

1                   A reviser's bill to be entitled  
2           An act relating to the Florida Statutes; amending ss.  
3           11.0451, 39.5085, 39.6013, 39.6221, 61.076, 63.032,  
4           110.1155, 112.32151, 163.370, 166.271, 171.205, 189.4155,  
5           195.096, 196.012, 201.0205, 202.24, 205.1975, 212.08,  
6           213.053, 213.0535, 215.82, 218.64, 220.181, 220.183,  
7           250.01, 250.82, 250.84, 252.35, 255.25001, 259.1053,  
8           260.016, 287.0574, 288.039, 288.1045, 288.106, 288.90151,  
9           290.0057, 290.0072, 320.77, 322.2615, 328.64, 331.312,  
10          331.313, 331.316, 331.319, 331.324, 336.68, 341.840,  
11          366.93, 370.063, 375.065, 376.30, 376.301, 376.303,  
12          376.305, 376.307, 376.3071, 376.3075, 376.30781, 376.3079,  
13          376.308, 376.309, 376.313, 376.315, 376.317, 376.82,  
14          376.84, 380.06, 380.23, 381.028, 400.0073, 400.0074,  
15          400.0075, 400.506, 402.164, 403.091, 403.5175, 403.526,  
16          403.5271, 403.528, 403.7043, 403.708, 408.036, 408.802,  
17          408.803, 408.806, 408.820, 408.832, 409.1685, 409.221,  
18          409.908, 409.912, 409.91211, 419.001, 421.49, 429.07,  
19          429.35, 429.69, 429.73, 429.903, 429.909, 429.915,  
20          429.919, 435.03, 435.04, 456.072, 458.348, 458.3485,  
21          459.025, 482.242, 483.285, 489.127, 489.128, 489.131,  
22          489.532, 497.461, 499.029, 500.511, 501.016, 501.143,  
23          501.160, 509.233, 516.05, 551.101, 559.939, 607.0130,  
24          607.193, 620.2113, 620.2118, 620.8911, 624.5105, 626.022,  
25          626.171, 626.935, 626.9912, 627.351, 627.6617, 633.0245,  
26          679.4031, 679.707, 727.109, 736.1001, 736.1209, 743.09,  
27          775.21, 794.056, 817.36, 827.06, 847.001, 849.09, 849.15,  
28          921.0022, 933.07, 943.0435, 943.325, 944.606, 944.607,

29 984.19, 985.483, 985.565, 1001.25, 1001.73, 1002.01,  
 30 1002.20, 1002.335, 1003.51, 1004.28, 1008.33, 1008.345,  
 31 1011.62, 1011.71, 1012.21, 1012.22, 1013.11, and 1013.721,  
 32 F.S.; reenacting and amending s. 215.559, F.S.; reenacting  
 33 ss. 316.006 and 1008.22, F.S.; and repealing ss. 253.421,  
 34 253.422, 288.1231, 288.1232, 288.1233, 288.1235, 288.1236,  
 35 288.1237, and 947.022, F.S.; pursuant to s. 11.242, F.S.;  
 36 deleting provisions that have expired, have become  
 37 obsolete, have had their effect, have served their  
 38 purpose, or have been impliedly repealed or superseded;  
 39 replacing incorrect cross-references and citations;  
 40 correcting grammatical, typographical, and like errors;  
 41 removing inconsistencies, redundancies, and unnecessary  
 42 repetition in the statutes; improving the clarity of the  
 43 statutes and facilitating their correct interpretation;  
 44 confirming the restoration of provisions unintentionally  
 45 omitted from republication in the acts of the Legislature  
 46 during the amendatory process; and conforming to the  
 47 directive of the Legislature in s. 1, ch. 93-199, Laws of  
 48 Florida, to remove gender-specific references applicable  
 49 to human beings from the Florida Statutes without  
 50 substantive change in legal effect; providing an effective  
 51 date.

52  
 53 Be It Enacted by the Legislature of the State of Florida:

54  
 55 Section 1. Section 11.0451, Florida Statutes, is amended  
 56 to read:

57 | 11.0451 Requirements for reinstatement of lobbyist  
 58 | registration after felony conviction.--A person convicted of a  
 59 | felony after January 1, 2006, may not be registered as a  
 60 | lobbyist pursuant to s. 11.045 ~~or s. 112.3125~~ until the person:

61 | (1) Has been released from incarceration and any  
 62 | postconviction supervision, and has paid all court costs and  
 63 | court-ordered restitution; and

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

65 |

66 | Reviser's note.--Amended to delete redundancy in the  
 67 | statutes, as such prohibition relating to executive  
 68 | branch lobbyist registration already exists in s.  
 69 | 112.32151.

70 |

71 | Section 2. Paragraph (a) of subsection (2) of section  
 72 | 39.5085, Florida Statutes, is amended to read:

73 | 39.5085 Relative Caregiver Program.--

74 | (2) (a) The Department of Children and Family Services  
 75 | shall establish and operate the Relative Caregiver Program  
 76 | pursuant to eligibility guidelines established in this section  
 77 | as further implemented by rule of the department. The Relative  
 78 | Caregiver Program shall, within the limits of available funding,  
 79 | provide financial assistance to:

80 | 1. Relatives who are within the fifth degree by blood or  
 81 | marriage to the parent or stepparent of a child and who are  
 82 | caring full-time for that dependent child in the role of  
 83 | substitute parent as a result of a court's determination of  
 84 | child abuse, neglect, or abandonment and subsequent placement

85 | with the relative under this chapter.

86 |         2. Relatives who are within the fifth degree by blood or  
 87 | marriage to the parent or stepparent of a child and who are  
 88 | caring full-time for that dependent child, and a dependent half-  
 89 | brother or half-sister of that dependent child, in the role of  
 90 | substitute parent as a result of a court's determination of  
 91 | child abuse, neglect, or abandonment and subsequent placement  
 92 | with the relative under this chapter.

93 |  
 94 | The placement may be court-ordered temporary legal custody to  
 95 | the relative under protective supervision of the department  
 96 | pursuant to s. 39.521(1)(b)3., or court-ordered placement in the  
 97 | home of a relative as a permanency option under s. 39.6221 or s.  
 98 | 39.6231 or under former s. 39.622 if the placement was made  
 99 | before July 1, 2006. The Relative Caregiver Program shall offer  
 100 | financial assistance to caregivers who are relatives and who  
 101 | would be unable to serve in that capacity without the relative  
 102 | caregiver payment because of financial burden, thus exposing the  
 103 | child to the trauma of placement in a shelter or in foster care.

104 |  
 105 |         Reviser's note.--Amended to conform to the repeal of  
 106 | s. 39.622 by s. 35, ch. 2006-86, Laws of Florida.

107 |  
 108 |         Section 3. Subsection (7) of section 39.6013, Florida  
 109 | Statutes, is amended to read:

110 |         39.6013 Case plan amendments.--  
 111 |         (7) Amendments must include service interventions that are  
 112 | the least intrusive into the life of the parent and child, must

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113 focus on clearly defined objectives, and must provide the most  
114 efficient path to quick reunification or permanent placement  
115 given the circumstances of the case and the child's need for  
116 safe and proper care. A copy of the amended plan must be  
117 immediately given to the persons identified in s. 39.6011(6)(b)  
118 ~~39.601(1)~~.

119  
120 Reviser's note.--Amended to conform to the repeal of  
121 s. 39.601 by s. 35, ch. 2006-86, Laws of Florida; s.  
122 39.6011(6)(b), created by s. 15, ch. 2006-86,  
123 references persons who must receive case plan copies.

124  
125 Section 4. Subsection (3) of section 39.6221, Florida  
126 Statutes, is amended to read:

127 39.6221 Permanent guardianship of a dependent child.--  
128 (3) The court shall give the permanent guardian a separate  
129 order establishing the authority of the permanent guardian to  
130 care for the child, ~~reciting what powers and duties listed in~~  
131 ~~paragraph (2)(g) belong to the permanent guardian~~ and providing  
132 any other information the court deems proper which can be  
133 provided to persons who are not parties to the proceeding as  
134 necessary, notwithstanding the confidentiality provisions of s.  
135 39.202.

136  
137 Reviser's note.--Amended to conform to the fact that  
138 paragraph (2)(g) does not exist; the original version  
139 of s. 39.6221, as created by Senate Bill 1080, 2006  
140 Regular Session, did include a paragraph (2)(g)

141 containing a list of powers and duties, but that  
 142 paragraph was deleted from the bill before passage.

143  
 144 Section 5. Paragraph (b) of subsection (2) of section  
 145 61.076, Florida Statutes, is amended to read:

146 61.076 Distribution of retirement plans upon dissolution  
 147 of marriage.--

148 (2) If the parties were married for at least 10 years,  
 149 during which at least one of the parties who was a member of the  
 150 federal uniformed services performed at least 10 years of  
 151 creditable service, and if the division of marital property  
 152 includes a division of uniformed services retired or retainer  
 153 pay, the final judgment shall include the following:

154 (b) Certification that the  Servicemembers'  ~~Soldiers' and~~   
 155  ~~Sailors'~~  Civil Relief Act  ~~of 1940~~  was observed if the decree was  
 156 issued while the member was on active duty and was not  
 157 represented in court;

158  
 159 Reviser's note.--Amended to conform to the  
 160 redesignation of the federal act in Title 50 United  
 161 States Code.

162  
 163 Section 6. Subsection (17) of section 63.032, Florida  
 164 Statutes, is amended to read:

165 63.032 Definitions.--As used in this chapter, the term:

166 (17) "Primarily lives and works outside Florida" means a  
 167 person who lives and works outside this state at least 6 months  
 168 of the year, military personnel who designate Florida as their

169 | place of residence in accordance with the Servicemembers'  
 170 | ~~Soldiers' and Sailors'~~ Civil Relief Act of ~~1940~~, or employees of  
 171 | the United States Department of State living in a foreign  
 172 | country who designate a state other than Florida as their place  
 173 | of residence.

174 |  
 175 |       Reviser's note.--Amended to conform to the  
 176 |       redesignation of the federal act in Title 50 United  
 177 |       States Code.

178 |  
 179 |       Section 7. Subsection (1) of section 110.1155, Florida  
 180 | Statutes, is amended to read:

181 |       110.1155 Travel to or conducting business with a country  
 182 | in the Western Hemisphere lacking diplomatic relations with the  
 183 | United States.--

- 184 |       (1) An officer, employee, agent, or representative of:  
 185 |       (a) A state agency;  
 186 |       (b) A political subdivision of the state; or  
 187 |       (c) A corporation, partnership, association, or other  
 188 | entity that does business or contracts with a state agency,  
 189 | receives state funds, or claims a credit against any tax imposed  
 190 | by the state

191 |  
 192 | may not travel to or do business with any country located in the  
 193 | Western Hemisphere which lacks diplomatic relations with the  
 194 | United States.

195 |  
 196 |       Reviser's note.--Material regarding a prohibition of

197 travel or doing business with any country meeting  
 198 specifications set out at the end of what was  
 199 paragraph (1)(c) was placed in a flush left paragraph  
 200 at the end of subsection (1) to apply to the listed  
 201 items in paragraphs (a)-(c) to provide clarity and  
 202 facilitate correct interpretation.

203  
 204 Section 8. Section 112.32151, Florida Statutes, is amended  
 205 to read:

206 112.32151 Requirements for reinstatement of lobbyist  
 207 registration after felony conviction.--A person convicted of a  
 208 felony after January 1, 2006, may not be registered as a  
 209 lobbyist pursuant to s. 112.3215 ~~11.045~~ or s. ~~112.3125~~ until the  
 210 person:

211 (1) Has been released from incarceration and any  
 212 postconviction supervision, and has paid all court costs and  
 213 court-ordered restitution; and

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

215  
 216 Reviser's note.--Amended to delete redundancy in the  
 217 statutes, as such prohibition relating to legislative  
 218 lobbyist registration already exists in s. 11.0451,  
 219 and to confirm the editorial substitution of a  
 220 reference to s. 112.3215 for a reference to  
 221 nonexistent s. 112.3125; s. 112.3215 relates to  
 222 registration of lobbyists who lobby before the  
 223 executive branch or Constitution Revision Commission.

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225 Section 9. Paragraph (a) of subsection (4) of section  
 226 163.370, Florida Statutes, is amended to read:

227 163.370 Powers; counties and municipalities; community  
 228 redevelopment agencies.--

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

231 (a) Prior to approval of a community redevelopment plan or  
 232 approval of any modifications of the plan, acquire real property  
 233 in a community redevelopment area by purchase, lease, option,  
 234 gift, grant, bequest, devise, or other voluntary method of  
 235 acquisition; demolish and remove any structures on the property;  
 236 and pay all costs related to the acquisition, demolition, or  
 237 removal, including any administrative or relocation expenses,  
 238 ~~provided such acquisition is not pursuant to s. 163.375.~~

239  
 240 Reviser's note.--Amended to conform to the repeal of  
 241 s. 163.375 by s. 11, ch. 2006-11, Laws of Florida.

242  
 243 Section 10. Subsection (1) and paragraph (a) of subsection  
 244 (2) of section 166.271, Florida Statutes, are amended to read:

245 166.271 Surcharge on municipal facility parking fees.--

246 (1) The governing authority of any municipality with a  
 247 resident population of 200,000 or more, more than 20 percent of  
 248 the real property of which is exempt from ad valorem taxes, and  
 249 which is located in a county with a population of more than  
 250 500,000 may impose and collect, subject to referendum approval  
 251 by voters in the municipality, a discretionary per vehicle  
 252 surcharge of up to 15 percent of the amount charged for the

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253 sale, lease, or rental of space at parking facilities within the  
 254 municipality which are open for use to the general public and  
 255 which are not airports, seaports, county administration  
 256 buildings, or other projects as defined under ss. 125.011 and  
 257 125.015, provided that this surcharge shall not take effect  
 258 while any surcharge imposed pursuant to s. 218.503(6)(a)  
 259 ~~218.503(5)(a)~~, is in effect.

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

263 (a) No less than 60 percent and no more than 80 percent of  
 264 surcharge proceeds shall be used to reduce the municipality's ad  
 265 valorem tax millage or to reduce or eliminate non-ad valorem  
 266 assessments, unless the municipality has previously used the  
 267 proceeds from the surcharge levied under s. 218.503(6)(b)  
 268 ~~218.503(5)(b)~~ to reduce the municipality's ad valorem tax  
 269 millage or to reduce non-ad valorem assessments.

270  
 271 Reviser's note.--Amended to conform to the addition of  
 272 new s. 218.503(4) and the redesignation of following  
 273 subunits by s. 5, ch. 2006-190, Laws of Florida.

274  
 275 Section 11. Subsection (2) of section 171.205, Florida  
 276 Statutes, is amended to read:

277 171.205 Consent requirements for annexation of land under  
 278 this part.--Notwithstanding part I, an interlocal service  
 279 boundary agreement may provide a process for annexation  
 280 consistent with this section or with part I.

281 (2) If the area to be annexed includes a privately owned  
 282 solid waste disposal facility as defined in s. 403.703(11) which  
 283 receives municipal solid waste collected within the jurisdiction  
 284 of multiple local governments, the annexing municipality must  
 285 set forth in its plan the effects ~~affects~~ that the annexation of  
 286 the solid waste disposal facility will have on the other local  
 287 governments. The plan must also indicate that the owner of the  
 288 affected solid waste disposal facility has been contacted in  
 289 writing concerning the annexation, that an agreement between the  
 290 annexing municipality and the solid waste disposal facility to  
 291 govern the operations of the solid waste disposal facility if  
 292 the annexation occurs has been approved, and that the owner of  
 293 the solid waste disposal facility does not object to the  
 294 proposed annexation.

295  
 296 Reviser's note.--Amended to confirm the editorial  
 297 substitution of the word "effects" for the word  
 298 "affects" to conform to context.

299  
 300 Section 12. Subsection (6) of section 189.4155, Florida  
 301 Statutes, is amended to read:

302 189.4155 Activities of special districts; local government  
 303 comprehensive planning.--

304 (6) Any independent district created under a special act  
 305 or general law, including, but not limited to, this chapter,  
 306 chapter 190, chapter 191, or chapter 298, for the purpose of  
 307 providing urban infrastructure or ~~of~~ services may provide  
 308 housing and housing assistance for its employed personnel whose

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309 total annual household income does not exceed 140 percent of the  
310 area median income, adjusted for family size.

