentage of hurricane losses. Eligible risks that are
17 provided hurricane coverage through a quota share primary
18 insurance arrangement must be provided policy forms that set
19 forth the obligations of the corporation and authorized
20 insurer under the arrangement, clearly specify the percentages
21 of quota share primary insurance provided by the corporation
22 and authorized insurer, and conspicuously and clearly state
23 that neither the authorized insurer nor the corporation may be
24 held responsible beyond its specified percentage of coverage
25 of hurricane losses.

26 (II) "Eligible risks" means personal lines residential
27 and commercial lines residential risks that meet the
28 underwriting criteria of the corporation and are located in
29 areas that were eligible for coverage by the Florida Windstorm
30 Underwriting Association on January 1, 2002.

31

1 b. The corporation may enter into quota share primary
2 insurance agreements with authorized insurers at corporation
3 coverage levels of 90 percent and 50 percent.

4 c. If the corporation determines that additional
5 coverage levels are necessary to maximize participation in
6 quota share primary insurance agreements by authorized
7 insurers, the corporation may establish additional coverage
8 levels. However, the corporation's quota share primary
9 insurance coverage level may not exceed 90 percent.

10 d. Any quota share primary insurance agreement entered
11 into between an authorized insurer and the corporation must
12 provide for a uniform specified percentage of coverage of
13 hurricane losses, by county or territory as set forth by the
14 corporation board, for all eligible risks of the authorized
15 insurer covered under the quota share primary insurance
16 agreement.

17 e. Any quota share primary insurance agreement entered
18 into between an authorized insurer and the corporation is
19 subject to review and approval by the office. However, such
20 agreement shall be authorized only as to insurance contracts
21 entered into between an authorized insurer and an insured who
22 is already insured by the corporation for wind coverage.

23 f. For all eligible risks covered under quota share
24 primary insurance agreements, the exposure and coverage levels
25 for both the corporation and authorized insurers shall be
26 reported by the corporation to the Florida Hurricane
27 Catastrophe Fund. For all policies of eligible risks covered
28 under quota share primary insurance agreements, the
29 corporation and the authorized insurer shall maintain complete
30 and accurate records for the purpose of exposure and loss
31 reimbursement audits as required by Florida Hurricane

1 Catastrophe Fund rules. The corporation and the authorized
2 insurer shall each maintain duplicate copies of policy
3 declaration pages and supporting claims documents.

4 g. The corporation board shall establish in its plan
5 of operation standards for quota share agreements which ensure
6 that there is no discriminatory application among insurers as
7 to the terms of quota share agreements, pricing of quota share
8 agreements, incentive provisions if any, and consideration
9 paid for servicing policies or adjusting claims.

10 h. The quota share primary insurance agreement between
11 the corporation and an authorized insurer must set forth the
12 specific terms under which coverage is provided, including,
13 but not limited to, the sale and servicing of policies issued
14 under the agreement by the insurance agent of the authorized
15 insurer producing the business, the reporting of information
16 concerning eligible risks, the payment of premium to the
17 corporation, and arrangements for the adjustment and payment
18 of hurricane claims incurred on eligible risks by the claims
19 adjuster and personnel of the authorized insurer. Entering
20 into a quota sharing insurance agreement between the
21 corporation and an authorized insurer shall be voluntary and
22 at the discretion of the authorized insurer.

23 3. May provide that the corporation may employ or
24 otherwise contract with individuals or other entities to
25 provide administrative or professional services that may be
26 appropriate to effectuate the plan. The corporation shall have
27 the power to borrow funds, by issuing bonds or by incurring
28 other indebtedness, and shall have other powers reasonably
29 necessary to effectuate the requirements of this subsection,
30 including, without limitation, the power to issue bonds and
31 incur other indebtedness in order to refinance outstanding

1 | bonds or other indebtedness. The corporation may, but is not
2 | required to, seek judicial validation of its bonds or other
3 | indebtedness under chapter 75. The corporation may issue bonds
4 | or incur other indebtedness, or have bonds issued on its
5 | behalf by a unit of local government pursuant to subparagraph
6 | (p)2.~~(g)2.~~, in the absence of a hurricane or other
7 | weather-related event, upon a determination by the
8 | corporation, subject to approval by the office, that such
9 | action would enable it to efficiently meet the financial
10 | obligations of the corporation and that such financings are
11 | reasonably necessary to effectuate the requirements of this
12 | subsection. The corporation is authorized to take all actions
13 | needed to facilitate tax-free status for any such bonds or
14 | indebtedness, including formation of trusts or other
15 | affiliated entities. The corporation shall have the authority
16 | to pledge assessments, projected recoveries from the Florida
17 | Hurricane Catastrophe Fund, other reinsurance recoverables,
18 | market equalization and other surcharges, and other funds
19 | available to the corporation as security for bonds or other
20 | indebtedness. In recognition of s. 10, Art. I of the State
21 | Constitution, prohibiting the impairment of obligations of
22 | contracts, it is the intent of the Legislature that no action
23 | be taken whose purpose is to impair any bond indenture or
24 | financing agreement or any revenue source committed by
25 | contract to such bond or other indebtedness.

26 | 4.a. Must require that the corporation operate subject
27 | to the supervision and approval of a board of governors
28 | consisting of eight individuals who are residents of this
29 | state, from different geographical areas of this state. The
30 | Governor, the Chief Financial Officer, the President of the
31 | Senate, and the Speaker of the House of Representatives shall

1 each appoint two members of the board. At least one of the two
2 members appointed by each appointing officer must have
3 demonstrated expertise in insurance. The Chief Financial
4 Officer shall designate one of the appointees as chair. All
5 board members serve at the pleasure of the appointing officer.
6 All members of the board of governors are subject to removal
7 at will by the officers who appointed them. All board members,
8 including the chair, must be appointed to serve for 3-year
9 terms beginning annually on a date designated by the plan. Any
10 board vacancy shall be filled for the unexpired term by the
11 appointing officer. The Chief Financial Officer shall appoint
12 a technical advisory group to provide information and advice
13 to the board of governors in connection with the board's
14 duties under this subsection. The executive director and
15 senior managers of the corporation shall be engaged by the
16 board and serve at the pleasure of the board. Any executive
17 director appointed on or after July 1, 2006, is subject to
18 confirmation by the Senate. The executive director is
19 responsible for employing other staff as the corporation may
20 require, subject to review and concurrence by the board.

21 b. The board shall create a Market Accountability
22 Advisory Committee to assist the corporation in developing
23 awareness of its rates and its customer and agent service
24 levels in relationship to the voluntary market insurers
25 writing similar coverage. The members of the advisory
26 committee shall consist of the following 11 persons, one of
27 whom must be elected chair by the members of the committee:
28 four representatives, one appointed by the Florida Association
29 of Insurance Agents, one by the Florida Association of
30 Insurance and Financial Advisors, one by the Professional
31 Insurance Agents of Florida, and one by the Latin American

1 Association of Insurance Agencies; three representatives
2 appointed by the insurers with the three highest voluntary
3 market share of residential property insurance business in the
4 state; one representative from the Office of Insurance
5 Regulation; one consumer appointed by the board who is insured
6 by the corporation at the time of appointment to the
7 committee; one representative appointed by the Florida
8 Association of Realtors; and one representative appointed by
9 the Florida Bankers Association. All members must serve for
10 3-year terms and may serve for consecutive terms. The
11 committee shall report to the corporation at each board
12 meeting on insurance market issues which may include rates and
13 rate competition with the voluntary market; service, including
14 policy issuance, claims processing, and general responsiveness
15 to policyholders, applicants, and agents; and matters relating
16 to depopulation.

17 5. Must provide a procedure for determining the
18 eligibility of a risk for coverage, as follows:

19 a. Subject to the provisions of s. 627.3517, with
20 respect to personal lines residential risks, if the risk is
21 offered coverage from an authorized insurer at the insurer's
22 approved rate under either a standard policy including wind
23 coverage or, if consistent with the insurer's underwriting
24 rules as filed with the office, a basic policy including wind
25 coverage, for a new application to the corporation for
26 coverage, the risk is not eligible for any policy issued by
27 the corporation unless the premium for coverage from the
28 authorized insurer is more than 25 percent greater than the
29 premium for comparable coverage from the corporation. If the
30 risk is not able to obtain any such offer, the risk is
31 eligible for either a standard policy including wind coverage

1 or a basic policy including wind coverage issued by the
2 corporation; however, if the risk could not be insured under a
3 standard policy including wind coverage regardless of market
4 conditions, the risk shall be eligible for a basic policy
5 including wind coverage unless rejected under subparagraph 9.
6 ~~8.~~ However, with regard to a policyholder of the corporation,
7 the policyholder remains eligible for coverage from the
8 corporation regardless of any offer of coverage from an
9 authorized insurer or surplus lines insurer. The corporation
10 shall determine the type of policy to be provided on the basis
11 of objective standards specified in the underwriting manual
12 and based on generally accepted underwriting practices.

13 (I) If the risk accepts an offer of coverage through
14 the market assistance plan or an offer of coverage through a
15 mechanism established by the corporation before a policy is
16 issued to the risk by the corporation or during the first 30
17 days of coverage by the corporation, and the producing agent
18 who submitted the application to the plan or to the
19 corporation is not currently appointed by the insurer, the
20 insurer shall:

21 (A) Pay to the producing agent of record of the
22 policy, for the first year, an amount that is the greater of
23 the insurer's usual and customary commission for the type of
24 policy written or a fee equal to the usual and customary
25 commission of the corporation; or

26 (B) Offer to allow the producing agent of record of
27 the policy to continue servicing the policy for a period of
28 not less than 1 year and offer to pay the agent the greater of
29 the insurer's or the corporation's usual and customary
30 commission for the type of policy written.

31

1 | If the producing agent is unwilling or unable to accept
2 | appointment, the new insurer shall pay the agent in accordance
3 | with sub-sub-sub-subparagraph (A).

4 | (II) When the corporation enters into a contractual
5 | agreement for a take-out plan, the producing agent of record
6 | of the corporation policy is entitled to retain any unearned
7 | commission on the policy, and the insurer shall:

8 | (A) Pay to the producing agent of record of the
9 | corporation policy, for the first year, an amount that is the
10 | greater of the insurer's usual and customary commission for
11 | the type of policy written or a fee equal to the usual and
12 | customary commission of the corporation; or

13 | (B) Offer to allow the producing agent of record of
14 | the corporation policy to continue servicing the policy for a
15 | period of not less than 1 year and offer to pay the agent the
16 | greater of the insurer's or the corporation's usual and
17 | customary commission for the type of policy written.

18 |
19 | If the producing agent is unwilling or unable to accept
20 | appointment, the new insurer shall pay the agent in accordance
21 | with sub-sub-sub-subparagraph (A).

22 | b. With respect to commercial lines residential risks,
23 | for a new application to the corporation for coverage, if the
24 | risk is offered coverage under a policy including wind
25 | coverage from an authorized insurer at its approved rate, the
26 | risk is not eligible for any policy issued by the corporation
27 | unless the premium for coverage from the authorized insurer is
28 | more than 25 percent greater than the premium for comparable
29 | coverage from the corporation. If the risk is not able to
30 | obtain any such offer, the risk is eligible for a policy
31 | including wind coverage issued by the corporation. However,

1 with regard to a policyholder of the corporation, the
2 policyholder remains eligible for coverage from the
3 corporation regardless of any offer of coverage from an
4 authorized insurer or surplus lines insurer.

5 (I) If the risk accepts an offer of coverage through
6 the market assistance plan or an offer of coverage through a
7 mechanism established by the corporation before a policy is
8 issued to the risk by the corporation or during the first 30
9 days of coverage by the corporation, and the producing agent
10 who submitted the application to the plan or the corporation
11 is not currently appointed by the insurer, the insurer shall:

12 (A) Pay to the producing agent of record of the
13 policy, for the first year, an amount that is the greater of
14 the insurer's usual and customary commission for the type of
15 policy written or a fee equal to the usual and customary
16 commission of the corporation; or

17 (B) Offer to allow the producing agent of record of
18 the policy to continue servicing the policy for a period of
19 not less than 1 year and offer to pay the agent the greater of
20 the insurer's or the corporation's usual and customary
21 commission for the type of policy written.

22
23 If the producing agent is unwilling or unable to accept
24 appointment, the new insurer shall pay the agent in accordance
25 with sub-sub-sub-subparagraph (A).

26 (II) When the corporation enters into a contractual
27 agreement for a take-out plan, the producing agent of record
28 of the corporation policy is entitled to retain any unearned
29 commission on the policy, and the insurer shall:

30 (A) Pay to the producing agent of record of the
31 corporation policy, for the first year, an amount that is the

1 greater of the insurer's usual and customary commission for
2 the type of policy written or a fee equal to the usual and
3 customary commission of the corporation; or

4 (B) Offer to allow the producing agent of record of
5 the corporation policy to continue servicing the policy for a
6 period of not less than 1 year and offer to pay the agent the
7 greater of the insurer's or the corporation's usual and
8 customary commission for the type of policy written.

9
10 If the producing agent is unwilling or unable to accept
11 appointment, the new insurer shall pay the agent in accordance
12 with sub-sub-sub-subparagraph (A).

13 6. Must provide by July 1, 2007, that an application
14 for coverage for a new policy is subject to a waiting period
15 of 10 days before coverage is effective, during which time the
16 corporation shall make such application available for review
17 by general lines agents and authorized property and casualty
18 insurers. The board shall approve an exception that allows for
19 coverage to be effective before the end of the 10-day waiting
20 period, for coverage issued in conjunction with a real estate
21 closing. The board may approve such other exceptions as the
22 board determines are necessary to prevent lapses in coverage.

23 7. Must include rules for classifications of risks and
24 rates therefor.

25 8. Must provide that if premium and investment income
26 for an account attributable to a particular calendar year are
27 in excess of projected losses and expenses for the account
28 attributable to that year, such excess shall be held in
29 surplus in the account. Such surplus shall be available to
30 defray deficits in that account as to future years and shall
31

1 | be used for that purpose prior to assessing assessable
2 | insurers and assessable insureds as to any calendar year.

3 | 9. Must provide objective criteria and procedures to
4 | be uniformly applied for all applicants in determining whether
5 | an individual risk is so hazardous as to be uninsurable. In
6 | making this determination and in establishing the criteria and
7 | procedures, the following shall be considered:

8 | a. Whether the likelihood of a loss for the individual
9 | risk is substantially higher than for other risks of the same
10 | class; and

11 | b. Whether the uncertainty associated with the
12 | individual risk is such that an appropriate premium cannot be
13 | determined.

14 |
15 | The acceptance or rejection of a risk by the corporation shall
16 | be construed as the private placement of insurance, and the
17 | provisions of chapter 120 shall not apply.

18 | 10. Must provide that the corporation shall make its
19 | best efforts to procure catastrophe reinsurance at reasonable
20 | rates, to cover its projected 100-year probable maximum loss
21 | as determined by the board of governors.

22 | 11. Must provide that in the event of regular deficit
23 | assessments under sub-subparagraph (b)3.a. or sub-subparagraph
24 | (b)3.b., in the personal lines account, the commercial lines
25 | residential account, or the high-risk account, the corporation
26 | shall levy upon corporation policyholders in its next rate
27 | filing, or by a separate rate filing solely for this purpose,
28 | a Citizens policyholder surcharge arising from a regular
29 | assessment in such account in a percentage equal to the total
30 | amount of such regular assessments divided by the aggregate
31 | statewide direct written premium for subject lines of business

1 for the prior calendar year. For purposes of calculating the
2 Citizens policyholder surcharge to be levied under this
3 subparagraph, the total amount of the regular assessment to
4 which this surcharge is related shall be determined as set
5 forth in subparagraph (b)3., without deducting the estimated
6 Citizens policyholder surcharge. Citizens policyholder
7 surcharges under this subparagraph are not considered premium
8 and are not subject to commissions, fees, or premium taxes;
9 however, failure to pay a market equalization surcharge shall
10 be treated as failure to pay premium.

11 12. The policies issued by the corporation must
12 provide that, if the corporation or the market assistance plan
13 obtains an offer from an authorized insurer to cover the risk
14 at its approved rates, the risk is no longer eligible for
15 renewal through the corporation, except as otherwise provided
16 in this subsection.

17 13. Corporation policies and applications must include
18 a notice that the corporation policy could, under this
19 section, be replaced with a policy issued by an authorized
20 insurer that does not provide coverage identical to the
21 coverage provided by the corporation. The notice shall also
22 specify that acceptance of corporation coverage creates a
23 conclusive presumption that the applicant or policyholder is
24 aware of this potential.

25 14. May establish, subject to approval by the office,
26 different eligibility requirements and operational procedures
27 for any line or type of coverage for any specified county or
28 area if the board determines that such changes to the
29 eligibility requirements and operational procedures are
30 justified due to the voluntary market being sufficiently
31 stable and competitive in such area or for such line or type

1 of coverage and that consumers who, in good faith, are unable
2 to obtain insurance through the voluntary market through
3 ordinary methods would continue to have access to coverage
4 from the corporation. When coverage is sought in connection
5 with a real property transfer, such requirements and
6 procedures shall not provide for an effective date of coverage
7 later than the date of the closing of the transfer as
8 established by the transferor, the transferee, and, if
9 applicable, the lender.

10 15. Must provide that, with respect to the high-risk
11 account, any assessable insurer with a surplus as to
12 policyholders of \$25 million or less writing 25 percent or
13 more of its total countrywide property insurance premiums in
14 this state may petition the office, within the first 90 days
15 of each calendar year, to qualify as a limited apportionment
16 company. A regular assessment levied by the corporation on a
17 limited apportionment company for a deficit incurred by the
18 corporation for the high-risk account in 2006 or thereafter
19 may be paid to the corporation on a monthly basis as the
20 assessments are collected by the limited apportionment company
21 from its insureds pursuant to s. 627.3512, but the regular
22 assessment must be paid in full within 12 months after being
23 levied by the corporation. A limited apportionment company
24 shall collect from its policyholders any emergency assessment
25 imposed under sub-subparagraph (b)3.d. The plan shall provide
26 that, if the office determines that any regular assessment
27 will result in an impairment of the surplus of a limited
28 apportionment company, the office may direct that all or part
29 of such assessment be deferred as provided in subparagraph
30 (p)4.~~(g)4.~~ However, there shall be no limitation or deferment
31

1 of an emergency assessment to be collected from policyholders
2 under sub-subparagraph (b)3.d.

3 16. Must provide that the corporation appoint as its
4 licensed agents only those agents who also hold an appointment
5 as defined in s. 626.015(3) with an insurer who at the time of
6 the agent's initial appointment by the corporation is
7 authorized to write and is actually writing personal lines
8 residential property coverage, commercial residential property
9 coverage, or commercial nonresidential property coverage
10 within the state.

11 17. Must provide, by July 1, 2007, a premium payment
12 plan option to its policyholders which allows for quarterly
13 and semiannual payment of premiums.

14 18. Must provide, effective June 1, 2007, that the
15 corporation contract with each insurer providing the non-wind
16 coverage for risks insured by the corporation in the high-risk
17 account, requiring that the insurer provide claims adjusting
18 services for the wind coverage provided by the corporation for
19 such risks. An insurer is required to enter into this contract
20 as a condition of providing non-wind coverage for a risk that
21 is insured by the corporation in the high-risk account unless
22 the board finds, after a hearing, that the insurer is not
23 capable of providing adjusting services at an acceptable level
24 of quality to corporation policyholders. The terms and
25 conditions of such contracts must be substantially the same as
26 the contracts that the corporation executed with insurers
27 under the "adjust-your-own" program in 2006, except as may be
28 mutually agreed to by the parties and except for such changes
29 that the board determines are necessary to ensure that claims
30 are adjusted appropriately. The corporation shall provide a
31 process for neutral arbitration of any dispute between the

1 corporation and the insurer regarding the terms of the
2 contract. The corporation shall review and monitor the
3 performance of insurers under these contracts.

4 19. Must limit coverage on mobile homes or
5 manufactured homes built prior to 1994 to actual cash value of
6 the dwelling rather than replacement costs of the dwelling.

7 20. May provide such limits of coverage as the board
8 determines, consistent with the requirements of this
9 subsection.

10 21. May require commercial property to meet specified
11 hurricane mitigation construction features as a condition of
12 eligibility for coverage.

13 (d)1. All prospective employees for senior management
14 positions, as defined by the plan of operation, are subject to
15 background checks as a prerequisite for employment. The office
16 shall conduct background checks on such prospective employees
17 pursuant to ss. 624.34, 624.404(3), and 628.261.

18 2. On or before July 1 of each year, employees of the
19 corporation are required to sign and submit a statement
20 attesting that they do not have a conflict of interest, as
21 defined in part III of chapter 112. As a condition of
22 employment, all prospective employees are required to sign and
23 submit to the corporation a conflict-of-interest statement.

24 3. Senior managers and members of the board of
25 governors are subject to the provisions of part III of chapter
26 112, including, but not limited to, the code of ethics and
27 public disclosure and reporting of financial interests,
28 pursuant to s. 112.3145. Senior managers and board members are
29 also required to file such disclosures with the Office of
30 Insurance Regulation. The executive director of the
31 corporation or his or her designee shall notify each newly

1 appointed and existing appointed member of the board of
2 governors and senior managers of their duty to comply with the
3 reporting requirements of part III of chapter 112. At least
4 quarterly, the executive director or his or her designee shall
5 submit to the Commission on Ethics a list of names of the
6 senior managers and members of the board of governors who ~~that~~
7 are subject to the public disclosure requirements under s.
8 112.3145.

9 4. Notwithstanding s. 112.3148 or s. 112.3149, or any
10 other provision of law, an employee or board member may not
11 knowingly accept, directly or indirectly, any gift or
12 expenditure from a person or entity, or an employee or
13 representative of such person or entity, that has a
14 contractual relationship with the corporation or who is under
15 consideration for a contract. An employee or board member who
16 ~~that~~ fails to comply with this subparagraph is subject to
17 penalties provided under ss. 112.317 and 112.3173.

18 5. Any senior manager of the corporation who is
19 employed on or after January 1, 2007, regardless of the date
20 of hire, who subsequently retires or terminates employment is
21 prohibited from representing another person or entity before
22 the corporation for 2 years after retirement or termination of
23 employment from the corporation.

24 6. Any employee of the corporation who is employed on
25 or after January 1, 2007, regardless of the date of hire, who
26 subsequently retires or terminates employment is prohibited
27 from having any employment or contractual relationship for 2
28 years with an insurer that has received a take-out bonus from
29 the corporation.

30 (n) If coverage in an account is deactivated pursuant
31 to paragraph ~~(o)~~ ~~(f)~~, coverage through the corporation shall be

1 reactivated by order of the office only under one of the
2 following circumstances:

3 1. If the market assistance plan receives a minimum of
4 100 applications for coverage within a 3-month period, or 200
5 applications for coverage within a 1-year period or less for
6 residential coverage, unless the market assistance plan
7 provides a quotation from admitted carriers at their filed
8 rates for at least 90 percent of such applicants. Any market
9 assistance plan application that is rejected because an
10 individual risk is so hazardous as to be uninsurable using the
11 criteria specified in subparagraph (c)9.~~(e)8.~~ shall not be
12 included in the minimum percentage calculation provided
13 herein. In the event that there is a legal or administrative
14 challenge to a determination by the office that the conditions
15 of this subparagraph have been met for eligibility for
16 coverage in the corporation, any eligible risk may obtain
17 coverage during the pendency of such challenge.

18 2. In response to a state of emergency declared by the
19 Governor under s. 252.36, the office may activate coverage by
20 order for the period of the emergency upon a finding by the
21 office that the emergency significantly affects the
22 availability of residential property insurance.

23 (v) Notwithstanding any other provision of law:

24 1. The pledge or sale of, the lien upon, and the
25 security interest in any rights, revenues, or other assets of
26 the corporation created or purported to be created pursuant to
27 any financing documents to secure any bonds or other
28 indebtedness of the corporation shall be and remain valid and
29 enforceable, notwithstanding the commencement of and during
30 the continuation of, and after, any rehabilitation,
31 insolvency, liquidation, bankruptcy, receivership,

1 conservatorship, reorganization, or similar proceeding against
2 the corporation under the laws of this state.