311

312 Reviser's note.--Amended to confirm the editorial  
313 substitution of the word "or" for the word "of" to  
314 conform to context.

315

316 Section 13. Paragraph (f) of subsection (2) of section  
317 195.096, Florida Statutes, is amended to read:

318 195.096 Review of assessment rolls.--

319 (2) The department shall conduct, no less frequently than  
320 once every 2 years, an in-depth review of the assessment rolls  
321 of each county. The department need not individually study every  
322 use-class of property set forth in s. 195.073, but shall at a  
323 minimum study the level of assessment in relation to just value  
324 of each classification specified in subsection (3). Such in-  
325 depth review may include proceedings of the value adjustment  
326 board and the audit or review of procedures used by the counties  
327 to appraise property.

328 (f) Within 120 days following the receipt of a county  
329 assessment roll by the executive director of the department  
330 pursuant to s. 193.1142(1), or within 10 days after approval of  
331 the assessment roll, whichever is later, the department shall  
332 complete the review for that county and forward its findings,  
333 including a statement of the confidence interval for the median  
334 and such other measures as may be appropriate for each  
335 classification or subclassification studied and for the roll as  
336 a whole, employing a 95-percent level of confidence, and related

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337 statistical and analytical details to the Senate and the House  
338 of Representatives committees with oversight responsibilities  
339 for taxation, and the appropriate property appraiser. Upon  
340 releasing its findings, the department shall notify the  
341 chairperson of the appropriate county commission or the  
342 corresponding official under a consolidated charter that the  
343 department's findings are available upon request. The department  
344 shall, within 90 days after receiving a written request from the  
345 chairperson of the appropriate county commission or the  
346 corresponding official under a consolidated charter, forward a  
347 copy of its findings, including the confidence interval for the  
348 median and such other measures of each classification or  
349 subclassification studied ~~studies~~ and for all the roll as a  
350 whole, and related statistical and analytical details, to the  
351 requesting party.

352  
353 Reviser's note.--Amended to confirm the editorial  
354 substitution of the word "studied" for the word  
355 "studies" to conform to context.

356  
357 Section 14. Subsection (6) of section 196.012, Florida  
358 Statutes, is amended to read:

359 196.012 Definitions.--For the purpose of this chapter, the  
360 following terms are defined as follows, except where the context  
361 clearly indicates otherwise:

362 (6) Governmental, municipal, or public purpose or function  
363 shall be deemed to be served or performed when the lessee under  
364 any leasehold interest created in property of the United States,

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365 the state or any of its political subdivisions, or any  
366 municipality, agency, special district, authority, or other  
367 public body corporate of the state is demonstrated to perform a  
368 function or serve a governmental purpose which could properly be  
369 performed or served by an appropriate governmental unit or which  
370 is demonstrated to perform a function or serve a purpose which  
371 would otherwise be a valid subject for the allocation of public  
372 funds. For purposes of the preceding sentence, an activity  
373 undertaken by a lessee which is permitted under the terms of its  
374 lease of real property designated as an aviation area on an  
375 airport layout plan which has been approved by the Federal  
376 Aviation Administration and which real property is used for the  
377 administration, operation, business offices and activities  
378 related specifically thereto in connection with the conduct of  
379 an aircraft full service fixed base operation which provides  
380 goods and services to the general aviation public in the  
381 promotion of air commerce shall be deemed an activity which  
382 serves a governmental, municipal, or public purpose or function.  
383 Any activity undertaken by a lessee which is permitted under the  
384 terms of its lease of real property designated as a public  
385 airport as defined in s. 332.004(14) by municipalities,  
386 agencies, special districts, authorities, or other public bodies  
387 corporate and public bodies politic of the state, a spaceport as  
388 defined in s. 331.303, or which is located in a deepwater port  
389 identified in s. 403.021(9)(b) and owned by one of the foregoing  
390 governmental units, subject to a leasehold or other possessory  
391 interest of a nongovernmental lessee that is deemed to perform  
392 an aviation, airport, aerospace, maritime, or port purpose or

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393 operation shall be deemed an activity that serves a  
394 governmental, municipal, or public purpose. The use by a lessee,  
395 licensee, or management company of real property or a portion  
396 thereof as a convention center, visitor center, sports facility  
397 with permanent seating, concert hall, arena, stadium, park, or  
398 beach is deemed a use that serves a governmental, municipal, or  
399 public purpose or function when access to the property is open  
400 to the general public with or without a charge for admission. If  
401 property deeded to a municipality by the United States is  
402 subject to a requirement that the Federal Government, through a  
403 schedule established by the Secretary of the Interior, determine  
404 that the property is being maintained for public historic  
405 preservation, park, or recreational purposes and if those  
406 conditions are not met the property will revert back to the  
407 Federal Government, then such property shall be deemed to serve  
408 a municipal or public purpose. The term "governmental purpose"  
409 also includes a direct use of property on federal lands in  
410 connection with the Federal Government's Space Exploration  
411 Program or spaceport activities as defined in s. 212.02(22).  
412 Real property and tangible personal property owned by the  
413 Federal Government or Space Florida and used for defense and  
414 space exploration purposes or which is put to a use in support  
415 thereof shall be deemed to perform an essential national  
416 governmental purpose and shall be exempt. "Owned by the lessee"  
417 as used in this chapter does not include personal property,  
418 buildings, or other real property improvements used for the  
419 administration, operation, business offices and activities  
420 related specifically thereto in connection with the conduct of

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421 an aircraft full service fixed based operation which provides  
 422 goods and services to the general aviation public in the  
 423 promotion of air commerce provided that the real property is  
 424 designated as an aviation area on an airport layout plan  
 425 approved by the Federal Aviation Administration. For purposes of  
 426 determination of "ownership," buildings and other real property  
 427 improvements which will revert to the airport authority or other  
 428 governmental unit upon expiration of the term of the lease shall  
 429 be deemed "owned" by the governmental unit and not the lessee.  
 430 Providing two-way telecommunications services to the public for  
 431 hire by the use of a telecommunications facility, as defined in  
 432 s. 364.02(15), and for which a certificate is required under  
 433 chapter 364 does not constitute an exempt use for purposes of s.  
 434 196.199, unless the telecommunications services are provided by  
 435 the operator of a public-use airport, as defined in s. 332.004,  
 436 for the operator's provision of telecommunications services for  
 437 the airport or its tenants, concessionaires, or licensees, or  
 438 unless the telecommunications services are provided by a public  
 439 hospital. ~~However, property that is being used to provide such~~  
 440 ~~telecommunications services on or before October 1, 1997, shall~~  
 441 ~~remain exempt, but such exemption expires October 1, 2004.~~

442  
 443 Reviser's note.--Amended to delete a provision that  
 444 has served its purpose.

445  
 446 Section 15. Section 201.0205, Florida Statutes, is amended  
 447 to read:  
 448 201.0205 Counties that have implemented ch. 83-220;



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449 inapplicability of 10-cent tax increase by s. 2, ch. 92-317,  
 450 Laws of Florida.--The 10-cent tax increase in the documentary  
 451 stamp tax levied by s. 2, chapter 92-317, does not apply to  
 452 deeds and other taxable instruments relating to real property  
 453 located in any county that has implemented the provisions of  
 454 chapter 83-220, Laws of Florida, as amended by chapters 84-270,  
 455 86-152, and 89-252, Laws of Florida. Each such county and each  
 456 eligible jurisdiction within such county shall not be eligible  
 457 to participate in programs funded pursuant to s. 201.15(9)  
 458 ~~201.15(6)~~. However, each such county and each eligible  
 459 jurisdiction within such county shall be eligible to participate  
 460 in programs funded pursuant to s. 201.15(10) ~~201.15(7)~~.

461

462 Reviser's note.--Amended to conform to the  
 463 redesignation of subunits within s. 201.15 by s. 2,  
 464 ch. 99-247, Laws of Florida.

465

466 Section 16. Paragraph (c) of subsection (2) of section  
 467 202.24, Florida Statutes, is amended to read:

468 202.24 Limitations on local taxes and fees imposed on  
 469 dealers of communications services.--

470 (2)

471 (c) This subsection does not apply to:

472 1. Local communications services taxes levied under this  
 473 chapter.

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

475 3. Business Occupational license taxes levied under  
 476 chapter 205.

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- 477 4. "911" service charges levied under chapter 365.
- 478 5. Amounts charged for the rental or other use of property  
479 owned by a public body which is not in the public rights-of-way  
480 to a dealer of communications services for any purpose,  
481 including, but not limited to, the placement or attachment of  
482 equipment used in the provision of communications services.
- 483 6. Permit fees of general applicability which are not  
484 related to placing or maintaining facilities in or on public  
485 roads or rights-of-way.
- 486 7. Permit fees related to placing or maintaining  
487 facilities in or on public roads or rights-of-way pursuant to s.  
488 337.401.
- 489 8. Any in-kind requirements, institutional networks, or  
490 contributions for, or in support of, the use or construction of  
491 public, educational, or governmental access facilities allowed  
492 under federal law and imposed on providers of cable service  
493 pursuant to any ordinance or agreement. Nothing in this  
494 subparagraph shall prohibit the ability of providers of cable  
495 service to recover such expenses as allowed under federal law.
- 496 9. Special assessments and impact fees.
- 497 10. Pole attachment fees that are charged by a local  
498 government for attachments to utility poles owned by the local  
499 government.
- 500 11. Utility service fees or other similar user fees for  
501 utility services.
- 502 12. Any other generally applicable tax, fee, charge, or  
503 imposition authorized by general law on July 1, 2000, which is  
504 not specifically prohibited by this subsection or included as a

505 replaced revenue source in s. 202.20.

506

507 Reviser's note.--Amended to conform to the  
 508 redesignation of occupational license taxes in chapter  
 509 205 as business taxes by ch. 2006-152, Laws of  
 510 Florida.

511

512 Section 17. Section 205.1975, Florida Statutes, is amended  
 513 to read:

514 205.1975 Household moving services; consumer  
 515 protection.--A county or municipality may not issue or renew a  
 516 business tax receipt ~~occupational license~~ for the operation of a  
 517 mover or moving broker under chapter 507 unless the mover or  
 518 broker exhibits a current registration from the Department of  
 519 Agriculture and Consumer Services.

520

521 Reviser's note.--Amended to confirm the editorial  
 522 substitution of the term "business tax receipt" for  
 523 the term "occupational license" to conform to usage  
 524 throughout chapter 205 as amended by ch. 2006-152,  
 525 Laws of Florida.

526

527 Section 18. Paragraph (p) of subsection (5) of section  
 528 212.08, Florida Statutes, is amended to read:

529 212.08 Sales, rental, use, consumption, distribution, and  
 530 storage tax; specified exemptions.--The sale at retail, the  
 531 rental, the use, the consumption, the distribution, and the  
 532 storage to be used or consumed in this state of the following

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533 are hereby specifically exempt from the tax imposed by this  
534 chapter.

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

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

537 1. Authorization.--Persons who are registered with the  
538 department under s. 212.18 to collect or remit sales or use tax  
539 and who make donations to eligible sponsors are eligible for tax  
540 credits against their state sales and use tax liabilities as  
541 provided in this paragraph:

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

544 b. The credit shall be granted as a refund against state  
545 sales and use taxes reported on returns and remitted in the 12  
546 months preceding the date of application to the department for  
547 the credit as required in sub-subparagraph 3.c. If the annual  
548 credit is not fully used through such refund because of  
549 insufficient tax payments during the applicable 12-month period,  
550 the unused amount may be included in an application for a refund  
551 made pursuant to sub-subparagraph 3.c. in subsequent years  
552 against the total tax payments made for such year. Carryover  
553 credits may be applied for a 3-year period without regard to any  
554 time limitation that would otherwise apply under s. 215.26.

555 c. A person may not receive more than \$200,000 in annual  
556 tax credits for all approved community contributions made in any  
557 one year.

558 d. All proposals for the granting of the tax credit  
559 require the prior approval of the Office of Tourism, Trade, and  
560 Economic Development.

561 e. The total amount of tax credits which may be granted  
562 for all programs approved under this paragraph, s. 220.183, and  
563 s. 624.5105 is \$10.5 million annually for projects that provide  
564 homeownership opportunities for low-income or very-low-income  
565 households as defined in s. 420.9071(19) and (28) and \$3.5  
566 million annually for all other projects.

567 f. A person who is eligible to receive the credit provided  
568 for in this paragraph, s. 220.183, or s. 624.5105 may receive  
569 the credit only under the one section of the person's choice.

570 2. Eligibility requirements.--

571 a. A community contribution by a person must be in the  
572 following form:

573 (I) Cash or other liquid assets;

574 (II) Real property;

575 (III) Goods or inventory; or

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

578 b. All community contributions must be reserved  
579 exclusively for use in a project. As used in this sub-  
580 subparagraph, the term "project" means any activity undertaken  
581 by an eligible sponsor which is designed to construct, improve,  
582 or substantially rehabilitate housing that is affordable to low-  
583 income or very-low-income households as defined in s.  
584 420.9071(19) and (28); designed to provide commercial,  
585 industrial, or public resources and facilities; or designed to  
586 improve entrepreneurial and job-development opportunities for  
587 low-income persons. A project may be the investment necessary to  
588 increase access to high-speed broadband capability in rural

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589 communities with enterprise zones, including projects that  
590 result in improvements to communications assets that are owned  
591 by a business. A project may include the provision of museum  
592 educational programs and materials that are directly related to  
593 any project approved between January 1, 1996, and December 31,  
594 1999, and located in an enterprise zone designated pursuant to  
595 s. 290.0065. This paragraph does not preclude projects that  
596 propose to construct or rehabilitate housing for low-income or  
597 very-low-income households on scattered sites. With respect to  
598 housing, contributions may be used to pay the following eligible  
599 low-income and very-low-income housing-related activities:

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

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

604 (III) Administrative costs, including housing counseling  
605 and marketing fees, not to exceed 10 percent of the community  
606 contribution, directly related to low-income or very-low-income  
607 projects; and

608 (IV) Removal of liens recorded against residential  
609 property by municipal, county, or special district local  
610 governments when satisfaction of the lien is a necessary  
611 precedent to the transfer of the property to an eligible person,  
612 as defined in s. 420.9071(19) and (28), for the purpose of  
613 promoting home ownership. Contributions for lien removal must be  
614 received from a nonrelated third party.

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

- 617 (I) A community action program;
- 618 (II) A nonprofit community-based development organization
- 619 whose mission is the provision of housing for low-income or
- 620 very-low-income households or increasing entrepreneurial and
- 621 job-development opportunities for low-income persons;
- 622 (III) A neighborhood housing services corporation;
- 623 (IV) A local housing authority created under chapter 421;
- 624 (V) A community redevelopment agency created under s.
- 625 163.356;
- 626 (VI) The Florida Industrial Development Corporation;
- 627 (VII) A historic preservation district agency or
- 628 organization;
- 629 (VIII) A regional workforce board;
- 630 (IX) A direct-support organization as provided in s.
- 631 1009.983;
- 632 (X) An enterprise zone development agency created under s.
- 633 290.0056;
- 634 (XI) A community-based organization incorporated under
- 635 chapter 617 which is recognized as educational, charitable, or
- 636 scientific pursuant to s. 501(c)(3) of the Internal Revenue Code
- 637 and whose bylaws and articles of incorporation include
- 638 affordable housing, economic development, or community
- 639 development as the primary mission of the corporation;
- 640 (XII) Units of local government;
- 641 (XIII) Units of state government; or
- 642 (XIV) Any other agency that the Office of Tourism, Trade,
- 643 and Economic Development designates by rule.
- 644

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645 In no event may a contributing person have a financial interest  
646 in the eligible sponsor.

647 d. The project must be located in an area designated an  
648 enterprise zone or a Front Porch Florida Community pursuant to  
649 s. 20.18(6), unless the project increases access to high-speed  
650 broadband capability for rural communities with enterprise zones  
651 but is physically located outside the designated rural zone  
652 boundaries. Any project designed to construct or rehabilitate  
653 housing for low-income or very-low-income households as defined  
654 in s. 420.9071(19) and (28) ~~420.0971(19) and (28)~~ is exempt from  
655 the area requirement of this sub-subparagraph.