3 2. No such proceeding shall relieve the corporation of
4 its obligation, or otherwise affect its ability to perform its
5 obligation, to continue to collect, or levy and collect,
6 assessments, market equalization or other surcharges under
7 subparagraph (c)11.~~(e)10-~~, or any other rights, revenues, or
8 other assets of the corporation pledged pursuant to any
9 financing documents.

10 3. Each such pledge or sale of, lien upon, and
11 security interest in, including the priority of such pledge,
12 lien, or security interest, any such assessments, market
13 equalization or other surcharges, or other rights, revenues,
14 or other assets which are collected, or levied and collected,
15 after the commencement of and during the pendency of, or
16 after, any such proceeding shall continue unaffected by such
17 proceeding. As used in this subsection, the term "financing
18 documents" means any agreement or agreements, instrument or
19 instruments, or other document or documents now existing or
20 hereafter created evidencing any bonds or other indebtedness
21 of the corporation or pursuant to which any such bonds or
22 other indebtedness has been or may be issued and pursuant to
23 which any rights, revenues, or other assets of the corporation
24 are pledged or sold to secure the repayment of such bonds or
25 indebtedness, together with the payment of interest on such
26 bonds or such indebtedness, or the payment of any other
27 obligation or financial product, as defined in the plan of
28 operation of the corporation related to such bonds or
29 indebtedness.

30 4. Any such pledge or sale of assessments, revenues,
31 contract rights, or other rights or assets of the corporation

1 shall constitute a lien and security interest, or sale, as the
2 case may be, that is immediately effective and attaches to
3 such assessments, revenues, or contract rights or other rights
4 or assets, whether or not imposed or collected at the time the
5 pledge or sale is made. Any such pledge or sale is effective,
6 valid, binding, and enforceable against the corporation or
7 other entity making such pledge or sale, and valid and binding
8 against and superior to any competing claims or obligations
9 owed to any other person or entity, including policyholders in
10 this state, asserting rights in any such assessments,
11 revenues, or contract rights or other rights or assets to the
12 extent set forth in and in accordance with the terms of the
13 pledge or sale contained in the applicable financing
14 documents, whether or not any such person or entity has notice
15 of such pledge or sale and without the need for any physical
16 delivery, recordation, filing, or other action.

17 5. As long as the corporation has any bonds
18 outstanding, the corporation may not file a voluntary petition
19 under chapter 9 of the federal Bankruptcy Code or such
20 corresponding chapter or sections as may be in effect, from
21 time to time, and a public officer or any organization,
22 entity, or other person may not authorize the corporation to
23 be or become a debtor under chapter 9 of the federal
24 Bankruptcy Code or such corresponding chapter or sections as
25 may be in effect, from time to time, during any such period.

26 6. If ordered by a court of competent jurisdiction,
27 the corporation may assume policies or otherwise provide
28 coverage for policyholders of an insurer placed in liquidation
29 under chapter 631, under such forms, rates, terms, and
30 conditions as the corporation deems appropriate, subject to
31 approval by the office.

1 Reviser's note.--Amended to improve clarity and
2 facilitate correct interpretation. Section 15,
3 ch. 2006-12, Laws of Florida, redesignated
4 subunits within s. 627.351(6). Subparagraph
5 (6)(g)2. was redesignated as subparagraph
6 (6)(p)2. Subparagraph (6)(g)4. was redesignated
7 as subparagraph (6)(p)4. Subparagraph (6)(c)8.
8 was redesignated as subparagraph (6)(c)9.
9 Subparagraph (6)(c)10. was redesignated as
10 subparagraph (6)(c)11. Paragraph (6)(f) was
11 redesignated as paragraph (6)(o). Paragraph
12 (6)(d) is also amended to confirm the editorial
13 substitution of the word "who" for the word
14 "that" to conform to context.

15
16 Section 142. Subsection (1) of section 627.6617,
17 Florida Statutes, is amended to read:

18 627.6617 Coverage for home health care services.--

19 (1) Any group health insurance policy providing
20 coverage on an expense-incurred basis shall provide coverage
21 for home health care by a home health care agency licensed
22 pursuant to part III ~~IV~~ of chapter 400. Such coverage may be
23 limited to home health care under a plan of treatment
24 prescribed by a licensed physician. Services may be performed
25 by a registered graduate nurse, a licensed practical nurse, a
26 physical therapist, a speech therapist, an occupational
27 therapist, or a home health aide. Provisions for utilization
28 review may be imposed, provided that similar provisions apply
29 to all other types of health care services.

30
31

1 Reviser's note.--Amended to conform to the
2 redesignation of former part III of chapter 400
3 as part I of chapter 429 by s. 2, ch. 2006-197,
4 Laws of Florida, and the redesignation of part
5 IV of chapter 400 as part III of chapter 400 to
6 conform.

7
8 Section 143. Subsections (2) and (10) of section
9 633.0245, Florida Statutes, are amended to read:

10 633.0245 State Fire Marshal Nursing Home Fire
11 Protection Loan Guarantee Program.--

12 (2) The State Fire Marshal may enter into limited loan
13 guarantee agreements with one or more financial institutions
14 qualified as public depositories in this state. Such
15 agreements shall provide a limited guarantee by the State of
16 Florida covering no more than 50 percent of the principal sum
17 loaned by such financial institution to an eligible nursing
18 home, as defined in subsection (10), for the sole purpose of
19 the initial installation at such nursing home of a fire
20 protection system, as defined in s. 633.021(9) ~~633.021(8)~~,
21 approved by the State Fire Marshal as being in compliance with
22 the provisions of s. 633.022 and rules adopted thereunder.

23 (10) For purposes of this section, "eligible nursing
24 home" means a nursing home facility that provides nursing
25 services as defined in chapter 464, is licensed under part II
26 of chapter 400, and is certified by the Agency for Health Care
27 Administration to lack an installed fire protection system as
28 defined in s. 633.021(9) ~~633.021(8)~~.

29
30 Reviser's note.--Amended to conform to the
31 addition of a new s. 633.021(8) and the

1 redesignation of following subunits by s. 8,
2 ch. 2006-65, Laws of Florida.

3
4 Section 144. Paragraph (d) of subsection (2) and
5 subsection (3) of section 679.4031, Florida Statutes, are
6 amended to read:

7 679.4031 Agreement not to assert defenses against
8 assignee.--

9 (2) Except as otherwise provided in this section, an
10 agreement between an account debtor and an assignor not to
11 assert against an assignee any claim or defense that the
12 account debtor may have against the assignor is enforceable by
13 an assignee that takes an assignment:

14 (d) Without notice of a defense or claim in recoupment
15 of the type that may be asserted against a person entitled to
16 enforce a negotiable instrument under s. 673.3051(1)
17 ~~673.3031(1)~~.

18 (3) Subsection (2) does not apply to defenses of a
19 type that may be asserted against a holder in due course of a
20 negotiable instrument under s. 673.3051(2) ~~673.3031(2)~~.

21
22 Reviser's note.--Amended to conform to context.
23 Section 673.3031 relates to value and
24 consideration; s. 673.3051 relates to defenses
25 and claims in recoupment.

26
27 Section 145. Paragraph (b) of subsection (3) of
28 section 679.707, Florida Statutes, is amended to read:

29 679.707 Amendment or pre-effective date financing
30 statement.--

31

1 (3) Except as otherwise provided in subsection (4), if
2 the law of this state governs perfection of a security
3 interest, the information in a pre-effective date financing
4 statement may be amended after this act takes effect only if:

5 (b) An amendment is filed in the office specified in
6 s. 679.5011 concurrently with, or after the filing in that
7 office of, an initial financing statement that satisfies s.
8 679.706(3) ~~671.706(3)~~; or

9
10 Reviser's note.--Amended to correct an
11 erroneous reference. Section 671.706 does not
12 exist; s. 679.706(3) relates to initial
13 financing statements.

14
15 Section 146. Paragraph (b) of subsection (6) of
16 section 727.109, Florida Statutes, is amended to read:

17 727.109 Power of the court.--The court shall have
18 power to:

19 (6) Hear and determine any of the following actions
20 brought by the assignee, which she or he is hereby empowered
21 to maintain:

22 (b) Determine the validity, priority, and extent of a
23 lien or other interests in assets of the estate, or to
24 subordinate or avoid an unperfected security interest pursuant
25 to the assignee's rights as a lien creditor under s. 679.3171
26 ~~679.301~~;

27
28 Reviser's note.--Amended to conform to the
29 repeal of s. 679.301 and the enactment of
30 similar provisions in s. 679.3171 by s. 3, ch.
31 2001-198, Laws of Florida.

1 Section 147. Effective July 1, 2007, paragraph (g) of
2 subsection (2) of section 736.1001, Florida Statutes, is
3 amended to read:

4 736.1001 Remedies for breach of trust.--

5 (2) To remedy a breach of trust that has occurred or
6 may occur, the court may:

7 (g) Remove the trustee as provided in s. 736.0706
8 ~~736.706~~;

9
10 Reviser's note.--Amended to correct an
11 erroneous reference. Section 736.706 does not
12 exist; s. 736.0706 relates to removal of the
13 trustee.

14
15 Section 148. Effective July 1, 2007, section 736.1209,
16 Florida Statutes, is amended to read:

17 736.1209 Election to come under this part.--With the
18 consent of that organization or organizations, a trustee of a
19 trust for the benefit of a public charitable organization or
20 organizations may come under s. 736.1208(5) ~~736.0838(5)~~ by
21 filing with the state attorney an election, accompanied by the
22 proof of required consent. Thereafter the trust shall be
23 subject to s. 736.1208(5).

24
25 Reviser's note.--Amended to correct an
26 erroneous reference. Section 736.0838 does not
27 exist; s. 736.1208(5) relates to release of a
28 power to specify a specific donee by specifying
29 a public charitable organization or
30 organizations.

1 Section 149. Subsection (3) of section 743.09, Florida
2 Statutes, is amended to read:

3 743.09 Removal of disabilities of minors; artistic or
4 creative services; professional sports contracts; procedure
5 for court approval; appointment of a guardian ad litem.--

6 (3) At any time after the filing of the petition, the
7 court, if it deems it advisable, may appoint a guardian ad
8 litem, pursuant to s. 744.3025 ~~744.301~~, to represent the
9 interests of the minor. The court shall appoint a guardian ad
10 litem as to any contract where the parent or guardian will
11 receive remuneration or financial gain from the performance of
12 the contract or has any other conflict of interest with the
13 minor as defined by s. 744.446. The court, in determining
14 whether a guardian ad litem should be appointed, may consider
15 the following criteria:

16 (a) The length of time the exclusive services of the
17 minor are required.

18 (b) Whether the gross earnings of the minor under the
19 contract are either contingent or unknown.

20 (c) Whether the gross earnings of the minor under the
21 contract are in excess of \$15,000.

22
23 Reviser's note.--Amended to correct an
24 erroneous reference. Section 744.301(4),
25 relating to appointment of guardians ad litem,
26 was repealed by s. 3, ch. 2006-178, Laws of
27 Florida, and s. 4 of that law created s.
28 744.3025, providing for appointment of
29 guardians ad litem.
30
31

1 Section 150. Paragraph (a) of subsection (4) and
2 paragraph (b) of subsection (10) of section 775.21, Florida
3 Statutes, are amended to read:

4 775.21 The Florida Sexual Predators Act.--

5 (4) SEXUAL PREDATOR CRITERIA.--

6 (a) For a current offense committed on or after
7 October 1, 1993, upon conviction, an offender shall be
8 designated as a "sexual predator" under subsection (5), and
9 subject to registration under subsection (6) and community and
10 public notification under subsection (7) if:

11 1. The felony is:

12 a. A capital, life, or first-degree felony violation,
13 or any attempt thereof, of s. 787.01 or s. 787.02, where the
14 victim is a minor and the defendant is not the victim's
15 parent, or of chapter 794, s. 800.04, or s. 847.0145, or a
16 violation of a similar law of another jurisdiction; or

17 b. Any felony violation, or any attempt thereof, of s.
18 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a
19 minor and the defendant is not the victim's parent; chapter
20 794, excluding ss. 794.011(10) and 794.0235; s. 796.03; s.
21 796.035; s. 800.04; s. 825.1025(2)(b); s. 827.071; s.

22 847.0145; or s. 985.701(1) ~~985.4045(1)~~; or a violation of a
23 similar law of another jurisdiction, and the offender has
24 previously been convicted of or found to have committed, or
25 has pled nolo contendere or guilty to, regardless of
26 adjudication, any violation of s. 787.01, s. 787.02, or s.
27 787.025(2)(c), where the victim is a minor and the defendant
28 is not the victim's parent; s. 794.011(2), (3), (4), (5), or
29 (8); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025;
30 s. 827.071; s. 847.0133; s. 847.0135; s. 847.0145; or s.

31

1 985.701(1) ~~985.4045(1)~~; or a violation of a similar law of
2 another jurisdiction;

3 2. The offender has not received a pardon for any
4 felony or similar law of another jurisdiction that is
5 necessary for the operation of this paragraph; and

6 3. A conviction of a felony or similar law of another
7 jurisdiction necessary to the operation of this paragraph has
8 not been set aside in any postconviction proceeding.

9 (10) PENALTIES.--

10 (b) A sexual predator who has been convicted of or
11 found to have committed, or has pled nolo contendere or guilty
12 to, regardless of adjudication, any violation, or attempted
13 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
14 the victim is a minor and the defendant is not the victim's
15 parent; s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s.
16 796.03; s. 796.035; s. 800.04; s. 827.071; s. 847.0133; s.
17 847.0145; or s. 985.701(1) ~~985.4045(1)~~; or a violation of a
18 similar law of another jurisdiction when the victim of the
19 offense was a minor, and who works, whether for compensation
20 or as a volunteer, at any business, school, day care center,
21 park, playground, or other place where children regularly
22 congregate, commits a felony of the third degree, punishable
23 as provided in s. 775.082, s. 775.083, or s. 775.084.

24
25 Reviser's note.--Amended to conform to the
26 redesignation of s. 985.4045 as s. 985.701 by
27 s. 98, ch. 2006-120, Laws of Florida; the
28 references to s. 985.4045(1) were added to s.
29 775.21 by s. 1, ch. 2006-200, Laws of Florida.

30
31

1 Section 151. Subsection (1) of section 794.056,
2 Florida Statutes, is amended to read:

3 794.056 Rape Crisis Program Trust Fund.--

4 (1) The Rape Crisis Program Trust Fund is created
5 within the Department of Health for the purpose of providing
6 funds for rape crisis centers in this state. Trust fund moneys
7 shall be used exclusively for the purpose of providing
8 services for victims of sexual assault. Funds credited to the
9 trust fund consist of those funds collected as an additional
10 court assessment in each case in which a defendant pleads
11 guilty or nolo contendere to, or is found guilty of,
12 regardless of adjudication, an offense defined in s. 784.011,
13 s. 784.021, s. 784.03, s. 784.041, s. 784.045, s. 784.048, s.
14 784.07, s. 784.08, s. 784.081, s. 784.082, s. 784.083, s.
15 784.085 ~~785.085~~, or s. 794.011. Funds credited to the trust
16 fund also shall include revenues provided by law, moneys
17 appropriated by the Legislature, and grants from public or
18 private entities.

19
20 Reviser's note.--Amended to correct an
21 erroneous reference. Section 785.085 does not
22 exist; s. 784.085 provides for the offense of
23 battery of a child by throwing, tossing,
24 projecting, or expelling certain fluids or
25 materials.

26
27 Section 152. Section 817.36, Florida Statutes, is
28 amended to read:

29 817.36 Resale of tickets.--Whoever shall offer for
30 resale or resell any ticket may only charge \$1 above the
31

1 admission price charged therefor by ~~of~~ the original ticket
2 seller of said ticket for the following transactions:

3 (1) Passage or accommodations on any common carrier in
4 this state; however, the provisions of this subsection shall
5 not apply to travel agencies that have an established place of
6 business in this state, which place of business is required to
7 pay state, county, and city occupational license taxes.

8 (2) Multiday or multievent tickets to a park or
9 entertainment complex or to a concert, entertainment event,
10 permanent exhibition, or recreational activity within such a
11 park or complex, including an entertainment/resort complex as
12 defined in s. 561.01(18).

13 (3) Any tickets, other than the tickets in subsections
14 (1) and (2), that are resold or offered through an Internet
15 website, unless such website is authorized by the original
16 ticket seller or makes and posts the following guarantees and
17 disclosures through Internet web pages on which are visibly
18 posted, or links to web pages on which are posted, text to
19 which a prospective purchaser is directed before completion of
20 the resale transaction:

21 (a) The website operator guarantees a full refund of
22 the amount paid for the ticket including any servicing,
23 handling, or processing fees, if such fees are not disclosed,
24 when:

- 25 1. The ticketed event is canceled;
- 26 2. The purchaser is denied admission to the ticketed
27 event, unless such denial is due to the action or omission of
28 the purchaser;
- 29 3. The ticket is not delivered to the purchaser in the
30 manner requested and pursuant to any delivery guarantees made
31

1 by the reseller and such failure results in the purchaser's
2 inability to attend the ticketed event.

3 (b) The website operator discloses that it is not the
4 issuer, original seller, or reseller of the ticket or items
5 and does not control the pricing of the ticket or items, which
6 may be resold for more than their original value.

7 (4) Nothing in this section authorizes any individual
8 or entity to sell or purchase tickets at any price on property
9 where an event is being held without the prior express written
10 consent of the owner of the property.

11 (5) Any sales tax due for resales under this section
12 shall be remitted to the Department of Revenue in accordance
13 with s. 212.04.

14
15 Reviser's note.--Amended to confirm the
16 editorial substitution of the word "by" for the
17 word "of" to improve clarity.

18
19 Section 153. Subsection (6) of section 827.06, Florida
20 Statutes, is amended to read:

21 827.06 Nonsupport of dependents.--

22 (6) It is the intent of the Legislature for the state
23 attorneys, the Florida Prosecuting Attorneys Association, and
24 the Department of Revenue to work collaboratively to identify
25 strategies that allow the criminal penalties provided for in
26 this section to be pursued in all appropriate cases,
27 including, but not limited to, strategies that would assist
28 the state attorneys in obtaining additional resources from
29 available federal Title IV-D funds to initiate prosecution
30 pursuant to this section. ~~The Florida Prosecuting Attorneys~~
31 ~~Association and the Department of Revenue shall submit a joint~~

1 ~~report to the Governor, the President of the Senate, and the~~
2 ~~Speaker of the House of Representatives by December 31, 2005,~~
3 ~~that includes identified strategies and recommendations for~~
4 ~~implementing such strategies.~~

5
6 Reviser's note.--Amended to delete a provision
7 that has served its purpose.

8
9 Section 154. Paragraph (d) of subsection (2) of
10 section 847.001, Florida Statutes, is amended to read:

11 847.001 Definitions.--As used in this chapter, the
12 term:

13 (2) "Adult entertainment establishment" means the
14 following terms as defined:

15 (d) "Unlicensed massage establishment" means any
16 business or enterprise that offers, sells, or provides, or
17 that holds itself out as offering, selling, or providing,
18 massages that include bathing, physical massage, rubbing,
19 kneading, anointing, stroking, manipulating, or other tactile
20 stimulation of the human body by either male or female
21 employees or attendants, by hand or by any electrical or
22 mechanical device, on or off the premises. The term
23 "unlicensed massage establishment" does not include an
24 establishment licensed under s. 480.043 ~~480.43~~ which routinely
25 provides medical services by state-licensed health care
26 practitioners and massage therapists licensed under s.
27 480.041.

28
29 Reviser's note.--Amended to correct an
30 erroneous reference. Section 480.43 does not

1 exist; s. 480.043 relates to licensure of
2 massage establishments.

3
4 Section 155. Subsection (1) of section 849.09, Florida
5 Statutes, is amended to read:

6 849.09 Lottery prohibited; exceptions.--

7 (1) It is unlawful for any person in this state to:

8 (a) Set up, promote, or conduct any lottery for money
9 or for anything of value;

10 (b) Dispose of any money or other property of any kind
11 whatsoever by means of any lottery;

12 (c) Conduct any lottery drawing for the distribution
13 of a prize or prizes by lot or chance, or advertise any such
14 lottery scheme or device in any newspaper or by circulars,
15 posters, pamphlets, radio, telegraph, telephone, or otherwise;

16 (d) Aid or assist in the setting up, promoting, or
17 conducting of any lottery or lottery drawing, whether by
18 writing, printing, or in any other manner whatsoever, or be
19 interested in or connected in any way with any lottery or
20 lottery drawing;

21 (e) Attempt to operate, conduct, or advertise any
22 lottery scheme or device;

23 (f) Have in her or his possession any lottery wheel,
24 implement, or device whatsoever for conducting any lottery or
25 scheme for the disposal by lot or chance of anything of value;

26 (g) Sell, offer for sale, or transmit, in person or by
27 mail or in any other manner whatsoever, any lottery ticket,
28 coupon, or share, or any share in or fractional part of any
29 lottery ticket, coupon, or share, whether such ticket, coupon,
30 or share represents an interest in a live lottery not yet
31

1 | played or whether it represents, or has represented, an
2 | interest in a lottery that has already been played;

3 | (h) Have in her or his possession any lottery ticket,
4 | or any evidence of any share or right in any lottery ticket,
5 | or in any lottery scheme or device, whether such ticket or
6 | evidence of share or right represents an interest in a live
7 | lottery not yet played or whether it represents, or has
8 | represented, an interest in a lottery that has already been
9 | played;

10 | (i) Aid or assist in the sale, disposal, or
11 | procurement of any lottery ticket, coupon, or share, or any
12 | right to any drawing in a lottery; ~~or~~

13 | (j) Have in her or his possession any lottery
14 | advertisement, circular, poster, or pamphlet, or any list or
15 | schedule of any lottery prizes, gifts, or drawings; or-

16 | (k) Have in her or his possession any so-called "run
17 | down sheets," tally sheets, or other papers, records,
18 | instruments, or paraphernalia designed for use, either
19 | directly or indirectly, in, or in connection with, the
20 | violation of the laws of this state prohibiting lotteries and
21 | gambling.

22 |
23 | Provided, that nothing in this section shall prohibit
24 | participation in any nationally advertised contest, drawing,
25 | game or puzzle of skill or chance for a prize or prizes unless
26 | it can be construed as a lottery under this section; and,
27 | provided further, that this exemption for national contests
28 | shall not apply to any such contest based upon the outcome or
29 | results of any horserace, harness race, dograce, or jai alai
30 | game.
31 |

1 Reviser's note.--Amended to conform to standard
2 style relating to listing of elements in a
3 series.

4
5 Section 156. Subsection (2) of section 849.15, Florida
6 Statutes, is amended to read:

7 849.15 Manufacture, sale, possession, etc., of
8 coin-operated devices prohibited.--

9 (2) Pursuant to section 2 of that chapter of the
10 Congress of the United States entitled "An act to prohibit
11 transportation of gaming devices in interstate and foreign
12 commerce," approved January 2, 1951, being ch. 1194, 64 Stat.
13 1134, and also designated as 15 U.S.C. ss. 1171-1177, the
14 State of Florida, acting by and through the duly elected and
15 qualified members of its Legislature, does hereby in this
16 section, and in accordance with and in compliance with the
17 provisions of section 2 of such chapter of Congress, declare
18 and proclaim that any county of the State of Florida within
19 which slot machine gaming is authorized pursuant to chapter
20 551 is exempt from the provisions of section 2 of that chapter
21 of the Congress of the United States entitled "An act to
22 prohibit transportation of gaming devices in interstate and
23 foreign commerce," designated as 15 U.S.C. ss. 1171-1177,
24 approved January 2, 1951. All shipments of gaming devices,
25 including slot machines, into any county of this state within
26 which slot machine gaming is authorized pursuant to chapter
27 551 and the registering, recording, and labeling of which have
28 been duly performed by the manufacturer or distributor thereof
29 in accordance with sections 3 and 4 of that chapter of the
30 Congress of the United States entitled "An act to prohibit
31 transportation of gaming devices in interstate and foreign

1 commerce," approved January 2, 1951, being ch. 1194, 64 Stat.
2 1134, and also designated as 15 U.S.C. ss. 1171-1177, shall be
3 deemed legal shipments thereof into any such county provided
4 the destination of such shipments is an eligible facility as
5 defined in s. 551.102.