656 e.(I) If, during the first 10 business days of the state  
657 fiscal year, eligible tax credit applications for projects that  
658 provide homeownership opportunities for low-income or very-low-  
659 income households as defined in s. 420.9071(19) and (28) are  
660 received for less than the annual tax credits available for  
661 those projects, the Office of Tourism, Trade, and Economic  
662 Development shall grant tax credits for those applications and  
663 shall grant remaining tax credits on a first-come, first-served  
664 basis for any subsequent eligible applications received before  
665 the end of the state fiscal year. If, during the first 10  
666 business days of the state fiscal year, eligible tax credit  
667 applications for projects that provide homeownership  
668 opportunities for low-income or very-low-income households as  
669 defined in s. 420.9071(19) and (28) are received for more than  
670 the annual tax credits available for those projects, the office  
671 shall grant the tax credits for those applications as follows:

672 (A) If tax credit applications submitted for approved



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673 projects of an eligible sponsor do not exceed \$200,000 in total,  
674 the credits shall be granted in full if the tax credit  
675 applications are approved.

676 (B) If tax credit applications submitted for approved  
677 projects of an eligible sponsor exceed \$200,000 in total, the  
678 amount of tax credits granted pursuant to sub-sub-sub-  
679 subparagraph (A) shall be subtracted from the amount of  
680 available tax credits, and the remaining credits shall be  
681 granted to each approved tax credit application on a pro rata  
682 basis.

683 (II) If, during the first 10 business days of the state  
684 fiscal year, eligible tax credit applications for projects other  
685 than those that provide homeownership opportunities for low-  
686 income or very-low-income households as defined in s.  
687 420.9071(19) and (28) are received for less than the annual tax  
688 credits available for those projects, the office shall grant tax  
689 credits for those applications and shall grant remaining tax  
690 credits on a first-come, first-served basis for any subsequent  
691 eligible applications received before the end of the state  
692 fiscal year. If, during the first 10 business days of the state  
693 fiscal year, eligible tax credit applications for projects other  
694 than those that provide homeownership opportunities for low-  
695 income or very-low-income households as defined in s.  
696 420.9071(19) and (28) are received for more than the annual tax  
697 credits available for those projects, the office shall grant the  
698 tax credits for those applications on a pro rata basis.

699 3. Application requirements.--

700 a. Any eligible sponsor seeking to participate in this

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701 program must submit a proposal to the Office of Tourism, Trade,  
702 and Economic Development which sets forth the name of the  
703 sponsor, a description of the project, and the area in which the  
704 project is located, together with such supporting information as  
705 is prescribed by rule. The proposal must also contain a  
706 resolution from the local governmental unit in which the project  
707 is located certifying that the project is consistent with local  
708 plans and regulations.

709       b. Any person seeking to participate in this program must  
710 submit an application for tax credit to the office which sets  
711 forth the name of the sponsor, a description of the project, and  
712 the type, value, and purpose of the contribution. The sponsor  
713 shall verify the terms of the application and indicate its  
714 receipt of the contribution, which verification must be in  
715 writing and accompany the application for tax credit. The person  
716 must submit a separate tax credit application to the office for  
717 each individual contribution that it makes to each individual  
718 project.

719       c. Any person who has received notification from the  
720 office that a tax credit has been approved must apply to the  
721 department to receive the refund. Application must be made on  
722 the form prescribed for claiming refunds of sales and use taxes  
723 and be accompanied by a copy of the notification. A person may  
724 submit only one application for refund to the department within  
725 any 12-month period.

726       4. Administration.--

727       a. The Office of Tourism, Trade, and Economic Development  
728 may adopt rules pursuant to ss. 120.536(1) and 120.54 necessary

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729 to administer this paragraph, including rules for the approval  
730 or disapproval of proposals by a person.

731 b. The decision of the office must be in writing, and, if  
732 approved, the notification shall state the maximum credit  
733 allowable to the person. Upon approval, the office shall  
734 transmit a copy of the decision to the Department of Revenue.

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

739 d. The office shall, in consultation with the Department  
740 of Community Affairs and the statewide and regional housing and  
741 financial intermediaries, market the availability of the  
742 community contribution tax credit program to community-based  
743 organizations.

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

748  
749 Reviser's note.--Amended to correct an erroneous  
750 reference. Section 420.0971 does not exist; s.  
751 420.9071(19) and (28) define "low-income household"  
752 and "very-low-income household."

753  
754 Section 19. Paragraph (b) of subsection (5) of section  
755 213.053, Florida Statutes, is amended to read:

756 213.053 Confidentiality and information sharing.--

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

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

763  
 764 Reviser's note.--Amended to conform to the repeal of  
 765 s. 199.185 by s. 1, ch. 2006-312, Laws of Florida.

766  
 767 Section 20. Paragraph (a) of subsection (4) of section  
 768 213.0535, Florida Statutes, is amended to read:

769 213.0535 Registration Information Sharing and Exchange  
 770 Program.--

771 (4) There are two levels of participation:

772 (a) Each unit of state or local government responsible for  
 773 administering one or more of the provisions specified in  
 774 subparagraphs 1.-8. is a level-one participant. Level-one  
 775 participants shall exchange, monthly or quarterly, as determined  
 776 jointly by each participant and the department, the data  
 777 enumerated in subsection (2) for each new registrant, new filer,  
 778 or initial reporter, permittee, or licensee, with respect to the  
 779 following taxes, licenses, or permits:

- 780 1. The sales and use tax imposed under chapter 212.
- 781 2. The tourist development tax imposed under s. 125.0104.
- 782 3. The tourist impact tax imposed under s. 125.0108.
- 783 4. Local business ~~occupational license~~ taxes imposed under  
 784 chapter 205.

- 785           5. Convention development taxes imposed under s. 212.0305.  
 786           6. Public lodging and food service establishment licenses  
 787 issued pursuant to chapter 509.  
 788           7. Beverage law licenses issued pursuant to chapter 561.  
 789           8. A municipal resort tax as authorized under chapter 67-  
 790 930, Laws of Florida.

791  
 792           Reviser's note.--Amended to conform to the  
 793 redesignation of local occupational license taxes as  
 794 local business taxes by ch. 2006-152, Laws of Florida.  
 795

796           Section 21. Paragraph (a) of subsection (2) and subsection  
 797 (7) of section 215.559, Florida Statutes, are reenacted, and  
 798 subsection (4) of that section is amended to read:

799           215.559 Hurricane Loss Mitigation Program.--

800           (2)(a) Seven million dollars in funds provided in  
 801 subsection (1) shall be used for programs to improve the wind  
 802 resistance of residences and mobile homes, including loans,  
 803 subsidies, grants, demonstration projects, and direct  
 804 assistance; educating persons concerning the Florida Building  
 805 Code cooperative programs with local governments and the Federal  
 806 Government; and other efforts to prevent or reduce losses or  
 807 reduce the cost of rebuilding after a disaster.

808           (4) Of moneys provided to the Department of Community  
 809 Affairs in paragraph (2)(a), 10 percent shall be allocated to a  
 810 Type I Center within the State University System dedicated to  
 811 hurricane research. The Type I Center shall develop a  
 812 preliminary work plan approved by the advisory council set forth

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813 in subsection (5)~~(6)~~ to eliminate the state and local barriers  
814 to upgrading existing mobile homes and communities, research and  
815 develop a program for the recycling of existing older mobile  
816 homes, and support programs of research and development relating  
817 to hurricane loss reduction devices and techniques for site-  
818 built residences. The State University System also shall consult  
819 with the Department of Community Affairs and assist the  
820 department with the report required under subsection (7)~~(8)~~.

821 (7) On January 1st of each year, the Department of  
822 Community Affairs shall provide a full report and accounting of  
823 activities under this section and an evaluation of such  
824 activities to the Speaker of the House of Representatives, the  
825 President of the Senate, and the Majority and Minority Leaders  
826 of the House of Representatives and the Senate. Upon completion  
827 of the report, the Department of Community Affairs shall deliver  
828 the report to the Office of Insurance Regulation. The Office of  
829 Insurance Regulation shall review the report and shall make such  
830 recommendations available to the insurance industry as the  
831 Office of Insurance Regulation deems appropriate. These  
832 recommendations may be used by insurers for potential discounts  
833 or rebates pursuant to s. 627.0629. The Office of Insurance  
834 Regulation shall make the recommendations within 1 year after  
835 receiving the report.

836

837 Reviser's note.--Paragraph (2)(a) and subsection (7)  
838 are reenacted to confirm the validity of the  
839 amendments to those provisions by s. 1, ch. 2005-147,  
840 Laws of Florida. The Governor vetoed the addition of

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841 what would have been a new subsection (5) by s. 1, ch.  
842 2005-147. Subsection (4) is amended to conform  
843 references within the section to the current location  
844 of the referenced material as a result of the repeal  
845 of former subsection (3) by s. 46, ch. 2006-12, Laws  
846 of Florida.

847  
848 Section 22. Subsection (2) of section 215.82, Florida  
849 Statutes, is amended to read:

850 215.82 Validation; when required.--

851 (2) Any bonds issued pursuant to this act which are  
852 validated shall be validated in the manner provided by chapter  
853 75. In actions to validate bonds to be issued in the name of the  
854 State Board of Education under s. 9(a) and (d), Art. XII of the  
855 State Constitution and bonds to be issued pursuant to chapter  
856 259, the Land Conservation Act of 1972, the complaint shall be  
857 filed in the circuit court of the county where the seat of state  
858 government is situated, the notice required to be published by  
859 s. 75.06 shall be published only in the county where the  
860 complaint is filed, and the complaint and order of the circuit  
861 court shall be served only on the state attorney of the circuit  
862 in which the action is pending. In any action to validate bonds  
863 issued pursuant to former ss. 1010.61-1010.619 or issued  
864 pursuant to s. 9(a)(1), Art. XII of the State Constitution or  
865 issued pursuant to s. 215.605 or s. 338.227, the complaint shall  
866 be filed in the circuit court of the county where the seat of  
867 state government is situated, the notice required to be  
868 published by s. 75.06 shall be published in a newspaper of

869 | general circulation in the county where the complaint is filed  
 870 | and in two other newspapers of general circulation in the state,  
 871 | and the complaint and order of the circuit court shall be served  
 872 | only on the state attorney of the circuit in which the action is  
 873 | pending; provided, however, that if publication of notice  
 874 | pursuant to this section would require publication in more  
 875 | newspapers than would publication pursuant to s. 75.06, such  
 876 | publication shall be made pursuant to s. 75.06.

877 |

878 |       Reviser's note.--Amended to conform to the repeal of  
 879 |       ss. 1010.61-1010.619 by s. 15, ch. 2006-27, Laws of  
 880 |       Florida.

881 |

882 |       Section 23. Paragraph (b) of subsection (3) of section  
 883 | 218.64, Florida Statutes, is amended to read:

884 |       218.64 Local government half-cent sales tax; uses;  
 885 | limitations.--

886 |       (3) Subject to ordinances enacted by the majority of the  
 887 | members of the county governing authority and by the majority of  
 888 | the members of the governing authorities of municipalities  
 889 | representing at least 50 percent of the municipal population of  
 890 | such county, counties may use up to \$2 million annually of the  
 891 | local government half-cent sales tax allocated to that county  
 892 | for funding for any of the following applicants:

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



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

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

220.181 Enterprise zone jobs credit.--

(1)(a) There shall be allowed a credit against the tax imposed by this chapter to any business located in an enterprise zone which demonstrates to the department that, on the date of application, the total number of full-time jobs is greater than the total was 12 months prior to that date. The credit shall be computed as 20 percent of the actual monthly wages paid in this state to each new employee hired when a new job has been created, as defined under s. 220.03(1)(ee) ~~220.03(1)(ff)~~, unless the business is located in a rural enterprise zone, pursuant to s. 290.004(6), in which case the credit shall be 30 percent of the actual monthly wages paid. If no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the credit shall be computed as 30 percent of the actual monthly wages paid in this state to each new employee hired when a new job has been created, unless the business is located in a rural enterprise zone, in which case the credit shall be 45 percent of the actual monthly wages paid, for a period of up to 24 consecutive months. If the new employee hired when a new job is created is a

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925 participant in the welfare transition program, the following  
 926 credit shall be a percent of the actual monthly wages paid: 40  
 927 percent for \$4 above the hourly federal minimum wage rate; 41  
 928 percent for \$5 above the hourly federal minimum wage rate; 42  
 929 percent for \$6 above the hourly federal minimum wage rate; 43  
 930 percent for \$7 above the hourly federal minimum wage rate; and  
 931 44 percent for \$8 above the hourly federal minimum wage rate.

932

933 Reviser's note.--Amended to conform to the repeal of  
 934 former s. 220.03(1)(x) by s. 4, ch. 2006-2, Laws of  
 935 Florida, and the redesignation of subunits as a result  
 936 of that repeal; current s. 220.03(1)(ee) defines "new  
 937 job has been created."

938

939 Section 25. Paragraph (c) of subsection (1) of section  
 940 220.183, Florida Statutes, is amended to read:

941 220.183 Community contribution tax credit.--

942 (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX  
 943 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM  
 944 SPENDING.--

945 (c) The total amount of tax credit which may be granted  
 946 for all programs approved under this section, s. 212.08(5)(p)  
 947 ~~212.08(5)(q)~~, and s. 624.5105 is \$10.5 million annually for  
 948 projects that provide homeownership opportunities for low-income  
 949 or very-low-income households as defined in s. 420.9071(19) and  
 950 (28) and \$3.5 million annually for all other projects.

951

952 Reviser's note.--Amended to conform to the

953 redesignation of s. 212.08(5)(q) as s. 212.08(5)(p) to  
 954 conform to the repeal of former s. 212.08(5)(p) by s.  
 955 2, ch. 2006-2, Laws of Florida.

956  
 957 Section 26. Subsection (20) of section 250.01, Florida  
 958 Statutes, is amended to read:

959 250.01 Definitions.--As used in this chapter, the term:

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

963  
 964 Reviser's note.--Amended to conform to the  
 965 redesignation of the federal act in Title 50 United  
 966 States Code.

967  
 968 Section 27. Subsection (1) of section 250.82, Florida  
 969 Statutes, is amended to read:

970 250.82 Applicability of federal law.--

971 (1) Florida law provides certain protections to members of  
 972 the United States Armed Forces, the United States Reserve  
 973 Forces, and the Florida National Guard in various legal  
 974 proceedings and contractual relationships. In addition to these  
 975 state provisions, federal law also contains protections, such as  
 976 those provided in the Servicemembers' ~~Soldiers'~~ and ~~Sailors'~~  
 977 Civil Relief Act (SCRA ~~SSCRA~~), Title 50, Appendix U.S.C. ss. 501  
 978 et seq., and the Uniformed Services Employment and Reemployment  
 979 Rights Act (USERRA), Title 38 United States Code, chapter 43,  
 980 that are applicable to members in every state even though such

981 provisions are not specifically identified under state law.

982

983 Reviser's note.--Amended to conform to the  
 984 redesignation of the federal act in Title 50 United  
 985 States Code.

986

987 Section 28. Paragraph (b) of subsection (3) of section  
 988 250.84, Florida Statutes, is amended to read:

989 250.84 Florida Uniformed Servicemembers Protection Act;  
 990 rights of servicemembers; incorporation by reference.--

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

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

997

998 Reviser's note.--Amended to conform to the  
 999 redesignation of the federal act in Title 50 United  
 1000 States Code.

1001

1002 Section 29. Paragraph (s) of subsection (2) of section  
 1003 252.35, Florida Statutes, is amended to read:

1004 252.35 Emergency management powers; Division of Emergency  
 1005 Management.--

1006 (2) The division is responsible for carrying out the  
 1007 provisions of ss. 252.31-252.90. In performing its duties under  
 1008 ss. 252.31-252.90, the division shall:

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1009 (s) By January 1, 2007, the Division of Emergency  
1010 Management shall complete an inventory of portable generators  
1011 owned by the state and local governments which are capable of  
1012 operating during a major disaster. The inventory must identify,  
1013 at a minimum, the location of each generator, the number of  
1014 generators stored at each specific location, the agency to which  
1015 each ~~the~~ generator belongs, the primary use of the generator by  
1016 the owner agency, and the names, addresses, and telephone  
1017 numbers of persons having the authority to loan the stored  
1018 generators as authorized by the Division of Emergency Management  
1019 during a declared emergency.

1020

1021 Reviser's note.--Amended to confirm the editorial  
1022 deletion of the word "the" following the word "each"  
1023 to improve clarity.

1024

1025 Section 30. Section 253.421, Florida Statutes, is  
1026 repealed.

1027

1028 Reviser's note.--The cited section, which provides for  
1029 the exchange of donated state lands between the Board  
1030 of Trustees of the Internal Improvement Trust Fund and  
1031 a local government no later than August 31, 2003, has  
1032 served its purpose.