6
7 Reviser's note.--Amended to confirm the
8 editorial insertion of the word "in" following
9 the word "defined" to improve clarity.

10
11 Section 157. Paragraph (c) of subsection (3) of
12 section 921.0022, Florida Statutes, is amended to read:

13 921.0022 Criminal Punishment Code; offense severity
14 ranking chart.--

15 (3) OFFENSE SEVERITY RANKING CHART

17 Florida	Felony	
18 Statute	Degree	Description
		(c) LEVEL 3
21 119.10(2)(b)	3rd	Unlawful use of confidential 22 information from police reports.
23 316.066(6)		
24 (b)-(d)	3rd	Unlawfully obtaining or using 25 confidential crash reports.
26 316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
27 316.1935(2)	3rd	Fleeing or attempting to elude 28 law enforcement officer in patrol 29 vehicle with siren and lights 30 activated.

1	319.30(4)	3rd	Possession by junkyard of motor
2			vehicle with identification
3			number plate removed.
4	319.33(1)(a)	3rd	Alter or forge any certificate of
5			title to a motor vehicle or
6			mobile home.
7	319.33(1)(c)	3rd	Procure or pass title on stolen
8			vehicle.
9	319.33(4)	3rd	With intent to defraud, possess,
10			sell, etc., a blank, forged, or
11			unlawfully obtained title or
12			registration.
13	327.35(2)(b)	3rd	Felony BUI.
14	328.05(2)	3rd	Possess, sell, or counterfeit
15			fictitious, stolen, or fraudulent
16			titles or bills of sale of
17			vessels.
18	328.07(4)	3rd	Manufacture, exchange, or possess
19			vessel with counterfeit or wrong
20			ID number.
21	370.12(1)(e)5.	3rd	Taking, disturbing, mutilating,
22			destroying, causing to be
23			destroyed, transferring, selling,
24			offering to sell, molesting, or
25			harassing marine turtles, marine
26			turtle eggs, or marine turtle
27			nests in violation of the Marine
28			Turtle Protection Act.
29			
30			
31			

1	370.12(1)(e)6.	3rd	Soliciting to commit or
2			conspiring to commit a violation
3			of the Marine Turtle Protection
4			Act.
5	376.302(5)	3rd	Fraud related to reimbursement
6			for cleanup expenses under the
7			Inland Protection Trust Fund.
8	400.903(3)	3rd	Operating a clinic without a
9			license or filing false license
10			application or other required
11			information.
12	440.105(3)(b)	3rd	Receipt of fee or consideration
13			without approval by judge of
14			compensation claims.
15	440.1051(3)	3rd	False report of workers'
16			compensation fraud or retaliation
17			for making such a report.
18	501.001(2)(b)	2nd	Tampers with a consumer product
19			or the container using materially
20			false/misleading information.
21	624.401(4)(a)	3rd	Transacting insurance without a
22			certificate of authority.
23	624.401(4)(b)1.	3rd	Transacting insurance without a
24			certificate of authority; premium
25			collected less than \$20,000.
26	626.902(1)		
27	(a) & (b)	3rd	Representing an unauthorized
28			insurer.
29	697.08	3rd	Equity skimming.
30	790.15(3)	3rd	Person directs another to
31			discharge firearm from a vehicle.

1	796.05(1)	3rd	Live on earnings of a prostitute.
2	806.10(1)	3rd	Maliciously injure, destroy, or
3			interfere with vehicles or
4			equipment used in firefighting.
5	806.10(2)	3rd	Interferes with or assaults
6			firefighter in performance of
7			duty.
8	810.09(2)(c)	3rd	Trespass on property other than
9			structure or conveyance armed
10			with firearm or dangerous weapon.
11	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
12			less than \$10,000.
13	812.0145(2)(c)	3rd	Theft from person 65 years of age
14			or older; \$300 or more but less
15			than \$10,000.
16	815.04(4)(b)	2nd	Computer offense devised to
17			defraud or obtain property.
18	817.034(4)(a)3.	3rd	Engages in scheme to defraud
19			(Florida Communications Fraud
20			Act), property valued at less
21			than \$20,000.
22	817.233	3rd	Burning to defraud insurer.
23	817.234(8)		
24	(b)-(c)	3rd	Unlawful solicitation of persons
25			involved in motor vehicle
26			accidents.
27	817.234(11)(a)	3rd	Insurance fraud; property value
28			less than \$20,000.
29	817.236	3rd	Filing a false motor vehicle
30			insurance application.
31			

1	817.2361	3rd	Creating, marketing, or
2			presenting a false or fraudulent
3			motor vehicle insurance card.
4	817.413(2)	3rd	Sale of used goods as new.
5	817.505(4)	3rd	Patient brokering.
6	828.12(2)	3rd	Tortures any animal with intent
7			to inflict intense pain, serious
8			physical injury, or death.
9	831.28(2)(a)	3rd	Counterfeiting a payment
10			instrument with intent to defraud
11			or possessing a counterfeit
12			payment instrument.
13	831.29	2nd	Possession of instruments for
14			counterfeiting drivers' licenses
15			or identification cards.
16	838.021(3)(b)	3rd	Threatens unlawful harm to public
17			servant.
18	843.19	3rd	Injure, disable, or kill police
19			dog or horse.
20	860.15(3)	3rd	Overcharging for repairs and
21			parts.
22	870.01(2)	3rd	Riot; inciting or encouraging.
23	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
24			cannabis (or other s.
25			893.03(1)(c), (2)(c)1., (2)(c)2.,
26			(2)(c)3., (2)(c)5., (2)(c)6.,
27			(2)(c)7., (2)(c)8., (2)(c)9.,
28			(3), or (4) drugs).
29			
30			
31			

1	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
2			893.03(1)(c), (2)(c)1., (2)(c)2.,
3			(2)(c)3., (2)(c)5., (2)(c)6.,
4			(2)(c)7., (2)(c)8., (2)(c)9.,
5			(3), or (4) drugs within 1,000
6			feet of university.
7	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s.
8			893.03(1)(c), (2)(c)1., (2)(c)2.,
9			(2)(c)3., (2)(c)5., (2)(c)6.,
10			(2)(c)7., (2)(c)8., (2)(c)9.,
11			(3), or (4) drugs within 1,000
12			feet of public housing facility.
13	893.13(6)(a)	3rd	Possession of any controlled
14			substance other than felony
15			possession of cannabis.
16	893.13(7)(a)8.	3rd	Withhold information from
17			practitioner regarding previous
18			receipt of or prescription for a
19			controlled substance.
20	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
21			controlled substance by fraud,
22			forgery, misrepresentation, etc.
23	893.13(7)(a)10.	3rd	Affix false or forged label to
24			package of controlled substance.
25	893.13(7)(a)11.	3rd	Furnish false or fraudulent
26			material information on any
27			document or record required by
28			chapter 893.
29			
30			
31			

1	893.13(8)(a)1.	3rd	Knowingly assist a patient, other
2			person, or owner of an animal in
3			obtaining a controlled substance
4			through deceptive, untrue, or
5			fraudulent representations in or
6			related to the practitioner's
7			practice.
8	893.13(8)(a)2.	3rd	Employ a trick or scheme in the
9			practitioner's practice to assist
10			a patient, other person, or owner
11			of an animal in obtaining a
12			controlled substance.
13	893.13(8)(a)3.	3rd	Knowingly write a prescription
14			for a controlled substance for a
15			fictitious person.
16	893.13(8)(a)4.	3rd	Write a prescription for a
17			controlled substance for a
18			patient, other person, or an
19			animal if the sole purpose of
20			writing the prescription is a
21			monetary benefit for the
22			practitioner.
23	918.13(1)(a)	3rd	Alter, destroy, or conceal
24			investigation evidence.
25	944.47		
26	(1)(a)1.-2.	3rd	Introduce contraband to
27			correctional facility.
28	944.47(1)(c)	2nd	Possess contraband while upon the
29			grounds of a correctional
30			institution.
31			

1 Section 159. Paragraph (a) of subsection (1) of
2 section 943.0435, Florida Statutes, is amended to read:

3 943.0435 Sexual offenders required to register with
4 the department; penalty.--

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

6 (a) "Sexual offender" means a person who meets the
7 criteria in subparagraph 1., subparagraph 2., or subparagraph
8 3., as follows:

9 1.a. Has been convicted of committing, or attempting,
10 soliciting, or conspiring to commit, any of the criminal
11 offenses proscribed in the following statutes in this state or
12 similar offenses in another jurisdiction: s. 787.01, s.
13 787.02, or s. 787.025(2)(c), where the victim is a minor and
14 the defendant is not the victim's parent; chapter 794,
15 excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 796.035;
16 s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135;
17 s. 847.0137; s. 847.0138; s. 847.0145; or s. 985.701(1)
18 ~~985.4045(1)~~; or any similar offense committed in this state
19 which has been redesignated from a former statute number to
20 one of those listed in this sub-subparagraph; and

21 b. Has been released on or after October 1, 1997, from
22 the sanction imposed for any conviction of an offense
23 described in sub-subparagraph a. For purposes of
24 sub-subparagraph a., a sanction imposed in this state or in
25 any other jurisdiction includes, but is not limited to, a
26 fine, probation, community control, parole, conditional
27 release, control release, or incarceration in a state prison,
28 federal prison, private correctional facility, or local
29 detention facility;

30 2. Establishes or maintains a residence in this state
31 and who has not been designated as a sexual predator by a

1 court of this state but who has been designated as a sexual
2 predator, as a sexually violent predator, or by another sexual
3 offender designation in another state or jurisdiction and was,
4 as a result of such designation, subjected to registration or
5 community or public notification, or both, or would be if the
6 person were a resident of that state or jurisdiction, without
7 regard to whether the person otherwise meets the criteria for
8 registration as a sexual offender; or

9 3. Establishes or maintains a residence in this state
10 who is in the custody or control of, or under the supervision
11 of, any other state or jurisdiction as a result of a
12 conviction for committing, or attempting, soliciting, or
13 conspiring to commit, any of the criminal offenses proscribed
14 in the following statutes or similar offense in another
15 jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where
16 the victim is a minor and the defendant is not the victim's
17 parent; chapter 794, excluding ss. 794.011(10) and 794.0235;
18 s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s.
19 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145;
20 or s. 985.701(1) ~~985.4045(1)~~; or any similar offense committed
21 in this state which has been redesignated from a former
22 statute number to one of those listed in this subparagraph.

23
24 Reviser's note.--Amended to confirm the
25 editorial substitution of a reference to s.
26 985.701(1) for a reference to s. 985.4045(1) to
27 conform to the redesignation of s. 985.4045 as
28 s. 985.701 by s. 98, ch. 2006-120, Laws of
29 Florida.
30
31

1 Section 160. Paragraph (a) of subsection (1) of
2 section 943.325, Florida Statutes, is amended to read:

3 943.325 Blood or other biological specimen testing for
4 DNA analysis.--

5 (1)(a) Any person who is convicted or was previously
6 convicted in this state for any offense or attempted offense
7 enumerated in paragraph (b), and any person who is transferred
8 to this state under Article VII of the Interstate Compact on
9 Juveniles, part XIII ~~V~~ of chapter 985, who has committed or
10 attempted to commit an offense similarly defined by the
11 transferring state, who is either:

- 12 1. Still incarcerated, or
13 2. No longer incarcerated, or has never been
14 incarcerated, yet is within the confines of the legal state
15 boundaries and is on probation, community control, parole,
16 conditional release, control release, or any other type of
17 court-ordered supervision,

18
19 shall be required to submit two specimens of blood or other
20 biological specimens approved by the Department of Law
21 Enforcement to a Department of Law Enforcement designated
22 testing facility as directed by the department.
23

24 Reviser's note.--Amended to conform to the
25 redesignation of part V of chapter 985 as part
26 XIII of that chapter by s. 1, ch. 2006-120,
27 Laws of Florida.
28

29 Section 161. Paragraph (b) of subsection (1) of
30 section 944.606, Florida Statutes, is amended to read:

31 944.606 Sexual offenders; notification upon release.--

1 (1) As used in this section:

2 (b) "Sexual offender" means a person who has been
3 convicted of committing, or attempting, soliciting, or
4 conspiring to commit, any of the criminal offenses proscribed
5 in the following statutes in this state or similar offenses in
6 another jurisdiction: s. 787.01, s. 787.02, or s.
7 787.025(2)(c), where the victim is a minor and the defendant
8 is not the victim's parent; chapter 794, excluding ss.
9 794.011(10) and 794.0235; s. 796.03; s. 796.035; s. 800.04; s.
10 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0137;
11 s. 847.0138; s. 847.0145; or s. 985.701(1) ~~985.4045(1)~~; or any
12 similar offense committed in this state which has been
13 redesignated from a former statute number to one of those
14 listed in this subsection, when the department has received
15 verified information regarding such conviction; an offender's
16 computerized criminal history record is not, in and of itself,
17 verified information.