1033

1034 Section 31. Section 253.422, Florida Statutes, is  
1035 repealed.

1036

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1037 Reviser's note.--The cited section, which provides for  
1038 an exchange of lands contemplated between the Board of  
1039 Trustees of the Internal Improvement Trust Fund and a  
1040 private entity for formerly submerged sovereignty  
1041 lands, known as the "Chapman Exchange," no later than  
1042 July 1, 2003, has served its purpose.

1043  
1044 Section 32. Paragraph (c) of subsection (2) of section  
1045 255.25001, Florida Statutes, is amended to read:

1046 255.25001 Suspension or delay of specified functions,  
1047 programs, and requirements relating to governmental  
1048 operations.--Notwithstanding the provisions of:

1049 (2) Sections 253.025 and 255.25, the Department of  
1050 Management Services has the authority to promulgate rules  
1051 pursuant to chapter 120 to be used in determining whether a  
1052 lease-purchase of a state-owned office building is in the best  
1053 interests of the state, which rules provide:

1054 (c) Acceptable terms and conditions for inclusion in  
1055 lease-purchase agreements, which shall include but not be  
1056 limited to:

1057 1. The assignment of the lease-purchase agreement to other  
1058 governmental entities, including accumulated equity.

1059 2. The ability of the acquiring state agency to sublease a  
1060 portion of the facility, not to exceed 25 percent, to other  
1061 governmental entities. These subleases shall provide for the  
1062 recovery of the agencies' cost of operations and maintenance.

1063  
1064 The execution of a lease-purchase is conditioned upon a finding

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1065 | by the Department of Management Services that it would be in the  
 1066 | best interests of the state. The language in this subsection  
 1067 | shall be considered specific authorization for a lease-purchase  
 1068 | pursuant to s. 255.25(1)(c) ~~255.25(1)(b)~~ upon the Department of  
 1069 | Management Services' certification that the lease-purchase is in  
 1070 | the best interests of the state. Thereafter, the agency is  
 1071 | authorized to enter into a lease-purchase agreement and to  
 1072 | expend operating funds for lease-purchase payments. Any  
 1073 | facility which is acquired pursuant to the processes authorized  
 1074 | by this subsection shall be considered to be a "state-owned  
 1075 | office building" and a "state-owned building" as those terms are  
 1076 | applied in ss. 255.248-255.25.

1077 |  
 1078 |       Reviser's note.--Amended to conform to the  
 1079 |       redesignation of s. 255.25(1)(b) as s. 255.25(1)(c) by  
 1080 |       s. 3, ch. 94-333, Laws of Florida.

1081 |  
 1082 |       Section 33. Paragraph (b) of subsection (7) of section  
 1083 | 259.1053, Florida Statutes, is amended to read:

1084 |       259.1053 Babcock Ranch Preserve; Babcock Ranch, Inc.;  
 1085 | creation; membership; organization; meetings.--

1086 |       (7) BOARD; MEMBERSHIP; REMOVAL; LIABILITY.--The  
 1087 | corporation shall be governed by a nine-member board of  
 1088 | directors who shall be appointed by the Board of Trustees of the  
 1089 | Internal Improvement Trust Fund; the executive director of the  
 1090 | commission; the Commissioner of Agriculture; the Babcock Florida  
 1091 | Company, a corporation registered to do business in the state,  
 1092 | or its successors or assigns; the Charlotte County Board of

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1093 County Commissioners; and the Lee County Board of County  
 1094 Commissioners in the following manner:

1095 (b) All members of the board of directors shall be  
 1096 appointed no later than 90 days following the initial  
 1097 acquisition of the Babcock Ranch by the state, and:

1098 1. Four members initially appointed by the Board of  
 1099 Trustees of the Internal Improvement Trust Fund shall each serve  
 1100 a 4-year term.

1101 2. The remaining initial five appointees shall each serve  
 1102 a 2-year term.

1103 3. Each member appointed thereafter shall serve a 4-year  
 1104 term.

1105 4. A vacancy shall be filled in the same manner in which  
 1106 the original appointment was made, and a member appointed to  
 1107 fill a vacancy shall serve for the remainder of that term.

1108 5. No member may serve more than 8 years in consecutive  
 1109 terms.

1110  
 1111 Reviser's note.--Amended to confirm the editorial  
 1112 insertion of the word "than" after the word "later" to  
 1113 improve clarity and facilitate correct interpretation.

1114  
 1115 Section 34. Paragraph (d) of subsection (1) of section  
 1116 260.016, Florida Statutes, is amended to read:

1117 260.016 General powers of the department.--

1118 (1) The department may:

1119 (d) Establish, develop, and publicize greenways and trails  
 1120 in a manner that will permit public recreation when appropriate



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1121 without damaging natural resources and avoiding unnecessary  
 1122 impact upon sensitive environments such as wetlands or animal  
 1123 habitats, wherever encountered. The Big Bend Historic Saltwater  
 1124 Paddling Trail from the St. Marks River to Yankeetown is hereby  
 1125 designated as part of the Florida Greenways and Trails System.  
 1126 Additions to this trail may be added by the Legislature or the  
 1127 department from time to time as part of the Florida  
 1128 Circumnavigation Saltwater Paddling Trail created in s. 260.019  
 1129 ~~260.19~~.

1130  
 1131 Reviser's note.--Amended to correct a reference to s.  
 1132 260.19, which does not exist; s. 260.019 creates the  
 1133 Florida Circumnavigation Saltwater Paddling Trail.

1134  
 1135 Section 35. Subsection (4) of section 287.0574, Florida  
 1136 Statutes, is amended to read:

1137 287.0574 Business cases to outsource; review and analysis;  
 1138 requirements.--

1139 (4) For any proposed outsourcing, the state agency shall  
 1140 develop a business case that justifies the proposal to  
 1141 outsource. In order to reduce any administrative burden, the  
 1142 council may allow a state agency to submit the business case in  
 1143 the form required by the budget instructions issued pursuant to  
 1144 s. 216.023(4)(a)7. ~~216.023(4)(a)11~~, augmented with additional  
 1145 information if necessary, to ensure that the requirements of  
 1146 this section are met. The business case is not subject to  
 1147 challenge or protest pursuant to chapter 120. The business case  
 1148 must include, but need not be limited to:

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1149 (a) A detailed description of the service or activity for  
1150 which the outsourcing is proposed.

1151 (b) A description and analysis of the state agency's  
1152 current performance, based on existing performance metrics if  
1153 the state agency is currently performing the service or  
1154 activity.

1155 (c) The goals desired to be achieved through the proposed  
1156 outsourcing and the rationale for such goals.

1157 (d) A citation to the existing or proposed legal authority  
1158 for outsourcing the service or activity.

1159 (e) A description of available options for achieving the  
1160 goals. If state employees are currently performing the service  
1161 or activity, at least one option involving maintaining state  
1162 provision of the service or activity shall be included.

1163 (f) An analysis of the advantages and disadvantages of  
1164 each option, including, at a minimum, potential performance  
1165 improvements and risks.

1166 (g) A description of the current market for the  
1167 contractual services that are under consideration for  
1168 outsourcing.

1169 (h) A cost-benefit analysis documenting the direct and  
1170 indirect specific baseline costs, savings, and qualitative and  
1171 quantitative benefits involved in or resulting from the  
1172 implementation of the recommended option or options. Such  
1173 analysis must specify the schedule that, at a minimum, must be  
1174 adhered to in order to achieve the estimated savings. All  
1175 elements of cost must be clearly identified in the cost-benefit  
1176 analysis, described in the business case, and supported by

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1177 applicable records and reports. The state agency head shall  
1178 attest that, based on the data and information underlying the  
1179 business case, to the best of his or her knowledge, all  
1180 projected costs, savings, and benefits are valid and achievable.  
1181 As used in this section, the term "cost" means the reasonable,  
1182 relevant, and verifiable cost, which may include, but is not  
1183 limited to, elements such as personnel, materials and supplies,  
1184 services, equipment, capital depreciation, rent, maintenance and  
1185 repairs, utilities, insurance, personnel travel, overhead, and  
1186 interim and final payments. The appropriate elements shall  
1187 depend on the nature of the specific initiative. As used in this  
1188 section, the term "savings" means the difference between the  
1189 direct and indirect actual annual baseline costs compared to the  
1190 projected annual cost for the contracted functions or  
1191 responsibilities in any succeeding state fiscal year during the  
1192 term of the contract.

1193 (i) A description of differences among current state  
1194 agency policies and processes and, as appropriate, a discussion  
1195 of options for or a plan to standardize, consolidate, or revise  
1196 current policies and processes, if any, to reduce the  
1197 customization of any proposed solution that would otherwise be  
1198 required.

1199 (j) A description of the specific performance standards  
1200 that must, at a minimum, be met to ensure adequate performance.

1201 (k) The projected timeframe for key events from the  
1202 beginning of the procurement process through the expiration of a  
1203 contract.

1204 (l) A plan to ensure compliance with the public records

1205 law.

1206 (m) A specific and feasible contingency plan addressing  
 1207 contractor nonperformance and a description of the tasks  
 1208 involved in and costs required for its implementation.

1209 (n) A state agency's transition plan for addressing  
 1210 changes in the number of agency personnel, affected business  
 1211 processes, employee transition issues, and communication with  
 1212 affected stakeholders, such as agency clients and the public.  
 1213 The transition plan must contain a reemployment and retraining  
 1214 assistance plan for employees who are not retained by the state  
 1215 agency or employed by the contractor.

1216 (o) A plan for ensuring access by persons with  
 1217 disabilities in compliance with applicable state and federal  
 1218 law.

1219 (p) A description of legislative and budgetary actions  
 1220 necessary to accomplish the proposed outsourcing.

1221  
 1222 Reviser's note.--Amended to conform to the  
 1223 redesignation of s. 216.023(4)(a)11. as s.  
 1224 216.023(4)(a)7. by s. 26, ch. 2006-122, Laws of  
 1225 Florida, and by s. 17, ch. 2006-146, Laws of Florida.

1226  
 1227 Section 36. Paragraph (b) of subsection (2) of section  
 1228 288.039, Florida Statutes, is amended to read:

1229 288.039 Employing and Training our Youths (ENTRY).--

1230 (2) TAX REFUND; ELIGIBLE AMOUNTS.--

1231 (b) After entering into an employment/tax refund agreement  
 1232 under subsection (3), an eligible business may receive refunds

1233 for the following taxes or fees due and paid by that business:

- 1234 1. Taxes on sales, use, and other transactions under
- 1235 chapter 212.
- 1236 2. Corporate income taxes under chapter 220.
- 1237 3. Intangible personal property taxes under chapter 199.
- 1238 4. Emergency excise taxes under chapter 221.
- 1239 5. Excise taxes on documents under chapter 201.
- 1240 6. Ad valorem taxes paid, as defined in s. 220.03(1).
- 1241 7. Insurance premium taxes under s. 624.509.
- 1242 8. Business tax ~~Occupational license~~ fees under chapter
- 1243 205.

1244

1245 However, an eligible business may not receive a refund under

1246 this section for any amount of credit, refund, or exemption

1247 granted to that business for any of such taxes or fees. If a

1248 refund for such taxes or fees is provided by the office, which

1249 taxes or fees are subsequently adjusted by the application of

1250 any credit, refund, or exemption granted to the eligible

1251 business other than as provided in this section, the business

1252 shall reimburse the office for the amount of that credit,

1253 refund, or exemption. An eligible business shall notify and

1254 tender payment to the office within 20 days after receiving any

1255 credit, refund, or exemption other than the one provided in this

1256 section.

1257

1258 Reviser's note.--Amended to conform to the

1259 redesignation of occupational license taxes in chapter

1260 205 as business taxes by ch. 2006-152, Laws of

1261 Florida.

1262

1263 Section 37. Paragraph (l) of subsection (1) of section  
1264 288.1045, Florida Statutes, is amended to read:

1265 288.1045 Qualified defense contractor tax refund  
1266 program.--

1267 (1) DEFINITIONS.--As used in this section:

1268 (1) "Taxable year" means the same as in s. 220.03(1)(y)  
1269 ~~220.03(1)(z)~~.

1270

1271 Reviser's note.--Amended to conform to the  
1272 redesignation of s. 220.03(1)(z) as s. 220.03(1)(y)  
1273 necessitated by the repeal of paragraph (1)(x) by s.  
1274 4, ch. 2006-2, Laws of Florida.

1275

1276 Section 38. Paragraph (p) of subsection (1) of section  
1277 288.106, Florida Statutes, is amended to read:

1278 288.106 Tax refund program for qualified target industry  
1279 businesses.--

1280 (1) DEFINITIONS.--As used in this section:

1281 (p) "Taxable year" means taxable year as defined in s.  
1282 220.03(1)(y) ~~220.03(1)(z)~~.

1283

1284 Reviser's note.--Amended to conform to the  
1285 redesignation of s. 220.03(1)(z) as s. 220.03(1)(y)  
1286 necessitated by the repeal of paragraph (1)(x) by s.  
1287 4, ch. 2006-2, Laws of Florida.

1288

1289 Section 39. Sections 288.1231, 288.1232, 288.1233,  
 1290 288.1235, 288.1236, and 288.1237, Florida Statutes, are  
 1291 repealed.

1292  
 1293 Reviser's note.--The cited sections, which relate to  
 1294 the selection of a host city for the XXXth Olympic  
 1295 Games in 2012, have served their purpose.

1296  
 1297 Section 40. Subsection (6) of section 288.90151, Florida  
 1298 Statutes, is amended to read:

1299 288.90151 Return on investment from activities of  
 1300 Enterprise Florida, Inc.--

1301 (6) Enterprise Florida, Inc., shall fully comply with the  
 1302 performance measures, standards, and sanctions in its contracts  
 1303 with the Office of Tourism, Trade, and Economic Development  
 1304 under s. 14.2015(2)(g) and (7) ~~14.2015(2)(h) and (7)~~. The Office  
 1305 of Tourism, Trade, and Economic Development shall ensure, to the  
 1306 maximum extent possible, that the contract performance measures  
 1307 are consistent with performance measures that the office is  
 1308 required to develop and track under performance-based program  
 1309 budgeting.

1310  
 1311 Reviser's note.--Amended to conform to the  
 1312 redesignation of s. 14.2015(2)(h) as s. 14.2015(2)(g)  
 1313 by s. 1, ch. 99-251, Laws of Florida.

1314  
 1315 Section 41. Paragraph (e) of subsection (1) of section  
 1316 290.0057, Florida Statutes, is amended to read:

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1317 290.0057 Enterprise zone development plan.--

1318 (1) Any application for designation as a new enterprise  
 1319 zone must be accompanied by a strategic plan adopted by the  
 1320 governing body of the municipality or county, or the governing  
 1321 bodies of the county and one or more municipalities together. At  
 1322 a minimum, the plan must:

1323 (e) Commit the governing body or bodies to enact and  
 1324 maintain local fiscal and regulatory incentives, if approval for  
 1325 the area is received under s. 290.0065. These incentives may  
 1326 include the municipal public service tax exemption provided by  
 1327 s. 166.231, the economic development ad valorem tax exemption  
 1328 provided by s. 196.1995, the business ~~occupational license~~ tax  
 1329 exemption provided by s. 205.054, local impact fee abatement or  
 1330 reduction, or low-interest or interest-free loans or grants to  
 1331 businesses to encourage the revitalization of the nominated  
 1332 area.

1333  
 1334 Reviser's note.--Amended to conform to the  
 1335 redesignation of occupational license taxes in chapter  
 1336 205 as business taxes by ch. 2006-152, Laws of  
 1337 Florida.

1338  
 1339 Section 42. Section 290.0072, Florida Statutes, is amended  
 1340 to read:

1341 290.0072 Enterprise zone designation for the City of  
 1342 Winter Haven.--The City of Winter Haven may apply to the Office  
 1343 of Tourism, Trade, and Economic Development for designation of  
 1344 one enterprise zone for an area within the City of Winter Haven,



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1345 | which zone shall encompass an ~~en~~ area up to 5 square miles.  
 1346 | Notwithstanding s. 290.0065 limiting the total number of  
 1347 | enterprise zones designated and the number of enterprise zones  
 1348 | within a population category, the Office of Tourism, Trade, and  
 1349 | Economic Development may designate one enterprise zone under  
 1350 | this section. The Office of Tourism, Trade, and Economic  
 1351 | Development shall establish the initial effective date of the  
 1352 | enterprise zone designated pursuant to this section.