18
19 Reviser's note.--Amended to confirm the
20 editorial substitution of a reference to s.
21 985.701(1) for a reference to s. 985.4045(1) to
22 conform to the redesignation of s. 985.4045 as
23 s. 985.701 by s. 98, ch. 2006-120, Laws of
24 Florida.

25
26 Section 162. Paragraph (a) of subsection (1) of
27 section 944.607, Florida Statutes, is amended to read:

28 944.607 Notification to Department of Law Enforcement
29 of information on sexual offenders.--

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

31

1 (a) "Sexual offender" means a person who is in the
2 custody or control of, or under the supervision of, the
3 department or is in the custody of a private correctional
4 facility:

5 1. On or after October 1, 1997, as a result of a
6 conviction for committing, or attempting, soliciting, or
7 conspiring to commit, any of the criminal offenses proscribed
8 in the following statutes in this state or similar offenses in
9 another jurisdiction: s. 787.01, s. 787.02, or s.

10 787.025(2)(c), where the victim is a minor and the defendant
11 is not the victim's parent; chapter 794, excluding ss.
12 794.011(10) and 794.0235; s. 796.03; s. 796.035; s. 800.04; s.
13 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0137;
14 s. 847.0138; s. 847.0145; or s. 985.701(1) ~~985.4045(1)~~; or any
15 similar offense committed in this state which has been
16 redesignated from a former statute number to one of those
17 listed in this paragraph; or

18 2. Who establishes or maintains a residence in this
19 state and who has not been designated as a sexual predator by
20 a court of this state but who has been designated as a sexual
21 predator, as a sexually violent predator, or by another sexual
22 offender designation in another state or jurisdiction and was,
23 as a result of such designation, subjected to registration or
24 community or public notification, or both, or would be if the
25 person were a resident of that state or jurisdiction, without
26 regard as to whether the person otherwise meets the criteria
27 for registration as a sexual offender.

28
29 Reviser's note.--Amended to confirm the
30 editorial substitution of a reference to s.

31 985.701(1) for a reference to s. 985.4045(1) to

1 conform to the redesignation of s. 985.4045 as
2 s. 985.701 by s. 98, ch. 2006-120, Laws of
3 Florida.

4
5 Section 163. Section 947.022, Florida Statutes, is
6 repealed.

7
8 Reviser's note.--The referenced section, which
9 provided transition provisions for staggered
10 terms for the Parole Commission, has served its
11 purpose.

12
13 Section 164. Subsection (12) of section 984.19,
14 Florida Statutes, is amended to read:

15 984.19 Medical screening and treatment of child;
16 examination of parent, guardian, or person requesting
17 custody.--

18 (12) Nothing in this section alters the authority of
19 the department to consent to medical treatment for a child who
20 has been committed to the department pursuant to s. 984.22(3)
21 ~~984.22(3) and (4)~~ and of whom the department has become the
22 legal custodian.

23
24 Reviser's note.--Amended to conform to the
25 deletion from s. 984.22(4) of material relating
26 to placement of children in foster care by the
27 Department of Children and Family Services by
28 s. 71, ch. 2006-227, Laws of Florida.

29
30 Section 165. Paragraph (k) of subsection (11) of
31 section 985.483, Florida Statutes, is amended to read:

1 985.483 Intensive residential treatment program for
2 offenders less than 13 years of age.--

3 (11) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.--

4 (k) Assessment and treatment records are confidential
5 as described in this paragraph and exempt from s. 119.07(1)
6 and s. 24(a), Art. I of the State Constitution.

7 1. The department shall have full access to the
8 assessment and treatment records to ensure coordination of
9 services to the child.

10 2. The principles of confidentiality of records as
11 provided in s. 985.04 ~~985.045~~ shall apply to the assessment
12 and treatment records of children who are eligible for an
13 intensive residential treatment program for offenders less
14 than 13 years of age.

15
16 Reviser's note.--Amended to confirm the
17 editorial substitution of a reference to s.
18 985.04 for a reference to s. 985.045 to correct
19 an apparent error. Section 985.045 relates to
20 court records; s. 985.04 relates to
21 confidentiality of records.

22
23 Section 166. Paragraph (c) of subsection (4) of
24 section 985.565, Florida Statutes, is amended to read:

25 985.565 Sentencing powers; procedures; alternatives
26 for juveniles prosecuted as adults.--

27 (4) SENTENCING ALTERNATIVES.--

28 (c) Adult sanctions upon failure of juvenile
29 sanctions.--If a child proves not to be suitable to a
30 commitment program, ~~in a~~ juvenile probation program, or
31 treatment program under paragraph (b), the department shall

1 provide the sentencing court with a written report outlining
2 the basis for its objections to the juvenile sanction and
3 shall simultaneously provide a copy of the report to the state
4 attorney and the defense counsel. The department shall
5 schedule a hearing within 30 days. Upon hearing, the court may
6 revoke the previous adjudication, impose an adjudication of
7 guilt, and impose any sentence which it may lawfully impose,
8 giving credit for all time spent by the child in the
9 department. The court may also classify the child as a
10 youthful offender under s. 958.04, if appropriate. For
11 purposes of this paragraph, a child may be found not suitable
12 to a commitment program, community control program, or
13 treatment program under paragraph (b) if the child commits a
14 new violation of law while under juvenile sanctions, if the
15 child commits any other violation of the conditions of
16 juvenile sanctions, or if the child's actions are otherwise
17 determined by the court to demonstrate a failure of juvenile
18 sanctions.

19
20 It is the intent of the Legislature that the criteria and
21 guidelines in this subsection are mandatory and that a
22 determination of disposition under this subsection is subject
23 to the right of the child to appellate review under s.
24 985.534.

25
26 Reviser's note.--Amended to confirm the
27 editorial deletion of the words "in a"
28 preceding the word "juvenile" to provide
29 clarity.

30
31

1 Section 167. Paragraph (b) of subsection (2) of
2 section 1001.25, Florida Statutes, is amended to read:

3 1001.25 Educational television.--

4 (2) POWERS OF DEPARTMENT.--

5 (b) The department shall provide through educational
6 television and other electronic media a means of extending
7 educational services to all the state system of public
8 education, except the state universities, which provision by
9 the department is limited by paragraph (c) and by s.

10 1001.26(1) ~~1006.26(1)~~. The department shall recommend to the
11 State Board of Education rules necessary to provide such
12 services.

13
14 Reviser's note.--Amended to correct an
15 erroneous reference. Section 1006.26 does not
16 exist; s. 1001.26(1) creates a public
17 broadcasting system for the state.

18
19 Section 168. Subsection (4) of section 1001.73,
20 Florida Statutes, is amended to read:

21 1001.73 University board empowered to act as
22 trustee.--

23 (4) Nothing herein shall be construed to authorize a
24 university board of trustees to contract a debt on behalf of,
25 or in any way to obligate, the state; and the satisfaction of
26 any debt or obligation incurred by the university board as
27 trustee under the provisions of this section shall be
28 exclusively from the trust property, mortgaged or encumbered;
29 and nothing herein shall in any manner affect or relate to the
30 provisions of former ss. 1010.61-1010.619 or s. 1013.78.

31

1 Reviser's note.--Amended to conform to the
2 repeal of ss. 1010.61-1010.619 by s. 15, ch.
3 2006-27, Laws of Florida.

4
5 Section 169. Subsection (1) of section 1002.01,
6 Florida Statutes, is amended to read:

7 1002.01 Definitions.--

8 (1) A "home education program" means the sequentially
9 progressive instruction of a student directed by his or her
10 parent in order to satisfy the attendance requirements of ss.
11 1002.41, 1003.01(13) ~~1003.01(4)~~, and 1003.21(1).

12
13 Reviser's note.--Amended to correct an
14 erroneous reference. Section 1003.01(4) defines
15 "career education"; s. 1003.01(13) defines
16 "regular school attendance."

17
18 Section 170. Paragraph (b) of subsection (4) of
19 section 1002.20, Florida Statutes, is amended to read:

20 1002.20 K-12 student and parent rights.--Parents of
21 public school students must receive accurate and timely
22 information regarding their child's academic progress and must
23 be informed of ways they can help their child to succeed in
24 school. K-12 students and their parents are afforded numerous
25 statutory rights including, but not limited to, the following:

26 (4) DISCIPLINE.--

27 (b) Expulsion.--Public school students and their
28 parents have the right to written notice of a recommendation
29 of expulsion, including the charges against the student and a
30 statement of the right of the student to due process, in
31 accordance with the provisions of s. 1006.08(1) ~~1001.51(8)~~.

1 Reviser's note.--Amended to correct an
2 erroneous reference. Section 1001.51(8) relates
3 to instructional materials; s. 1006.08(1)
4 contains material relating to a recommendation
5 of expulsion and the student's right to due
6 process.

7
8 Section 171. Paragraph (b) of subsection (4) of
9 section 1002.335, Florida Statutes, is amended to read:
10 1002.335 Florida Schools of Excellence Commission.--
11 (4) POWERS AND DUTIES.--
12 (b) The commission shall have the following duties:
13 1. Review charter school applications and assist in
14 the establishment of Florida Schools of Excellence (FSE)
15 charter schools throughout the state. An FSE charter school
16 shall exist as a public school within the state as a component
17 of the delivery of public education within Florida's K-20
18 education system.
19 2. Develop, promote, and disseminate best practices
20 for charter schools and charter school sponsors in order to
21 ensure that high-quality charter schools are developed and
22 incentivized. At a minimum, the best practices shall encourage
23 the development and replication of academically and
24 financially proven charter school programs.
25 3. Develop, promote, and require high standards of
26 accountability for any school that applies for and is granted
27 a charter under this section.
28 4. Monitor and annually review the performance of
29 cosponsors approved pursuant to this section and hold the
30 cosponsors accountable for their performance pursuant to the
31 provisions of paragraph (6)(c). The commission shall annually

1 review and evaluate the performance of each cosponsor based
2 upon the financial and administrative support provided to the
3 cosponsor's charter schools and the quality of charter schools
4 approved by the cosponsor, including the academic performance
5 of the students who ~~that~~ attend those schools.

6 5. Monitor and annually review and evaluate the
7 academic and financial performance of the charter schools it
8 sponsors and hold the schools accountable for their
9 performance pursuant to the provisions of chapter 1008.

10 6. Report the student enrollment in each of its
11 sponsored charter schools to the district school board of the
12 county in which the school is located.

13 7. Work with its cosponsors to monitor the financial
14 management of each FSE charter school.

15 8. Direct charter schools and persons seeking to
16 establish charter schools to sources of private funding and
17 support.

18 9. Actively seek, with the assistance of the
19 department, supplemental revenue from federal grant funds,
20 institutional grant funds, and philanthropic organizations.
21 The commission may, through the department's Grants and
22 Donations Trust Fund, receive and expend gifts, grants, and
23 donations of any kind from any public or private entity to
24 carry out the purposes of this section.

25 10. Review and recommend to the Legislature any
26 necessary revisions to statutory requirements regarding the
27 qualification and approval of municipalities, state
28 universities, community colleges, and regional educational
29 consortia as cosponsors for FSE charter schools.

30 11. Review and recommend to the Legislature any
31 necessary revisions to statutory requirements regarding the

1 standards for accountability and criteria for revocation of
2 approval of cosponsors of FSE charter schools.

3 12. Act as liaison for cosponsors and FSE charter
4 schools in cooperating with district school boards that may
5 choose to allow charter schools to utilize excess space within
6 district public school facilities.

7 13. Collaborate with municipalities, state
8 universities, community colleges, and regional educational
9 consortia as cosponsors for FSE charter schools for the
10 purpose of providing the highest level of public education to
11 low-income, low-performing, gifted, or underserved student
12 populations. Such collaborations shall:

13 a. Allow state universities and community colleges
14 that cosponsor FSE charter schools to enable students
15 attending a charter school to take college courses and receive
16 high school and college credit for such courses.

17 b. Be used to determine the feasibility of opening
18 charter schools for students with disabilities, including, but
19 not limited to, charter schools for children with autism that
20 work with and utilize the specialized expertise of the Centers
21 for Autism and Related Disabilities established and operated
22 pursuant to s. 1004.55.

23 14. Support municipalities when the mayor or chief
24 executive, through resolution passed by the governing body of
25 the municipality, expresses an intent to cosponsor and
26 establish charter schools within the municipal boundaries.

27 15. Meet the needs of charter schools and school
28 districts by uniformly administering high-quality charter
29 schools, thereby removing administrative burdens from the
30 school districts.

31

1 16. Assist FSE charter schools in negotiating and
2 contracting with district school boards that choose to provide
3 certain administrative or transportation services to the
4 charter schools on a contractual basis.

5 17. Provide training for members of FSE charter school
6 governing bodies within 90 days after approval of the charter
7 school. The training shall include, but not be limited to,
8 best practices on charter school governance, the
9 constitutional and statutory requirements relating to public
10 records and meetings, and the requirements of applicable
11 statutes and State Board of Education rules.

12 18. Perform all of the duties of sponsors set forth in
13 s. 1002.33(5)(b) and (20).

14
15 Reviser's note.--Amended to confirm the
16 editorial substitution of the word "who" for
17 the word "that" to conform to context.

18
19 Section 172. Paragraph (g) of subsection (2) of
20 section 1003.51, Florida Statutes, is amended to read:

21 1003.51 Other public educational services.--

22 (2) The State Board of Education shall adopt and
23 maintain an administrative rule articulating expectations for
24 effective education programs for youth in Department of
25 Juvenile Justice programs, including, but not limited to,
26 education programs in juvenile justice commitment and
27 detention facilities. The rule shall articulate policies and
28 standards for education programs for youth in Department of
29 Juvenile Justice programs and shall include the following:

30 (g) Funding requirements, which shall include the
31 requirement that at least 90 percent of the FEFP funds

1 generated by students in Department of Juvenile Justice
2 programs or in an education program for juveniles under s.
3 985.19 ~~985.223~~ be spent on instructional costs for those
4 students. One hundred percent of the formula-based categorical
5 funds generated by students in Department of Juvenile Justice
6 programs must be spent on appropriate categoricals such as
7 instructional materials and public school technology for those
8 students.

9
10 Reviser's note.--Amended to conform to the
11 redesignation of s. 985.223 as s. 985.19 by s.
12 30, ch. 2006-120, Laws of Florida.

13
14 Section 173. Subsection (6) of section 1004.28,
15 Florida Statutes, is amended to read:

16 1004.28 Direct-support organizations; use of property;
17 board of directors; activities; audit; facilities.--

18 (6) FACILITIES.--In addition to issuance of
19 indebtedness pursuant to former s. 1010.60(2), each
20 direct-support organization is authorized to enter into
21 agreements to finance, design and construct, lease,
22 lease-purchase, purchase, or operate facilities necessary and
23 desirable to serve the needs and purposes of the university,
24 as determined by the systemwide strategic plan adopted by the
25 State Board of Education. Such agreements are subject to the
26 provisions of s. 1013.171.

27
28 Reviser's note.--Amended to conform to the
29 repeal of s. 1010.60 by s. 15, ch. 2006-27,
30 Laws of Florida.

31

1 Section 174. Subsection (3) of section 1008.22,
2 Florida Statutes, is reenacted to read:

3 1008.22 Student assessment program for public
4 schools.--

5 (3) STATEWIDE ASSESSMENT PROGRAM.--The commissioner
6 shall design and implement a statewide program of educational
7 assessment that provides information for the improvement of
8 the operation and management of the public schools, including
9 schools operating for the purpose of providing educational
10 services to youth in Department of Juvenile Justice programs.
11 The commissioner may enter into contracts for the continued
12 administration of the assessment, testing, and evaluation
13 programs authorized and funded by the Legislature. Contracts
14 may be initiated in 1 fiscal year and continue into the next
15 and may be paid from the appropriations of either or both
16 fiscal years. The commissioner is authorized to negotiate for
17 the sale or lease of tests, scoring protocols, test scoring
18 services, and related materials developed pursuant to law.
19 Pursuant to the statewide assessment program, the commissioner
20 shall:

21 (a) Submit to the State Board of Education a list that
22 specifies student skills and competencies to which the goals
23 for education specified in the state plan apply, including,
24 but not limited to, reading, writing, science, and
25 mathematics. The skills and competencies must include
26 problem-solving and higher-order skills as appropriate and
27 shall be known as the Sunshine State Standards as defined in
28 s. 1000.21. The commissioner shall select such skills and
29 competencies after receiving recommendations from educators,
30 citizens, and members of the business community. The
31 commissioner shall submit to the State Board of Education

1 | revisions to the list of student skills and competencies in
2 | order to maintain continuous progress toward improvements in
3 | student proficiency.

4 | (b) Develop and implement a uniform system of
5 | indicators to describe the performance of public school
6 | students and the characteristics of the public school
7 | districts and the public schools. These indicators must
8 | include, without limitation, information gathered by the
9 | comprehensive management information system created pursuant
10 | to s. 1008.385 and student achievement information obtained
11 | pursuant to this section.

12 | (c) Develop and implement a student achievement
13 | testing program known as the Florida Comprehensive Assessment
14 | Test (FCAT) as part of the statewide assessment program to
15 | measure reading, writing, science, and mathematics. Other
16 | content areas may be included as directed by the commissioner.
17 | The assessment of reading and mathematics shall be
18 | administered annually in grades 3 through 10. The assessment
19 | of writing and science shall be administered at least once at
20 | the elementary, middle, and high school levels. The
21 | commissioner must document the procedures used to ensure that
22 | the versions of the FCAT which are taken by students retaking
23 | the grade 10 FCAT are equally as challenging and difficult as
24 | the tests taken by students in grade 10 which contain
25 | performance tasks. The testing program must be designed so
26 | that:

27 | 1. The tests measure student skills and competencies
28 | adopted by the State Board of Education as specified in
29 | paragraph (a). The tests must measure and report student
30 | proficiency levels of all students assessed in reading,
31 | writing, mathematics, and science. The commissioner shall

1 provide for the tests to be developed or obtained, as
2 appropriate, through contracts and project agreements with
3 private vendors, public vendors, public agencies,
4 postsecondary educational institutions, or school districts.
5 The commissioner shall obtain input with respect to the design
6 and implementation of the testing program from state
7 educators, assistive technology experts, and the public.

8 2. The testing program will include a combination of
9 norm-referenced and criterion-referenced tests and include, to
10 the extent determined by the commissioner, questions that
11 require the student to produce information or perform tasks in
12 such a way that the skills and competencies he or she uses can
13 be measured.

14 3. Each testing program, whether at the elementary,
15 middle, or high school level, includes a test of writing in
16 which students are required to produce writings that are then
17 scored by appropriate and timely methods.

18 4. A score is designated for each subject area tested,
19 below which score a student's performance is deemed
20 inadequate. The school districts shall provide appropriate
21 remedial instruction to students who score below these levels.

22 5. Except as provided in s. 1003.428(8)(b) or s.
23 1003.43(11)(b), students must earn a passing score on the
24 grade 10 assessment test described in this paragraph or attain
25 concordant scores as described in subsection (9) in reading,
26 writing, and mathematics to qualify for a standard high school
27 diploma. The State Board of Education shall designate a
28 passing score for each part of the grade 10 assessment test.
29 In establishing passing scores, the state board shall consider
30 any possible negative impact of the test on minority students.
31 The State Board of Education shall adopt rules which specify

1 | the passing scores for the grade 10 FCAT. Any such rules,
2 | which have the effect of raising the required passing scores,
3 | shall only apply to students taking the grade 10 FCAT for the
4 | first time after such rules are adopted by the State Board of
5 | Education.

6 | 6. Participation in the testing program is mandatory
7 | for all students attending public school, including students
8 | served in Department of Juvenile Justice programs, except as
9 | otherwise prescribed by the commissioner. If a student does
10 | not participate in the statewide assessment, the district must
11 | notify the student's parent and provide the parent with
12 | information regarding the implications of such
13 | nonparticipation. A parent must provide signed consent for a
14 | student to receive classroom instructional accommodations that
15 | would not be available or permitted on the statewide
16 | assessments and must acknowledge in writing that he or she
17 | understands the implications of such instructional
18 | accommodations. The State Board of Education shall adopt
19 | rules, based upon recommendations of the commissioner, for the
20 | provision of test accommodations for students in exceptional
21 | education programs and for students who have limited English
22 | proficiency. Accommodations that negate the validity of a
23 | statewide assessment are not allowable in the administration
24 | of the FCAT. However, instructional accommodations are
25 | allowable in the classroom if included in a student's
26 | individual education plan. Students using instructional
27 | accommodations in the classroom that are not allowable as
28 | accommodations on the FCAT may have the FCAT requirement
29 | waived pursuant to the requirements of s. 1003.428(8)(b) or s.
30 | 1003.43(11)(b).

31 |

1 7. A student seeking an adult high school diploma must
2 meet the same testing requirements that a regular high school
3 student must meet.

4 8. District school boards must provide instruction to
5 prepare students to demonstrate proficiency in the skills and
6 competencies necessary for successful grade-to-grade
7 progression and high school graduation. If a student is
8 provided with instructional accommodations in the classroom
9 that are not allowable as accommodations in the statewide
10 assessment program, as described in the test manuals, the
11 district must inform the parent in writing and must provide
12 the parent with information regarding the impact on the
13 student's ability to meet expected proficiency levels in
14 reading, writing, and math. The commissioner shall conduct
15 studies as necessary to verify that the required skills and
16 competencies are part of the district instructional programs.

17 9. District school boards must provide opportunities
18 for students to demonstrate an acceptable level of performance
19 on an alternative standardized assessment approved by the
20 State Board of Education following enrollment in summer
21 academies.

22 10. The Department of Education must develop, or
23 select, and implement a common battery of assessment tools
24 that will be used in all juvenile justice programs in the
25 state. These tools must accurately measure the skills and
26 competencies established in the Sunshine State Standards.

27 11. For students seeking a special diploma pursuant to
28 s. 1003.438, the Department of Education must develop or
29 select and implement an alternate assessment tool that
30 accurately measures the skills and competencies established in
31

1 | the Sunshine State Standards for students with disabilities
2 | under s. 1003.438.

3 |
4 | The commissioner may, based on collaboration and input from
5 | school districts, design and implement student testing
6 | programs, for any grade level and subject area, necessary to
7 | effectively monitor educational achievement in the state,
8 | including the measurement of educational achievement of the
9 | Sunshine State Standards for students with disabilities.
10 | Development and refinement of assessments shall include
11 | universal design principles and accessibility standards that
12 | will prevent any unintended obstacles for students with
13 | disabilities while ensuring the validity and reliability of
14 | the test. These principles should be applicable to all
15 | technology platforms and assistive devices available for the
16 | assessments. The field testing process and psychometric
17 | analyses for the statewide assessment program must include an
18 | appropriate percentage of students with disabilities and an
19 | evaluation or determination of the effect of test items on
20 | such students.

21 | (d) Conduct ongoing research to develop improved
22 | methods of assessing student performance, including, without
23 | limitation, the use of technology to administer tests, score,
24 | or report the results of, the use of electronic transfer of
25 | data, the development of work-product assessments, and the
26 | development of process assessments.