1353 |

1354 |       Reviser's note.--Amended to confirm the editorial  
 1355 |       substitution of the word "an" for the word "on" to  
 1356 |       conform to context.

1357 |

1358 |       Section 43. Subsections (2) and (3) of section 316.006,  
 1359 | Florida Statutes, are reenacted to read:

1360 |       316.006 Jurisdiction.--Jurisdiction to control traffic is  
 1361 | vested as follows:

1362 |       (2) MUNICIPALITIES.--

1363 |       (a) Chartered municipalities shall have original  
 1364 | jurisdiction over all streets and highways located within their  
 1365 | boundaries, except state roads, and may place and maintain such  
 1366 | traffic control devices which conform to the manual and  
 1367 | specifications of the Department of Transportation upon all  
 1368 | streets and highways under their original jurisdiction as they  
 1369 | shall deem necessary to indicate and to carry out the provisions  
 1370 | of this chapter or to regulate, warn, or guide traffic.

1371 |       (b) A municipality may exercise jurisdiction over any  
 1372 | private road or roads, or over any limited access road or roads

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1373 owned or controlled by a special district, located within its  
1374 boundaries if the municipality and party or parties owning or  
1375 controlling such road or roads provide, by written agreement  
1376 approved by the governing body of the municipality, for  
1377 municipal traffic control jurisdiction over the road or roads  
1378 encompassed by such agreement. Pursuant thereto:

1379 1. Provision for reimbursement for actual costs of traffic  
1380 control and enforcement and for liability insurance and  
1381 indemnification by the party or parties, and such other terms as  
1382 are mutually agreeable, may be included in such an agreement.

1383 2. The exercise of jurisdiction provided for herein shall  
1384 be in addition to jurisdictional authority presently exercised  
1385 by municipalities under law, and nothing in this paragraph shall  
1386 be construed to limit or remove any such jurisdictional  
1387 authority. Such jurisdiction includes regulation of access to  
1388 such road or roads by security devices or personnel.

1389 3. Any such agreement may provide for the installation of  
1390 multiparty stop signs by the parties controlling the roads  
1391 covered by the agreement if a determination is made by such  
1392 parties that the signage will enhance traffic safety. Multiparty  
1393 stop signs must conform to the manual and specifications of the  
1394 Department of Transportation; however, minimum traffic volumes  
1395 may not be required for the installation of such signage.  
1396 Enforcement for the signs shall be as provided in s. 316.123.

1397 4. The board of directors of a homeowners' association as  
1398 defined in chapter 720 may, by majority vote, elect to have  
1399 state traffic laws enforced by local law enforcement agencies on  
1400 private roads that are controlled by the association.

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1401 (c) Notwithstanding any other provisions of law to the  
 1402 contrary, a municipality may, by interlocal agreement with a  
 1403 county, agree to transfer traffic regulatory authority over  
 1404 areas within the municipality to the county.

1405  
 1406 This subsection shall not limit those counties which have the  
 1407 charter powers to provide and regulate arterial, toll, and other  
 1408 roads, bridges, tunnels, and related facilities from the proper  
 1409 exercise of those powers by the placement and maintenance of  
 1410 traffic control devices which conform to the manual and  
 1411 specifications of the Department of Transportation on streets  
 1412 and highways located within municipal boundaries.

1413 (3) COUNTIES.--

1414 (a) Counties shall have original jurisdiction over all  
 1415 streets and highways located within their boundaries, except all  
 1416 state roads and those streets and highways specified in  
 1417 subsection (2), and may place and maintain such traffic control  
 1418 devices which conform to the manual and specifications of the  
 1419 Department of Transportation upon all streets and highways under  
 1420 their original jurisdiction as they shall deem necessary to  
 1421 indicate and to carry out the provisions of this chapter or to  
 1422 regulate, warn, or guide traffic.

1423 (b) A county may exercise jurisdiction over any private  
 1424 road or roads, or over any limited access road or roads owned or  
 1425 controlled by a special district, located in the unincorporated  
 1426 area within its boundaries if the county and party or parties  
 1427 owning or controlling such road or roads provide, by written  
 1428 agreement approved by the governing body of the county, for

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1429 county traffic control jurisdiction over the road or roads  
1430 encompassed by such agreement. Pursuant thereto:

1431 1. Provision for reimbursement for actual costs of traffic  
1432 control and enforcement and for liability insurance and  
1433 indemnification by the party or parties, and such other terms as  
1434 are mutually agreeable, may be included in such an agreement.

1435 2. Prior to entering into an agreement which provides for  
1436 enforcement of the traffic laws of the state over a private road  
1437 or roads, or over any limited access road or roads owned or  
1438 controlled by a special district, the governing body of the  
1439 county shall consult with the sheriff. No such agreement shall  
1440 take effect prior to October 1, the beginning of the county  
1441 fiscal year, unless this requirement is waived in writing by the  
1442 sheriff.

1443 3. The exercise of jurisdiction provided for herein shall  
1444 be in addition to jurisdictional authority presently exercised  
1445 by counties under law, and nothing in this paragraph shall be  
1446 construed to limit or remove any such jurisdictional authority.

1447 4. Any such agreement may provide for the installation of  
1448 multiparty stop signs by the parties controlling the roads  
1449 covered by the agreement if a determination is made by such  
1450 parties that the signage will enhance traffic safety. Multiparty  
1451 stop signs must conform to the manual and specifications of the  
1452 Department of Transportation; however, minimum traffic volumes  
1453 may not be required for the installation of such signage.  
1454 Enforcement for the signs shall be as provided in s. 316.123.

1455 5. The board of directors of a homeowners' association as  
1456 defined in chapter 720 may, by majority vote, elect to have

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1457 state traffic laws enforced by local law enforcement agencies on  
1458 private roads that are controlled by the association.

1459 (c) If the governing body of a county abandons the roads  
1460 and rights-of-way dedicated in a recorded residential  
1461 subdivision, and simultaneously conveys the county's interest  
1462 therein to a homeowners' association for the subdivision in the  
1463 manner prescribed in s. 336.125, that county's traffic control  
1464 jurisdiction over the abandoned and conveyed roads ceases unless  
1465 the requirements of paragraph (b) are met.

1466  
1467 Notwithstanding the provisions of subsection (2), each county  
1468 shall have original jurisdiction to regulate parking, by  
1469 resolution of the board of county commissioners and the erection  
1470 of signs conforming to the manual and specifications of the  
1471 Department of Transportation, in parking areas located on  
1472 property owned or leased by the county, whether or not such  
1473 areas are located within the boundaries of chartered  
1474 municipalities.

1475  
1476 Reviser's note.--Section 6, ch. 2006-290, Laws of  
1477 Florida, amended paragraphs (2)(b) and (3)(b) without  
1478 publishing the flush left language at the end of the  
1479 respective subsections. Absent affirmative evidence of  
1480 legislative intent to repeal it, the flush left  
1481 language is reenacted to confirm that the omissions  
1482 were not intended.

1483  
1484 Section 44. Paragraph (b) of subsection (9) of section

1485 | 320.77, Florida Statutes, is amended to read:

1486 |       320.77 License required of mobile home dealers.--

1487 |       (9) SALESPERSONS TO BE REGISTERED BY LICENSEES.--

1488 |       (b) Each time a mobile home salesperson employed by a  
 1489 | licensee changes his or her residence address, the salesperson  
 1490 | must notify the department within 20 days after the change.

1491 |  
 1492 |       Reviser's note.--Amended pursuant to the directive of  
 1493 | the Legislature in s. 1, ch. 93-199, Laws of Florida,  
 1494 | to remove gender-specific references applicable to  
 1495 | human beings from the Florida Statutes without  
 1496 | substantive change in legal effect.

1497 |  
 1498 |       Section 45. Subsection (2) of section 322.2615, Florida  
 1499 | Statutes, is amended to read:

1500 |       322.2615 Suspension of license; right to review.--

1501 |       (2) Except as provided in paragraph (1)(a), the law  
 1502 | enforcement officer shall forward to the department, within 5  
 1503 | days after issuing the notice of suspension, the driver's  
 1504 | license; an affidavit stating the officer's grounds for belief  
 1505 | that the person was driving or in actual physical control of a  
 1506 | motor vehicle while under the influence of alcoholic beverages  
 1507 | or chemical or controlled substances; the results of any breath  
 1508 | or blood test or an affidavit stating that a breath, blood, or  
 1509 | urine test was requested by a law enforcement officer or  
 1510 | correctional officer and that the person refused to submit; the  
 1511 | officer's description of the person's field sobriety test, if  
 1512 | any; the notice of suspension; and a copy of the crash report,

1513 | if any. The failure of the officer to submit materials within  
 1514 | the 5-day period specified in this subsection and in subsection  
 1515 | (1) does not affect the department's ability to consider any  
 1516 | evidence submitted at or prior to the hearing. The officer may  
 1517 | also submit a copy of a videotape of the field sobriety test or  
 1518 | the attempt to administer such test. Materials submitted to the  
 1519 | department by a law enforcement agency or correctional agency  
 1520 | shall be considered self-authenticating and shall be in the  
 1521 | record for consideration by the hearing officer. Notwithstanding  
 1522 | s. 316.066(7) ~~316.066(4)~~, the crash report shall be considered  
 1523 | by the hearing officer.

1524 |  
 1525 |       Reviser's note.--Amended to conform to the  
 1526 |       redesignation of s. 316.066(4) as s. 316.066(7) by s.  
 1527 |       1, ch. 2006-260, Laws of Florida.

1528 |  
 1529 |       Section 46. Subsection (1) of section 328.64, Florida  
 1530 | Statutes, is amended to read:

1531 |       328.64 Change of interest and address.--

1532 |       (1) The owner shall furnish the Department of Highway  
 1533 | Safety and Motor Vehicles notice of the transfer of all or any  
 1534 | part of his or her interest in a vessel registered or titled in  
 1535 | this state pursuant to this chapter ~~or chapter 328~~ or of the  
 1536 | destruction or abandonment of such vessel, within 30 days  
 1537 | thereof, on a form prescribed by the department. Such transfer,  
 1538 | destruction, or abandonment shall terminate the certificate for  
 1539 | such vessel, except that in the case of a transfer of a part  
 1540 | interest which does not affect the owner's right to operate such

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1541 vessel, such transfer shall not terminate the certificate. The  
 1542 department shall provide the form for such notice and shall  
 1543 attach the form to every vessel title issued or reissued.

1544  
 1545 Reviser's note.--Amended to confirm the editorial  
 1546 deletion of the words "or chapter 328" following the  
 1547 words "this chapter" to conform to the renumbering of  
 1548 s. 327.19 as s. 328.64 by s. 19, ch. 99-289, Laws of  
 1549 Florida, and to eliminate redundancy.

1550  
 1551 Section 47. Section 331.312, Florida Statutes, is amended  
 1552 to read:

1553 331.312 Furnishing facilities and services within the  
 1554 spaceport territory.--Space Florida may construct, develop,  
 1555 create, maintain, and operate its projects within the  
 1556 geographical limits of the spaceport territory, including any  
 1557 portions of the spaceport territory located inside the  
 1558 boundaries of any incorporated municipality or other political  
 1559 subdivision, and ~~to~~ offer, supply, and furnish the facilities  
 1560 and services provided for in this act to, and ~~to~~ establish and  
 1561 collect fees, rentals, and other charges from, persons, public  
 1562 or private, within the geographical limits of the spaceport  
 1563 territory and for the use of Space Florida itself.

1564  
 1565 Reviser's note.--Amended to confirm the editorial  
 1566 deletion of the word "to" following the word "and" to  
 1567 improve clarity and correct sentence construction.

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1569 Section 48. Section 331.313, Florida Statutes, is amended  
 1570 to read:

1571 331.313 Power of Space Florida with respect to  
 1572 roads.--Within the territorial limits of any spaceport  
 1573 territory, Space Florida may acquire, through purchase or  
 1574 interagency agreement, or as otherwise provided in law, and ~~to~~  
 1575 construct, control, and maintain, roads deemed necessary by  
 1576 Space Florida and connections thereto and extensions thereof now  
 1577 or hereafter acquired, constructed, or maintained in accordance  
 1578 with established highway safety standards; provided that, in the  
 1579 event a road being addressed by Space Florida is owned by  
 1580 another agency or jurisdiction, Space Florida, before proceeding  
 1581 with the proposed project or work activity, shall have either  
 1582 coordinated the desired work with the owning agency or  
 1583 jurisdiction or shall have successfully executed an interagency  
 1584 agreement with the owning agency or jurisdiction.

1585  
 1586 Reviser's note.--Amended to confirm the editorial  
 1587 deletion of the word "to" preceding the word  
 1588 "construct" to improve clarity and correct sentence  
 1589 construction.

1590  
 1591 Section 49. Subsection (1) of section 331.316, Florida  
 1592 Statutes, is amended to read:

1593 331.316 Rates, fees, rentals, tolls, fares, and charges;  
 1594 procedure for adoption and modification; minimum revenue  
 1595 requirements.--

1596 (1) To recover the costs of the spaceport facility or

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1597 system, Space Florida may prescribe, fix, establish, and collect  
 1598 rates, fees, rentals, tolls, fares, or other charges  
 1599 (hereinafter referred to as "revenues"), and ~~to~~ revise the same  
 1600 from time to time, for the facilities and services furnished or  
 1601 to be furnished by Space Florida and the spaceport, including,  
 1602 but not limited to, launch pads, ranges, payload assembly and  
 1603 processing facilities, visitor and tourist facilities,  
 1604 transportation facilities, and parking and other related  
 1605 facilities, and may provide for reasonable penalties against any  
 1606 user or property for any such rates, fees, rentals, tolls,  
 1607 fares, or other charges that are delinquent.

1608  
 1609 Reviser's note.--Amended to confirm the editorial  
 1610 deletion of the word "to" preceding the word "revise"  
 1611 to improve clarity and correct sentence construction.

1612  
 1613 Section 50. Subsection (2) of section 331.319, Florida  
 1614 Statutes, is amended to read:

1615 331.319 Comprehensive planning; building and safety  
 1616 codes.--The board of directors may:

1617 (2) Prohibit within the spaceport territory the  
 1618 construction, alteration, repair, removal, or demolition, or the  
 1619 commencement of the construction, alteration, repair (except  
 1620 emergency repairs), removal, or demolition, of any building or  
 1621 structure, including, but not by way of limitation, public  
 1622 utility poles, lines, pipes, and facilities, without first  
 1623 obtaining a permit from the board or such other officer or  
 1624 agency as the board may designate, and ~~to~~ prescribe the

1625 procedure with respect to the obtaining of such permit.

1626

1627 Reviser's note.--Amended to confirm the editorial  
 1628 deletion of the word "to" preceding the word  
 1629 "prescribe" to improve clarity and correct sentence  
 1630 construction.

1631

1632 Section 51. Section 331.324, Florida Statutes, is amended  
 1633 to read:

1634 331.324 Contracts, grants, and contributions.--Space  
 1635 Florida may make and enter all contracts and agreements  
 1636 necessary or incidental to the performance of the functions of  
 1637 Space Florida and the execution of its powers, and ~~to~~ contract  
 1638 with, and ~~to~~ accept and receive grants or loans of money,  
 1639 material, or property from, any person, private or public, as  
 1640 the board shall determine to be necessary or desirable to carry  
 1641 out the purposes of this act, and, in connection with any such  
 1642 contract, grant, or loan, ~~to~~ stipulate and agree to such  
 1643 covenants, terms, and conditions as the board shall deem  
 1644 appropriate.

1645

1646 Reviser's note.--Amended to confirm the editorial  
 1647 deletion of the word "to" following the words "and"  
 1648 and "loan" to improve clarity and correct sentence  
 1649 construction.

1650

1651 Section 52. Subsection (4) of section 336.68, Florida  
 1652 Statutes, is amended to read:

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1653           336.68 Special road and bridge district boundaries;  
 1654 property owner rights and options.--

1655           (4) The property owner shall provide copies of the  
 1656 recorded certificate to the governing body of the district from  
 1657 which the property is being withdrawn within ~~days~~ 10 days after  
 1658 the date that the certificate is recorded. If the district does  
 1659 not record an objection to the withdrawal of the property in the  
 1660 public records within 30 days after the recording of the  
 1661 certificate identifying the criteria in this section that has  
 1662 not been met, the withdrawal shall be final and the property  
 1663 shall be permanently withdrawn from the boundaries of the  
 1664 district.

1665  
 1666           Reviser's note.--Amended to confirm the editorial  
 1667 deletion of the word "days" following the word  
 1668 "within" to correct a typographical error.

1669  
 1670           Section 53. Subsection (6) of section 341.840, Florida  
 1671 Statutes, is amended to read:

1672           341.840 Tax exemption.--

1673           (6) A leasehold interest held by the authority is not  
 1674 subject to intangible tax. However, if a leasehold interest held  
 1675 by the authority is subleased to a nongovernmental lessee, such  
 1676 subleasehold interest shall be deemed to be an interest  
 1677 described in s. 199.023(1)(d), Florida Statutes 2005, and is  
 1678 subject to the intangible tax.

1679  
 1680           Reviser's note.--Amended to conform to the repeal of

1681 s. 199.023 by s. 1, ch. 2006-312, Laws of Florida.

1682

1683 Section 54. Paragraph (c) of subsection (1) and subsection  
1684 (2) of section 366.93, Florida Statutes, are amended to read:

1685 366.93 Cost recovery for the siting, design, licensing,  
1686 and construction of nuclear power plants.--

1687 (1) As used in this section, the term:

1688 (c) "Nuclear power plant" or "plant" is an electrical  
1689 power plant as defined in s. 403.503(13) ~~403.503(12)~~ that uses  
1690 nuclear materials for fuel.

1691 (2) Within 6 months after the enactment of this act, the  
1692 commission shall establish, by rule, alternative cost recovery  
1693 mechanisms for the recovery of costs incurred in the siting,  
1694 design, licensing, and construction of a nuclear power plant.  
1695 Such mechanisms shall be designed to promote utility investment  
1696 in nuclear power plants and allow for the recovery in rates of  
1697 all prudently incurred costs, and shall include, but are not  
1698 limited to:

1699 (a) Recovery through the capacity cost recovery clause of  
1700 any preconstruction costs.

1701 (b) Recovery through an incremental increase in the  
1702 utility's capacity cost recovery clause rates of the carrying  
1703 costs on the utility's projected construction cost balance  
1704 associated with the nuclear power plant. To encourage investment  
1705 and provide certainty, for nuclear power plant need petitions  
1706 submitted on or before December 31, 2010, associated carrying  
1707 costs shall be equal to the pretax AFUDC in effect upon this act  
1708 becoming law. For nuclear power plants for which need petitions

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1709 are submitted after December 31, 2010, the utility's existing  
1710 pretax AFUDC rate is presumed to be appropriate unless  
1711 determined otherwise by the commission in the determination of  
1712 need for the nuclear power plant.

1713

1714 Reviser's note.--Paragraph (1)(c) is amended to  
1715 conform to the redesignation of s. 403.503(12) as s.  
1716 403.503(13) by s. 20, ch. 2006-230, Laws of Florida.  
1717 Subsection (2) is amended to confirm the editorial  
1718 insertion of the word "of" following the word "rates"  
1719 to improve clarity and correct sentence construction.

1720

1721 Section 55. Subsection (4) of section 370.063, Florida  
1722 Statutes, is amended to read:

1723 370.063 Special recreational spiny lobster license.--There  
1724 is created a special recreational spiny lobster license, to be  
1725 issued to qualified persons as provided by this section for the  
1726 recreational harvest of spiny lobster beginning August 5, 1994.

1727 (4) As a condition precedent to the issuance of a special  
1728 recreational spiny lobster license, the applicant must agree to  
1729 file quarterly reports with the Fish and Wildlife Conservation  
1730 Commission in such form as the commission requires, detailing  
1731 the amount of the licenseholder's spiny lobster harvest in the  
1732 previous quarter, including the harvest of other recreational  
1733 harvesters aboard the licenseholder's vessel.

1734

1735 Reviser's note.--Amended to conform to the editorial  
1736 insertion of the word "license" following the word

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1737 "lobster" to improve clarity and correct sentence  
 1738 construction.

1739  
 1740 Section 56. Subsection (4) of section 375.065, Florida  
 1741 Statutes, is amended to read:

1742 375.065 Public beaches; financial and other assistance by  
 1743 Department of Environmental Protection to local governments.--

1744 (4) In addition to the authorized assistance procedures  
 1745 provided by this section, the Legislature urges the Department  
 1746 of Environmental Protection to give priority to applications  
 1747 relating to the acquisition of public beaches in urban areas,  
 1748 and to make full use of the federal Land and Water Conservation  
 1749 Fund Act of 1965, as amended, or other applicable federal  
 1750 programs. This section is supplemental to and shall not limit or  
 1751 repeal any provision of the Outdoor Recreation and Conservation  
 1752 Act of 1963.

1753  
 1754 Reviser's note.--Amended to conform to the name of the  
 1755 Outdoor Recreation and Conservation Act of 1963 as  
 1756 referenced in s. 375.011.

1757  
 1758 Section 57. Subsections (3) and (5) of section 376.30,  
 1759 Florida Statutes, are amended to read:

1760 376.30 Legislative intent with respect to pollution of  
 1761 surface and ground waters.--

1762 (3) The Legislature intends by the enactment of ss.  
 1763 376.30-376.317 ~~376.30-376.319~~ to exercise the police power of  
 1764 the state by conferring upon the Department of Environmental

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1765 Protection the power to:

1766 (a) Deal with the environmental and health hazards and

1767 threats of danger and damage posed by such storage,

1768 transportation, disposal, and related activities;

1769 (b) Require the prompt containment and removal of products

1770 occasioned thereby; and

1771 (c) Establish a program which will enable the department

1772 to:

1773 1. Provide for expeditious restoration or replacement of

1774 potable water systems or potable private wells of affected

1775 persons where health hazards exist due to contamination from

1776 pollutants (which may include provision of bottled water on a

1777 temporary basis, after which a more stable and convenient source

1778 of potable water shall be provided) and hazardous substances,

1779 subject to the following conditions:

1780 a. For the purposes of this subparagraph, the term

1781 "restoration" means restoration of a contaminated potable water

1782 supply to a level which meets applicable water quality standards

1783 or applicable water quality criteria, as adopted by rule, for

1784 the contaminant or contaminants present in the water supply, or,

1785 where no such standards or criteria have been adopted, to a

1786 level that is determined to be a safe, potable level by the

1787 State Health Officer in the Department of Health, through the

1788 installation of a filtration system and provision of replacement

1789 filters as necessary or through employment of repairs or another

1790 treatment method or methods designed to remove or filter out

1791 contamination from the water supply; and the term "replacement"

1792 means replacement of a well or well field or connection to an



1793 alternative source of safe, potable water.

1794       b. For the purposes of the Inland Protection Trust Fund  
 1795 and the drycleaning facility restoration funds in the Water  
 1796 Quality Assurance Trust Fund as provided in s. 376.3078, such  
 1797 restoration or replacement shall take precedence over other uses  
 1798 of the unobligated moneys within the fund after payment of  
 1799 amounts appropriated annually from the Inland Protection Trust  
 1800 Fund for payments under any service contract entered into by the  
 1801 department pursuant to s. 376.3075.

1802       c. Funding for activities described in this subparagraph  
 1803 shall not exceed \$10 million for any one county for any one  
 1804 year, other than for the provision of bottled water.

1805       d. Funding for activities described in this subparagraph  
 1806 shall not be available to fund any increase in the capacity of a  
 1807 potable water system or potable private well over the capacity  
 1808 which existed prior to such restoration or replacement, unless  
 1809 such increase is the result of the use of a more cost-effective  
 1810 alternative than other alternatives available.

1811       2. Provide for the inspection and supervision of  
 1812 activities described in this subsection.

1813       3. Guarantee the prompt payment of reasonable costs  
 1814 resulting therefrom, including those administrative costs  
 1815 incurred by the Department of Health in providing field and  
 1816 laboratory services, toxicological risk assessment, and other  
 1817 services to the department in the investigation of drinking  
 1818 water contamination complaints.

1819       (5) The Legislature further declares that it is the intent  
 1820 of ss. 376.30-376.317 ~~376.30-376.319~~ to support and complement

1821 applicable provisions of the Federal Water Pollution Control  
 1822 Act, as amended, specifically those provisions relating to the  
 1823 national contingency plan for removal of pollutants.

1824

1825 Reviser's note.--Amended to conform to the repeal of  
 1826 s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

1827

1828 Section 58. Section 376.301, Florida Statutes, is amended  
 1829 to read:

1830 376.301 Definitions of terms used in ss. 376.30-376.317  
 1831 ~~376.30-376.319~~, 376.70, and 376.75.--When used in ss. 376.30-  
 1832 376.317 ~~376.30-376.319~~, 376.70, and 376.75, unless the context  
 1833 clearly requires otherwise, the term:

1834 (1) "Aboveground hazardous substance tank" means any  
 1835 stationary aboveground storage tank and onsite integral piping  
 1836 that contains hazardous substances which are liquid at standard  
 1837 temperature and pressure and has an individual storage capacity  
 1838 greater than 110 gallons.

1839 (2) "Additive effects" means a scientific principle that  
 1840 the toxicity that occurs as a result of exposure is the sum of  
 1841 the toxicities of the individual chemicals to which the  
 1842 individual is exposed.

1843 (3) "Antagonistic effects" means a scientific principle  
 1844 that the toxicity that occurs as a result of exposure is less  
 1845 than the sum of the toxicities of the individual chemicals to  
 1846 which the individual is exposed.

1847 (4) "Backlog" means reimbursement obligations incurred  
 1848 pursuant to s. 376.3071(12), prior to March 29, 1995, or

1849 authorized for reimbursement under the provisions of s.  
 1850 376.3071(12), pursuant to chapter 95-2, Laws of Florida. Claims  
 1851 within the backlog are subject to adjustment, where appropriate.

1852 (5) "Barrel" means 42 U.S. gallons at 60 degrees  
 1853 Fahrenheit.

1854 (6) "Bulk product facility" means a waterfront location  
 1855 with at least one aboveground tank with a capacity greater than  
 1856 30,000 gallons which is used for the storage of pollutants.

1857 (7) "Cattle-dipping vat" means any structure, excavation,  
 1858 or other facility constructed by any person, or the site where  
 1859 such structure, excavation, or other facility once existed, for  
 1860 the purpose of treating cattle or other livestock with a  
 1861 chemical solution pursuant to or in compliance with any local,  
 1862 state, or federal governmental program for the prevention,  
 1863 suppression, control, or eradication of any dangerous,  
 1864 contagious, or infectious diseases.

1865 (8) "Cleanup target level" means the concentration for  
 1866 each contaminant identified by an applicable analytical test  
 1867 method, in the medium of concern, at which a site rehabilitation  
 1868 program is deemed complete.

1869 (9) "Compression vessel" means any stationary container,  
 1870 tank, or onsite integral piping system, or combination thereof,  
 1871 which has a capacity of greater than 110 gallons, that is  
 1872 primarily used to store pollutants or hazardous substances above  
 1873 atmospheric pressure or at a reduced temperature in order to  
 1874 lower the vapor pressure of the contents. Manifold compression  
 1875 vessels that function as a single vessel shall be considered as  
 1876 one vessel.

1877 (10) "Contaminant" means any physical, chemical,  
 1878 biological, or radiological substance present in any medium  
 1879 which may result in adverse effects to human health or the  
 1880 environment or which creates an adverse nuisance, organoleptic,  
 1881 or aesthetic condition in groundwater.

1882 (11) "Contaminated site" means any contiguous land,  
 1883 sediment, surface water, or groundwater areas that contain  
 1884 contaminants that may be harmful to human health or the  
 1885 environment.

1886 (12) "Department" means the Department of Environmental  
 1887 Protection.

1888 (13) "Discharge" includes, but is not limited to, any  
 1889 spilling, leaking, seeping, pouring, misapplying, emitting,  
 1890 emptying, releasing, or dumping of any pollutant or hazardous  
 1891 substance which occurs and which affects lands and the surface  
 1892 and ground waters of the state not regulated by ss. 376.011-  
 1893 376.21.

1894 (14) "Drycleaning facility" means a commercial  
 1895 establishment that operates or has at some time in the past  
 1896 operated for the primary purpose of drycleaning clothing and  
 1897 other fabrics utilizing a process that involves any use of  
 1898 drycleaning solvents. The term "drycleaning facility" includes  
 1899 laundry facilities that use drycleaning solvents as part of  
 1900 their cleaning process. The term does not include a facility  
 1901 that operates or has at some time in the past operated as a  
 1902 uniform rental company or a linen supply company regardless of  
 1903 whether the facility operates as or was previously operated as a  
 1904 drycleaning facility.

1905 (15) "Drycleaning solvents" means any and all nonaqueous  
 1906 solvents used in the cleaning of clothing and other fabrics and  
 1907 includes perchloroethylene (also known as tetrachloroethylene)  
 1908 and petroleum-based solvents, and their breakdown products. For  
 1909 purposes of this definition, "drycleaning solvents" only  
 1910 includes those drycleaning solvents originating from use at a  
 1911 drycleaning facility or by a wholesale supply facility.

1912 (16) "Dry drop-off facility" means any commercial retail  
 1913 store that receives from customers clothing and other fabrics  
 1914 for drycleaning or laundering at an offsite drycleaning facility  
 1915 and that does not clean the clothing or fabrics at the store  
 1916 utilizing drycleaning solvents.

1917 (17) "Engineering controls" means modifications to a site  
 1918 to reduce or eliminate the potential for exposure to petroleum  
 1919 products' chemicals of concern, drycleaning solvents, or other  
 1920 contaminants. Such modifications may include, but are not  
 1921 limited to, physical or hydraulic control measures, capping,  
 1922 point of use treatments, or slurry walls.

1923 (18) "Wholesale supply facility" means a commercial  
 1924 establishment that supplies drycleaning solvents to drycleaning  
 1925 facilities.

1926 (19) "Facility" means a nonresidential location  
 1927 containing, or which contained, any underground stationary tank  
 1928 or tanks which contain hazardous substances or pollutants and  
 1929 have individual storage capacities greater than 110 gallons, or  
 1930 any aboveground stationary tank or tanks which contain  
 1931 pollutants which are liquids at standard ambient temperature and  
 1932 pressure and have individual storage capacities greater than 550

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1933 gallons. This subsection shall not apply to facilities covered  
 1934 by chapter 377, or containers storing solid or gaseous  
 1935 pollutants, and agricultural tanks having storage capacities of  
 1936 less than 550 gallons.

1937 (20) "Flow-through process tank" means an aboveground tank  
 1938 that contains hazardous substances or specified mineral acids as  
 1939 defined in s. 376.321 and that forms an integral part of a  
 1940 production process through which there is a steady, variable,  
 1941 recurring, or intermittent flow of materials during the  
 1942 operation of the process. Flow-through process tanks include,  
 1943 but are not limited to, seal tanks, vapor recovery units, surge  
 1944 tanks, blend tanks, feed tanks, check and delay tanks, batch  
 1945 tanks, oil-water separators, or tanks in which mechanical,  
 1946 physical, or chemical change of a material is accomplished.

1947 (21) "Hazardous substances" means those substances defined  
 1948 as hazardous substances in the Comprehensive Environmental  
 1949 Response, Compensation and Liability Act of 1980, Pub. L. No.  
 1950 96-510, 94 Stat. 2767, as amended by the Superfund Amendments  
 1951 and Reauthorization Act of 1986.

1952 (22) "Institutional controls" means the restriction on use  
 1953 or access to a site to eliminate or minimize exposure to  
 1954 petroleum products' chemicals of concern, drycleaning solvents,  
 1955 or other contaminants. Such restrictions may include, but are  
 1956 not limited to, deed restrictions, restrictive covenants, or  
 1957 conservation easements.

1958 (23) "Laundering on a wash, dry, and fold basis" means the  
 1959 service provided by the owner or operator of a coin-operated  
 1960 laundry to its customers whereby an employee of the laundry

1961 washes, dries, and folds laundry for its customers.

1962 (24) "Marine fueling facility" means a commercial or  
 1963 recreational coastal facility, excluding a bulk product  
 1964 facility, providing fuel to vessels.

1965 (25) "Natural attenuation" means a verifiable approach to  
 1966 site rehabilitation that allows natural processes to contain the  
 1967 spread of contamination and reduce the concentrations of  
 1968 contaminants in contaminated groundwater and soil. Natural  
 1969 attenuation processes may include the following: sorption,  
 1970 biodegradation, chemical reactions with subsurface materials,  
 1971 diffusion, dispersion, and volatilization.