27 | (e) Conduct ongoing research and analysis of student
28 | achievement data, including, without limitation, monitoring
29 | trends in student achievement by grade level and overall
30 | student achievement, identifying school programs that are
31 | successful, and analyzing correlates of school achievement.

1 (f) Provide technical assistance to school districts
2 in the implementation of state and district testing programs
3 and the use of the data produced pursuant to such programs.

4 (g) Study the cost and student achievement impact of
5 secondary end-of-course assessments, including web-based and
6 performance formats, and report to the Legislature prior to
7 implementation.

8
9 Reviser's note.--Section 40, ch. 2006-74, Laws
10 of Florida, amended paragraphs (3)(c), (e), and
11 (f) and also added a new paragraph (3)(f) but
12 failed to publish existing paragraph (3)(f).
13 Absent affirmative evidence of legislative
14 intent to repeal existing paragraph (3)(f), it
15 is reenacted here to confirm that the omission
16 was not intended.

17
18 Section 175. Subsection (4) of section 1008.33,
19 Florida Statutes, is amended to read:

20 1008.33 Authority to enforce public school
21 improvement.--It is the intent of the Legislature that all
22 public schools be held accountable for students performing at
23 acceptable levels. A system of school improvement and
24 accountability that assesses student performance by school,
25 identifies schools in which students are not making adequate
26 progress toward state standards, institutes appropriate
27 measures for enforcing improvement, and provides rewards and
28 sanctions based on performance shall be the responsibility of
29 the State Board of Education.

30 (4) The State Board of Education may require the
31 Department of Education or Chief Financial Officer to withhold

1 any transfer of state funds to the school district if, within
2 the timeframe specified in state board action, the school
3 district has failed to comply with the action ordered to
4 improve the district's low-performing schools. Withholding the
5 transfer of funds shall occur only after all other recommended
6 actions for school improvement have failed to improve
7 performance. The State Board of Education may impose the same
8 penalty on any district school board that fails to develop and
9 implement a plan for assistance and intervention for
10 low-performing schools as specified in s. 1001.42(16)(c)
11 ~~1001.42(16)(d)~~.

12
13 Reviser's note.--Amended to correct an
14 erroneous reference. The initial version of
15 House Bill 7087, 2006 Regular Session, added a
16 new s. 1001.42(16)(b) and redesignated the
17 remaining paragraphs, as well as updating
18 references to those paragraphs. The final
19 version of the bill as passed, which became ch.
20 2006-74, Laws of Florida, did not include the
21 new paragraph (16)(b), but the revised
22 reference in the bill at s. 1008.33(4) was not
23 adjusted to conform to that deletion.

24
25 Section 176. Subsection (5) of section 1008.345,
26 Florida Statutes, is amended to read:

27 1008.345 Implementation of state system of school
28 improvement and education accountability.--

29 (5) The commissioner shall report to the Legislature
30 and recommend changes in state policy necessary to foster
31 school improvement and education accountability. Included in

1 the report shall be a list of the schools, including schools
2 operating for the purpose of providing educational services to
3 youth in Department of Juvenile Justice programs, for which
4 district school boards have developed assistance and
5 intervention plans and an analysis of the various strategies
6 used by the school boards. School reports shall be distributed
7 pursuant to this subsection and s. 1006.42(16)(e)
8 ~~1001.42(16)(f)~~ and according to rules adopted by the State
9 Board of Education.

10
11 Reviser's note.--Amended to correct an
12 erroneous reference. The initial version of
13 House Bill 7087, 2006 Regular Session, added a
14 new s. 1001.42(16)(b) and redesignated the
15 remaining paragraphs, as well as updating
16 references to those paragraphs. The final
17 version of the bill as passed, which became ch.
18 2006-74, Laws of Florida, did not include the
19 new paragraph (16)(b), but the revised
20 reference in the bill at s. 1008.345(5) was not
21 adjusted to conform to that deletion.

22
23 Section 177. Paragraph (f) of subsection (1) of
24 section 1011.62, Florida Statutes, is amended to read:

25 1011.62 Funds for operation of schools.--If the annual
26 allocation from the Florida Education Finance Program to each
27 district for operation of schools is not determined in the
28 annual appropriations act or the substantive bill implementing
29 the annual appropriations act, it shall be determined as
30 follows:
31

1 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
2 OPERATION.--The following procedure shall be followed in
3 determining the annual allocation to each district for
4 operation:

5 (f) Supplemental academic instruction; categorical
6 fund.--

7 1. There is created a categorical fund to provide
8 supplemental academic instruction to students in kindergarten
9 through grade 12. This paragraph may be cited as the
10 "Supplemental Academic Instruction Categorical Fund."

11 2. Categorical funds for supplemental academic
12 instruction shall be allocated annually to each school
13 district in the amount provided in the General Appropriations
14 Act. These funds shall be in addition to the funds
15 appropriated on the basis of FTE student membership in the
16 Florida Education Finance Program and shall be included in the
17 total potential funds of each district. These funds shall be
18 used to provide supplemental academic instruction to students
19 enrolled in the K-12 program. Supplemental instruction
20 strategies may include, but are not limited to: modified
21 curriculum, reading instruction, after-school instruction,
22 tutoring, mentoring, class size reduction, extended school
23 year, intensive skills development in summer school, and other
24 methods for improving student achievement. Supplemental
25 instruction may be provided to a student in any manner and at
26 any time during or beyond the regular 180-day term identified
27 by the school as being the most effective and efficient way to
28 best help that student progress from grade to grade and to
29 graduate.

30 3. Effective with the 1999-2000 fiscal year, funding
31 on the basis of FTE membership beyond the 180-day regular term

1 shall be provided in the FEFP only for students enrolled in
2 juvenile justice education programs or in education programs
3 for juveniles placed in secure facilities or programs under s.
4 985.19 ~~985.223~~. Funding for instruction beyond the regular
5 180-day school year for all other K-12 students shall be
6 provided through the supplemental academic instruction
7 categorical fund and other state, federal, and local fund
8 sources with ample flexibility for schools to provide
9 supplemental instruction to assist students in progressing
10 from grade to grade and graduating.

11 4. The Florida State University School, as a lab
12 school, is authorized to expend from its FEFP or Lottery
13 Enhancement Trust Fund allocation the cost to the student of
14 remediation in reading, writing, or mathematics for any
15 graduate who requires remediation at a postsecondary
16 educational institution.

17 5. Beginning in the 1999-2000 school year, dropout
18 prevention programs as defined in ss. 1003.52, 1003.53(1)(a),
19 (b), and (c), and 1003.54 shall be included in group 1
20 programs under subparagraph (d)3.

21
22 Reviser's note.--Amended to confirm the
23 editorial substitution of a reference to s.
24 985.19 for a reference to s. 985.223 to conform
25 to the redesignation of the section by s. 30,
26 ch. 2006-120, Laws of Florida.

27
28 Section 178. Subsection (1) of section 1011.71,
29 Florida Statutes, is amended to read:

30 1011.71 District school tax.--
31

1 (1) If the district school tax is not provided in the
2 General Appropriations Act or the substantive bill
3 implementing the General Appropriations Act, each district
4 school board desiring to participate in the state allocation
5 of funds for current operation as prescribed by s. 1011.62(11)
6 ~~1011.62(10)~~ shall levy on the taxable value for school
7 purposes of the district, exclusive of millage voted under the
8 provisions of s. 9(b) or s. 12, Art. VII of the State
9 Constitution, a millage rate not to exceed the amount
10 certified by the commissioner as the minimum millage rate
11 necessary to provide the district required local effort for
12 the current year, pursuant to s. 1011.62(4)(a)1. In addition
13 to the required local effort millage levy, each district
14 school board may levy a nonvoted current operating
15 discretionary millage. The Legislature shall prescribe
16 annually in the appropriations act the maximum amount of
17 millage a district may levy.

18
19 Reviser's note.--Amended to correct an
20 erroneous reference. Section 1011.62(10)
21 relates to quality assurance guarantee; s.
22 1011.62(11) relates to total allocation of
23 state funds to each district for current
24 operation.

25
26 Section 179. Subsection (6) of section 1012.21,
27 Florida Statutes, is amended to read:

28 1012.21 Department of Education duties; K-12
29 personnel.--

30 (6) REPORTING.--The Department of Education shall
31 annually post online links to each school district's

1 collective bargaining contracts and the salary and benefits of
2 the personnel or officers of any educator association which
3 were paid by the school district pursuant to s. 1012.22. ~~The~~
4 ~~department shall prescribe the computer format for district~~
5 ~~school boards to use in providing the information.~~

6
7 Reviser's note.--Amended to delete language
8 that has served its purpose and was included in
9 House Bill 7087, 2006 Regular Session, in
10 error. The language related to past procedure
11 when the Department of Education was to post
12 the information, not the links to the
13 information as currently referenced.

14
15 Section 180. Paragraph (i) of subsection (1) and
16 subsection (3) of section 1012.22, Florida Statutes, are
17 amended to read:

18 1012.22 Public school personnel; powers and duties of
19 the district school board.--The district school board shall:

20 (1) Designate positions to be filled, prescribe
21 qualifications for those positions, and provide for the
22 appointment, compensation, promotion, suspension, and
23 dismissal of employees as follows, subject to the requirements
24 of this chapter:

25 (i) Comprehensive program of staff development.--The
26 district school board shall establish a comprehensive program
27 of staff development that incorporates school improvement
28 plans pursuant to s. 1001.42 and is aligned with principal
29 leadership training pursuant to s. 1012.986 ~~1012.985~~ as a part
30 of the plan.

31

1 ~~(3) Annually provide to the Department of Education~~
2 ~~the negotiated collective bargaining contract for the school~~
3 ~~district and the salary and benefits for the personnel or~~
4 ~~officers of any educator association which are paid by the~~
5 ~~school district. The district school board shall report using~~
6 ~~the computer format prescribed by the department pursuant to~~
7 ~~s. 1012.21.~~

8
9 Reviser's note.--Paragraph (1)(i) is amended to
10 correct an erroneous reference. Section
11 1012.985 relates to a statewide system for
12 inservice professional development; s. 1012.986
13 provides for a leadership professional
14 development program for principals. Subsection
15 (3) is deleted to correct an error in House
16 Bill 7087, 2006 Regular Session. Subsection (3)
17 relates to past procedure when the Department
18 of Education was to post the information, not
19 the links to the information as currently
20 referenced.

21
22 Section 181. Section 1013.11, Florida Statutes, is
23 amended to read:

24 1013.11 Postsecondary institutions assessment of
25 physical plant safety.--The president of each postsecondary
26 institution shall conduct or cause to be conducted an annual
27 assessment of physical plant safety. An annual report shall
28 incorporate the findings obtained through such assessment and
29 recommendations for the improvement of safety on each campus.
30 The annual report shall be submitted to the respective
31 governing or licensing board of jurisdiction no later than

1 January 1 of each year. Each board shall compile the
2 individual institutional reports and convey the aggregate
3 institutional reports to the Commissioner of Education. The
4 Commissioner of Education shall convey these reports and the
5 reports required in s. 1006.67 ~~1008.48~~ to the President of the
6 Senate and the Speaker of the House of Representatives no
7 later than March 1 of each year.

8
9 Reviser's note.--Amended to correct an
10 erroneous reference. Section 1008.48 never has
11 existed. Prior to the School Code rewrite in
12 2002, material now in s. 1013.11 was at s.
13 240.2684. Section 240.2684 referenced reports
14 required in s. 240.2683 regarding campus crime
15 statistics; that material is now located in s.
16 1006.67.

17
18 Section 182. Subsection (1) of section 1013.721,
19 Florida Statutes, is amended to read:

20 1013.721 A Business-Community (ABC) School Program.--

21 (1) In order to increase business partnerships in
22 education, to reduce school and classroom overcrowding
23 throughout the state, ~~and~~ to offset the high costs of
24 educational facilities construction, and to use due diligence
25 and sound business practices in using available educational
26 space, the Legislature intends to encourage the formation of
27 partnerships between business and education by creating A
28 Business-Community (ABC) School Program.

29
30 Reviser's note.--Amended to confirm the
31 editorial deletion of the word "and" preceding

1 | the word "to" to conform to a standard style
2 | relating to listing of elements in a series.
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