1972 (26) "Operator" means any person operating a facility,  
 1973 whether by lease, contract, or other form of agreement.

1974 (27) "Owner" means any person owning a facility.

1975 (28) "Person" means any individual, partner, joint  
 1976 venture, or corporation; any group of the foregoing, organized  
 1977 or united for a business purpose; or any governmental entity.

1978 (29) "Person in charge" means the person on the scene who  
 1979 is in direct, responsible charge of a facility from which  
 1980 pollutants are discharged, when the discharge occurs.

1981 (30) "Person responsible for conducting site  
 1982 rehabilitation" means the site owner, operator, or the person  
 1983 designated by the site owner or operator on the reimbursement  
 1984 application. Mortgage holders and trust holders may be eligible  
 1985 to participate in the reimbursement program pursuant to s.  
 1986 376.3071(12).

1987 (31) "Person responsible for site rehabilitation" means  
 1988 the person performing site rehabilitation pursuant to s.

1989 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701. Such  
 1990 person may include, but is not limited to, any person who has  
 1991 legal responsibility for site rehabilitation pursuant to this  
 1992 chapter or chapter 403, the department when it conducts site  
 1993 rehabilitation, a real property owner, a facility owner or  
 1994 operator, any person responsible for brownfield site  
 1995 rehabilitation, or any person who voluntarily rehabilitates a  
 1996 site and seeks acknowledgment from the department for approval  
 1997 of site rehabilitation program tasks.

1998 (32) "Petroleum" includes:

1999 (a) Oil, including crude petroleum oil and other  
 2000 hydrocarbons, regardless of gravity, which are produced at the  
 2001 well in liquid form by ordinary methods and which are not the  
 2002 result of condensation of gas after it leaves the reservoir; and

2003 (b) All natural gas, including casinghead gas, and all  
 2004 other hydrocarbons not defined as oil in paragraph (a).

2005 (33) "Petroleum product" means any liquid fuel commodity  
 2006 made from petroleum, including, but not limited to, all forms of  
 2007 fuel known or sold as diesel fuel, kerosene, all forms of fuel  
 2008 known or sold as gasoline, and fuels containing a mixture of  
 2009 gasoline and other products, excluding liquefied petroleum gas  
 2010 and American Society for Testing and Materials (ASTM) grades no.  
 2011 5 and no. 6 residual oils, bunker C residual oils, intermediate  
 2012 fuel oils (IFO) used for marine bunkering with a viscosity of 30  
 2013 and higher, asphalt oils, and petrochemical feedstocks.

2014 (34) "Petroleum products' chemicals of concern" means the  
 2015 constituents of petroleum products, including, but not limited  
 2016 to, xylene, benzene, toluene, ethylbenzene, naphthalene, and



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2017 similar chemicals, and constituents in petroleum products,  
 2018 including, but not limited to, methyl tert-butyl ether (MTBE),  
 2019 lead, and similar chemicals found in additives, provided the  
 2020 chemicals of concern are present as a result of a discharge of  
 2021 petroleum products.

2022 (35) "Petroleum storage system" means a stationary tank  
 2023 not covered under the provisions of chapter 377, together with  
 2024 any onsite integral piping or dispensing system associated  
 2025 therewith, which is used, or intended to be used, for the  
 2026 storage or supply of any petroleum product. Petroleum storage  
 2027 systems may also include oil/water separators, and other  
 2028 pollution control devices installed at petroleum product  
 2029 terminals as defined in this chapter and bulk product facilities  
 2030 pursuant to, or required by, permits or best management  
 2031 practices in an effort to control surface discharge of  
 2032 pollutants. Nothing herein shall be construed to allow a  
 2033 continuing discharge in violation of department rules.

2034 (36) "Pollutants" includes any "product" as defined in s.  
 2035 377.19(11), pesticides, ammonia, chlorine, and derivatives  
 2036 thereof, excluding liquefied petroleum gas.

2037 (37) "Pollution" means the presence on the land or in the  
 2038 waters of the state of pollutants in quantities which are or may  
 2039 be potentially harmful or injurious to human health or welfare,  
 2040 animal or plant life, or property or which may unreasonably  
 2041 interfere with the enjoyment of life or property, including  
 2042 outdoor recreation.

2043 (38) "Real property owner" means the individual or entity  
 2044 that is vested with ownership, dominion, or legal or rightful

2045 title to the real property, or which has a ground lease interest  
 2046 in the real property, on which a drycleaning facility or  
 2047 wholesale supply facility is or has ever been located.

2048 (39) "Response action" means any activity, including  
 2049 evaluation, planning, design, engineering, construction, and  
 2050 ancillary services, which is carried out in response to any  
 2051 discharge, release, or threatened release of a hazardous  
 2052 substance, pollutant, or other contaminant from a facility or  
 2053 site identified by the department under the provisions of ss.  
 2054 376.30-376.317 ~~376.30-376.319~~.

2055 (40) "Response action contractor" means a person who is  
 2056 carrying out any response action, including a person retained or  
 2057 hired by such person to provide services relating to a response  
 2058 action.

2059 (41) "Risk reduction" means the lowering or elimination of  
 2060 the level of risk posed to human health or the environment  
 2061 through interim remedial actions, remedial action, or  
 2062 institutional and, if appropriate, engineering controls.

2063 (42) "Secretary" means the Secretary of Environmental  
 2064 Protection.

2065 (43) "Site rehabilitation" means the assessment of site  
 2066 contamination and the remediation activities that reduce the  
 2067 levels of contaminants at a site through accepted treatment  
 2068 methods to meet the cleanup target levels established for that  
 2069 site. For purposes of sites subject to the Resource Conservation  
 2070 and Recovery Act, as amended, the term includes removal,  
 2071 decontamination, and corrective action of releases of hazardous  
 2072 substances.

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2073 (44) "Source removal" means the removal of free product,  
2074 or the removal of contaminants from soil or sediment that has  
2075 been contaminated to the extent that leaching to groundwater or  
2076 surface water has occurred or is occurring.

2077 (45) "Storage system" means a stationary tank not covered  
2078 under the provisions of chapter 377, together with any onsite  
2079 integral piping or dispensing system associated therewith, which  
2080 is or has been used for the storage or supply of any petroleum  
2081 product, pollutant, or hazardous substance as defined herein,  
2082 and which is registered with the Department of Environmental  
2083 Protection under this chapter or any rule adopted pursuant  
2084 hereto.

2085 (46) "Synergistic effects" means a scientific principle  
2086 that the toxicity that occurs as a result of exposure is more  
2087 than the sum of the toxicities of the individual chemicals to  
2088 which the individual is exposed.

2089 (47) "Temporary point of compliance" means the boundary  
2090 represented by one or more designated monitoring wells at which  
2091 groundwater cleanup target levels may not be exceeded while site  
2092 rehabilitation is proceeding.

2093 (48) "Terminal facility" means any structure, group of  
2094 structures, motor vehicle, rolling stock, pipeline, equipment,  
2095 or related appurtenances which are used or capable of being used  
2096 for one or more of the following purposes: pumping, refining,  
2097 drilling for, producing, storing, handling, transferring, or  
2098 processing pollutants, provided such pollutants are transferred  
2099 over, under, or across any water, estuaries, tidal flats,  
2100 beaches, or waterfront lands, including, but not limited to, any

2101 such facility and related appurtenances owned or operated by a  
 2102 public utility or a governmental or quasi-governmental body. In  
 2103 the event of a ship-to-ship transfer of pollutants, the vessel  
 2104 going to or coming from the place of transfer and a terminal  
 2105 facility shall also be considered a terminal facility. For the  
 2106 purposes of ss. 376.30-376.317 ~~376.30-376.319~~, the term  
 2107 "terminal facility" shall not be construed to include spill  
 2108 response vessels engaged in response activities related to  
 2109 removal of pollutants, or temporary storage facilities created  
 2110 to temporarily store recovered pollutants and matter, or  
 2111 waterfront facilities owned and operated by governmental  
 2112 entities acting as agents of public convenience for persons  
 2113 engaged in the drilling for or pumping, storing, handling,  
 2114 transferring, processing, or refining of pollutants. However,  
 2115 each person engaged in the drilling for or pumping, storing,  
 2116 handling, transferring, processing, or refining of pollutants  
 2117 through a waterfront facility owned and operated by such a  
 2118 governmental entity shall be construed as a terminal facility.

2119 (49) "Transfer" or "transferred" includes unloading,  
 2120 offloading, fueling, bunkering, lightering, removal of waste  
 2121 pollutants, or other similar transfers, between terminal  
 2122 facility and vessel or vessel and vessel.

2123 (50) "Nearby real property owner" means the individual or  
 2124 entity that is vested with ownership, dominion, or legal or  
 2125 rightful title to real property, or that has a ground lease in  
 2126 real property, onto which drycleaning solvent has migrated  
 2127 through soil or groundwater from a drycleaning facility or  
 2128 wholesale supply facility eligible for site rehabilitation under

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2129 s. 376.3078(3) or from a drycleaning facility or wholesale  
 2130 supply facility that is approved by the department for voluntary  
 2131 cleanup under s. 376.3078(11).

2132

2133 Reviser's note.--Amended to conform to the repeal of  
 2134 s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

2135

2136 Section 59. Paragraphs (a), (f), and (j) of subsection (1)  
 2137 and subsection (2) of section 376.303, Florida Statutes, are  
 2138 amended to read:

2139 376.303 Powers and duties of the Department of  
 2140 Environmental Protection.--

2141 (1) The department has the power and the duty to:

2142 (a) Establish rules, including, but not limited to,  
 2143 construction standards, permitting or registration of tanks,  
 2144 maintenance and installation standards, and removal or disposal  
 2145 standards, to implement the intent of ss. 376.30-376.317 ~~376.30-~~  
 2146 ~~376.319~~ and to regulate underground and aboveground facilities  
 2147 and their onsite integral piping systems. Such rules may  
 2148 establish standards for underground facilities which store  
 2149 hazardous substances or pollutants, and marine fueling  
 2150 facilities and aboveground facilities, not covered by chapter  
 2151 377, which store pollutants. The department shall register bulk  
 2152 product facilities and shall issue annual renewals of such  
 2153 registrations. Requirements for facilities with underground  
 2154 storage tanks having storage capacities over 110 gallons that  
 2155 store hazardous substances became effective on January 1, 1991.  
 2156 The department shall maintain a compliance verification program

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2157 for this section, which may include investigations or  
2158 inspections to locate improperly abandoned tanks. The  
2159 department may contract with other governmental agencies or  
2160 private consultants to perform compliance verification  
2161 activities. The contracts may provide for an advance of working  
2162 capital to local governments to expedite the implementation of  
2163 the compliance verification program. Counties with permit or  
2164 registration fees for storage tanks or storage tank systems are  
2165 not eligible for advance funding for the compliance verification  
2166 program.

2167 (f) Establish a requirement that any facility or terminal  
2168 facility covered by this act be subject to complete and thorough  
2169 inspections at reasonable times. Any facility or terminal  
2170 facility which has discharged a pollutant in violation of the  
2171 provisions of ss. 376.30-376.317 ~~376.30-376.319~~ shall be fully  
2172 and carefully monitored by the department to ensure that such  
2173 discharge does not continue to occur.

2174 (j) Bring an action on behalf of the state to enforce the  
2175 liabilities imposed by ss. 376.30-376.317 ~~376.30-376.319~~. The  
2176 provisions of ss. 403.121, 403.131, 403.141, and 403.161 apply  
2177 to enforcement under ss. 376.30-376.317 ~~376.30-376.319~~.

2178 (2) The powers and duties of the department under ss.  
2179 376.30-376.317 ~~376.30-376.319~~ shall extend to the boundaries of  
2180 the state described in s. 1, Art. II of the State Constitution.

2181

2182 Reviser's note.--Amended to conform to the repeal of  
2183 s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

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2185 Section 60. Subsections (1) and (5) of section 376.305,  
 2186 Florida Statutes, are amended to read:

2187 376.305 Removal of prohibited discharges.--

2188 (1) Any person discharging a pollutant as prohibited by  
 2189 ss. 376.30-376.317 ~~376.30-376.319~~ shall immediately undertake to  
 2190 contain, remove, and abate the discharge to the satisfaction of  
 2191 the department. However, such an undertaking to contain, remove,  
 2192 or abate a discharge shall not be deemed an admission of  
 2193 responsibility for the discharge by the person taking such  
 2194 action. Notwithstanding this requirement, the department may  
 2195 undertake the removal of the discharge and may contract and  
 2196 retain agents who shall operate under the direction of the  
 2197 department.

2198 (5) Nothing in ss. 376.30-376.317 ~~376.30-376.319~~ shall  
 2199 affect the right of any person to render assistance in  
 2200 containing or removing any pollutant or any rights which that  
 2201 person may have against any third party whose acts or omissions  
 2202 in any way have caused or contributed to the discharge of the  
 2203 pollutant.

2204  
 2205 Reviser's note.--Amended to conform to the repeal of  
 2206 s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

2207  
 2208 Section 61. Paragraph (a) of subsection (1) and paragraph  
 2209 (c) of subsection (4) of section 376.307, Florida Statutes, are  
 2210 amended to read:

2211 376.307 Water Quality Assurance Trust Fund.--

2212 (1) The Water Quality Assurance Trust Fund is intended to

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2213 | serve as a broad-based fund for use in responding to incidents  
 2214 | of contamination that pose a serious danger to the quality of  
 2215 | groundwater and surface water resources or otherwise pose a  
 2216 | serious danger to the public health, safety, or welfare. Moneys  
 2217 | in this fund may be used:

2218 |       (a) To carry out the provisions of ss. 376.30-376.317  
 2219 | ~~376.30-376.319~~, relating to assessment, cleanup, restoration,  
 2220 | monitoring, and maintenance of any site involving spills,  
 2221 | discharges, or escapes of pollutants or hazardous substances  
 2222 | which occur as a result of procedures taken by private and  
 2223 | governmental entities involving the storage, transportation, and  
 2224 | disposal of such products.

2225 |       (4) The trust fund shall be funded as follows:

2226 |       (c) All penalties, judgments, recoveries, reimbursements,  
 2227 | and other fees and charges related to the enforcement of ss.  
 2228 | 376.30-376.317 ~~376.30-376.319~~, other than penalties, judgments,  
 2229 | and other fees and charges related to the enforcement of ss.  
 2230 | 376.3071 and 376.3073.

2231 |  
 2232 |       Reviser's note.--Amended to conform to the repeal of  
 2233 | s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

2234 |  
 2235 |       Section 62. Paragraph (e) of subsection (1) and subsection  
 2236 | (4) of section 376.3071, Florida Statutes, are amended to read:

2237 |       376.3071 Inland Protection Trust Fund; creation; purposes;  
 2238 | funding.--

2239 |       (1) FINDINGS.--In addition to the legislative findings set  
 2240 | forth in s. 376.30, the Legislature finds and declares:



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2241 (e) That it is necessary to fulfill the intent and  
2242 purposes of ss. 376.30-376.317 ~~376.30-376.319~~, and further it is  
2243 hereby determined to be in the best interest of, and necessary  
2244 for the protection of the public health, safety, and general  
2245 welfare of the residents of this state, and therefore a  
2246 paramount public purpose, to provide for the creation of a  
2247 nonprofit public benefit corporation as an instrumentality of  
2248 the state to assist in financing the functions provided in ss.  
2249 376.30-376.317 ~~376.30-376.319~~ and to authorize the department to  
2250 enter into one or more service contracts with such corporation  
2251 for the provision of financing services related to such  
2252 functions and to make payments thereunder from the amount on  
2253 deposit in the Inland Protection Trust Fund, subject to annual  
2254 appropriation by the Legislature.

2255 (4) USES.--Whenever, in its determination, incidents of  
2256 inland contamination related to the storage of petroleum or  
2257 petroleum products may pose a threat to the environment or the  
2258 public health, safety, or welfare, the department shall obligate  
2259 moneys available in the fund to provide for:

2260 (a) Prompt investigation and assessment of contamination  
2261 sites.

2262 (b) Expeditious restoration or replacement of potable  
2263 water supplies as provided in s. 376.30(3)(c)1.

2264 (c) Rehabilitation of contamination sites, which shall  
2265 consist of cleanup of affected soil, groundwater, and inland  
2266 surface waters, using the most cost-effective alternative that  
2267 is technologically feasible and reliable and that provides  
2268 adequate protection of the public health, safety, and welfare

2269 and minimizes environmental damage, in accordance with the site  
 2270 selection and cleanup criteria established by the department  
 2271 under subsection (5), except that nothing herein shall be  
 2272 construed to authorize the department to obligate funds for  
 2273 payment of costs which may be associated with, but are not  
 2274 integral to, site rehabilitation, such as the cost for  
 2275 retrofitting or replacing petroleum storage systems.

2276 (d) Maintenance and monitoring of contamination sites.

2277 (e) Inspection and supervision of activities described in  
 2278 this subsection.

2279 (f) Payment of expenses incurred by the department in its  
 2280 efforts to obtain from responsible parties the payment or  
 2281 recovery of reasonable costs resulting from the activities  
 2282 described in this subsection.

2283 (g) Payment of any other reasonable costs of  
 2284 administration, including those administrative costs incurred by  
 2285 the Department of Health in providing field and laboratory  
 2286 services, toxicological risk assessment, and other assistance to  
 2287 the department in the investigation of drinking water  
 2288 contamination complaints and costs associated with public  
 2289 information and education activities.

2290 (h) Establishment and implementation of the compliance  
 2291 verification program as authorized in s. 376.303(1)(a),  
 2292 including contracting with local governments or state agencies  
 2293 to provide for the administration of such program through  
 2294 locally administered programs, to minimize the potential for  
 2295 further contamination sites.

2296 (i) Funding of the provisions of ss. 376.305(6) and

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2297 | 376.3072.

2298 |       (j) Activities related to removal and replacement of  
 2299 | petroleum storage systems, exclusive of costs of any tank,  
 2300 | piping, dispensing unit, or related hardware, if soil removal is  
 2301 | preapproved as a component of site rehabilitation and requires  
 2302 | removal of the tank where remediation is conducted under s.  
 2303 | 376.30711 or if such activities were justified in an approved  
 2304 | remedial action plan performed pursuant to subsection (12).

2305 |       (k) Activities related to reimbursement application  
 2306 | preparation and activities related to reimbursement application  
 2307 | examination by a certified public accountant pursuant to  
 2308 | subsection (12).

2309 |       (l) Reasonable costs of restoring property as nearly as  
 2310 | practicable to the conditions which existed prior to activities  
 2311 | associated with contamination assessment or remedial action  
 2312 | taken under s. 376.303(4).

2313 |       (m) Repayment of loans to the fund.

2314 |       (n) Expenditure of sums from the fund to cover ineligible  
 2315 | sites or costs as set forth in subsection (13), if the  
 2316 | department in its discretion deems it necessary to do so. In  
 2317 | such cases, the department may seek recovery and reimbursement  
 2318 | of costs in the same manner and in accordance with the same  
 2319 | procedures as are established for recovery and reimbursement of  
 2320 | sums otherwise owed to or expended from the fund.

2321 |       (o) Payment of amounts payable under any service contract  
 2322 | entered into by the department pursuant to s. 376.3075, subject  
 2323 | to annual appropriation by the Legislature.

2324 |       (p) Petroleum remediation pursuant to s. 376.30711

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2325 throughout a state fiscal year. The department shall establish a  
 2326 process to uniformly encumber appropriated funds throughout a  
 2327 state fiscal year and shall allow for emergencies and imminent  
 2328 threats to human health and the environment as provided in  
 2329 paragraph (5) (a). This paragraph does not apply to  
 2330 appropriations associated with the free product recovery  
 2331 initiative of paragraph (5) (c) or the preapproved advanced  
 2332 cleanup program of s. 376.30713.

2333  
 2334 The Inland Protection Trust Fund may only be used to fund the  
 2335 activities in ss. 376.30-376.317 ~~376.30-376.319~~ except ss.  
 2336 376.3078 and 376.3079. Amounts on deposit in the Inland  
 2337 Protection Trust Fund in each fiscal year shall first be applied  
 2338 or allocated for the payment of amounts payable by the  
 2339 department pursuant to paragraph (o) under a service contract  
 2340 entered into by the department pursuant to s. 376.3075 and  
 2341 appropriated in each year by the Legislature prior to making or  
 2342 providing for other disbursements from the fund. Nothing in this  
 2343 subsection shall authorize the use of the Inland Protection  
 2344 Trust Fund for cleanup of contamination caused primarily by a  
 2345 discharge of solvents as defined in s. 206.9925(6), or  
 2346 polychlorinated biphenyls when their presence causes them to be  
 2347 hazardous wastes, except solvent contamination which is the  
 2348 result of chemical or physical breakdown of petroleum products  
 2349 and is otherwise eligible. Facilities used primarily for the  
 2350 storage of motor or diesel fuels as defined in ss. 206.01 and  
 2351 206.86 shall be presumed not to be excluded from eligibility  
 2352 pursuant to this section.

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

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

376.3075 Inland Protection Financing Corporation.--

(1) There is hereby created a nonprofit public benefit  
corporation to be known as the "Inland Protection Financing  
Corporation" for the purpose of financing the rehabilitation of  
petroleum contamination sites pursuant to ss. 376.30-376.317  
~~376.30-376.319~~ and the payment, purchase, and settlement of  
reimbursement obligations of the department pursuant to s.  
376.3071(12), existing as of December 31, 1996. Such  
reimbursement obligations are referred to in this section as  
existing reimbursement obligations. The corporation shall  
terminate on July 1, 2025.

(4) The corporation is authorized to enter into one or  
more service contracts with the department pursuant to which the  
corporation shall provide services to the department in  
connection with financing the functions and activities provided  
for in ss. 376.30-376.317 ~~376.30-376.319~~. The department may  
enter into one or more such service contracts with the  
corporation and to provide for payments under such contracts  
pursuant to s. 376.3071(4)(o), subject to annual appropriation  
by the Legislature. The proceeds from such service contracts may  
be used for the costs and expenses of administration of the  
corporation after payments as set forth in subsection (5). Each

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2381 service contract shall have a term not to exceed 10 years and  
2382 shall terminate no later than July 1, 2025. The aggregate amount  
2383 payable from the Inland Protection Trust Fund under all such  
2384 service contracts shall not exceed \$65 million in any state  
2385 fiscal year. Amounts annually appropriated and applied to make  
2386 payments under such service contracts shall not include any  
2387 funds derived from penalties or other payments received from any  
2388 property owner or private party, including payments received  
2389 from s. 376.3071(6)(b). In compliance with provisions of s.  
2390 287.0641 and other applicable provisions of law, the obligations  
2391 of the department under such service contracts shall not  
2392 constitute a general obligation of the state or a pledge of the  
2393 faith and credit or taxing power of the state nor shall such  
2394 obligations be construed in any manner as an obligation of the  
2395 State Board of Administration or entities for which it invests  
2396 funds, other than the department as provided in this section,  
2397 but shall be payable solely from amounts available in the Inland  
2398 Protection Trust Fund, subject to annual appropriation. In  
2399 compliance with this subsection and s. 287.0582, the service  
2400 contract shall expressly include the following statement: "The  
2401 State of Florida's performance and obligation to pay under this  
2402 contract is contingent upon an annual appropriation by the  
2403 Legislature."

2404

2405 Reviser's note.--Amended to conform to the repeal of  
2406 s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

2407

2408 Section 64. Subsections (2) and (4) of section 376.30781,

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2409 Florida Statutes, are amended to read:

2410           376.30781 Partial tax credits for rehabilitation of  
2411 drycleaning-solvent-contaminated sites and brownfield sites in  
2412 designated brownfield areas; application process; rulemaking  
2413 authority; revocation authority.--

2414           (2) Notwithstanding the requirements of paragraph (5)(a),  
2415 tax credits allowed pursuant to s. ss. 199.1055 and 220.1845 are  
2416 available for any site rehabilitation conducted during the  
2417 calendar year in which the applicable voluntary cleanup  
2418 agreement or brownfield site rehabilitation agreement is  
2419 executed, even if the site rehabilitation is conducted prior to  
2420 the execution of that agreement or the designation of the  
2421 brownfield area.

2422           (4) The Department of Environmental Protection shall be  
2423 responsible for allocating the tax credits provided for in s.  
2424 220.1845, not to exceed a total of \$2 ~~\$5~~ million in tax credits  
2425 annually.

2426

2427           Reviser's note.--Subsection (2) is amended to conform  
2428 to the repeal of s. 199.1055 by s. 1, ch. 2006-312,  
2429 Laws of Florida. Subsection (4) is amended to correct  
2430 an apparent error and facilitate correct  
2431 interpretation. The original bill and first engrossed  
2432 version of House Bill 7131 contained five changes of  
2433 the \$2 million tax credit amount to \$5 million in ss.  
2434 199.1055, 220.1845, and 376.30781. The second  
2435 engrossed version and final act, which became ch.  
2436 2006-291, Laws of Florida, reverted the amount back to

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2437 \$2 million in all but this location.

2438

2439 Section 65. Paragraph (a) of subsection (3) of section  
2440 376.3079, Florida Statutes, is amended to read:

2441 376.3079 Third-party liability insurance.--

2442 (3) For purposes of this section and s. 376.3078, the  
2443 term:

2444 (a) "Third-party liability" means the insured's liability,  
2445 other than for site rehabilitation costs and property damage as  
2446 applied to sites utilizing the provisions of s. 376.3078(3) and  
2447 (11) ~~378.3078(3) and (11)~~, for bodily injury caused by an  
2448 incident of contamination related to the operation of a  
2449 drycleaning facility or wholesale supply facility.

2450

2451 Reviser's note.--Amended to correct an apparent error.  
2452 Section 378.3078 does not exist; s. 376.3078(3) and  
2453 (11) relate to rehabilitation liability and voluntary  
2454 cleanup regarding drycleaning facility restoration,  
2455 respectively.

2456

2457 Section 66. Subsection (1) of section 376.308, Florida  
2458 Statutes, is amended to read:

2459 376.308 Liabilities and defenses of facilities.--

2460 (1) In any suit instituted by the department under ss.  
2461 376.30-376.317 ~~376.30-376.319~~, it is not necessary to plead or  
2462 prove negligence in any form or matter. The department need  
2463 only plead and prove that the prohibited discharge or other  
2464 polluting condition has occurred. The following persons shall



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2465 | be liable to the department for any discharges or polluting  
2466 | condition:

2467 |       (a) Any person who caused a discharge or other polluting  
2468 | condition or who owned or operated the facility, or the  
2469 | stationary tanks or the nonresidential location which  
2470 | constituted the facility, at the time the discharge occurred.

2471 |       (b) In the case of a discharge of hazardous substances,  
2472 | all persons specified in s. 403.727(4).

2473 |       (c) In the case of a discharge of petroleum, petroleum  
2474 | products, or drycleaning solvents, the owner of the facility,  
2475 | the drycleaning facility, or the wholesale supply facility,  
2476 | unless the owner can establish that he or she acquired title to  
2477 | property contaminated by the activities of a previous owner or  
2478 | operator or other third party, that he or she did not cause or  
2479 | contribute to the discharge, and that he or she did not know of  
2480 | the polluting condition at the time the owner acquired title. If  
2481 | the owner acquired title subsequent to July 1, 1992, or, in the  
2482 | case of a drycleaning facility or wholesale supply facility,  
2483 | subsequent to July 1, 1994, he or she must also establish by a  
2484 | preponderance of the evidence that he or she undertook, at the  
2485 | time of acquisition, all appropriate inquiry into the previous  
2486 | ownership and use of the property consistent with good  
2487 | commercial or customary practice in an effort to minimize  
2488 | liability. The court or hearing officer shall take into account  
2489 | any specialized knowledge or experience on the part of the  
2490 | defendant, the relationship of the purchase price to the value  
2491 | of the property if uncontaminated, commonly known or reasonably  
2492 | ascertainable information about the property, the obviousness of

2493 the presence or likely presence of contamination at the  
 2494 property, and the ability to detect such contamination by  
 2495 appropriate inspection. In an action relating to a discharge of  
 2496 petroleum, petroleum products, or drycleaning solvents under  
 2497 chapter 403, the defenses and definitions set forth herein shall  
 2498 apply.

2499  
 2500 Reviser's note.--Amended to conform to the repeal of  
 2501 s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

2502  
 2503 Section 67. Section 376.309, Florida Statutes, is amended  
 2504 to read:

2505 376.309 Facilities, financial responsibility.--

2506 (1) Each owner of a facility is required to establish and  
 2507 maintain evidence of financial responsibility. Such evidence of  
 2508 financial responsibility shall be the only evidence required by  
 2509 the department that such owner has the ability to meet the  
 2510 liabilities which may be incurred under ss. 376.30-376.317  
 2511 ~~376.30-376.319~~.

2512 (2) Any claim brought pursuant to ss. 376.30-376.317  
 2513 ~~376.30-376.319~~ may be brought directly against the bond, the  
 2514 insurer, or any other person providing a facility with evidence  
 2515 of financial responsibility.

2516 (3) Each owner of a facility subject to the provisions of  
 2517 ss. 376.30-376.317 ~~376.30-376.319~~ shall designate a person in  
 2518 the state as his or her legal agent for service of process under  
 2519 ss. 376.30-376.317 ~~376.30-376.319~~, and such designation shall be  
 2520 filed with the Department of State. In the absence of such

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2521 designation, the Secretary of State shall be the designated  
 2522 agent for purposes of service of process under ss. 376.30-  
 2523 376.317 ~~376.30-376.319~~.

2524

2525 Reviser's note.--Amended to conform to the repeal of  
 2526 s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

2527

2528 Section 68. Section 376.313, Florida Statutes, is amended  
 2529 to read:

2530 376.313 Nonexclusiveness of remedies and individual cause  
 2531 of action for damages under ss. 376.30-376.317 ~~376.30-376.319~~--

2532 (1) The remedies in ss. 376.30-376.317 ~~376.30-376.319~~  
 2533 shall be deemed to be cumulative and not exclusive.

2534 (2) Nothing in ss. 376.30-376.317 ~~376.30-376.319~~ requires  
 2535 the pursuit of any claim against the Water Quality Assurance  
 2536 Trust Fund or the Inland Protection Trust Fund as a condition  
 2537 precedent to any other remedy.

2538 (3) Except as provided in s. 376.3078(3) and (11), nothing  
 2539 contained in ss. 376.30-376.317 ~~376.30-376.319~~ prohibits any  
 2540 person from bringing a cause of action in a court of competent  
 2541 jurisdiction for all damages resulting from a discharge or other  
 2542 condition of pollution covered by ss. 376.30-376.317 ~~376.30-~~  
 2543 ~~376.319~~. Nothing in this chapter shall prohibit or diminish a  
 2544 party's right to contribution from other parties jointly or  
 2545 severally liable for a prohibited discharge of pollutants or  
 2546 hazardous substances or other pollution conditions. Except as  
 2547 otherwise provided in subsection (4) or subsection (5), in any  
 2548 such suit, it is not necessary for such person to plead or prove

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2549 negligence in any form or manner. Such person need only plead  
2550 and prove the fact of the prohibited discharge or other  
2551 pollutive condition and that it has occurred. The only defenses  
2552 to such cause of action shall be those specified in s. 376.308.

2553 (4) In any civil action brought after July 1, 1986,  
2554 against the owner or operator of a petroleum storage system for  
2555 damages arising from a petroleum storage system discharge, the  
2556 provisions of subsection (3) shall not apply if it can be proven  
2557 that, at the time of the discharge:

2558 (a) The alleged damages resulted solely from a discharge  
2559 from a petroleum storage system which was installed, replaced,  
2560 or retrofitted, and maintained, in a manner consistent with the  
2561 construction, operation, repair, and maintenance standards  
2562 established for such systems under chapter 62-761, Florida  
2563 Administrative Code, as that chapter may hereafter be amended.  
2564 The requirement of consistency with such standards may be  
2565 satisfied only by being in compliance with the standards at the  
2566 time of the discharge, regardless of the time specified for  
2567 compliance under the schedule provided in said chapter.

2568 (b) A leak detection system or systems or a monitoring  
2569 well or wells were installed and operating in a manner  
2570 consistent with technical requirements of chapter 62-761,  
2571 Florida Administrative Code, as that chapter may hereafter be  
2572 amended; and

2573 (c) All inventory, recordkeeping, and reporting  
2574 requirements of chapter 62-761, Florida Administrative Code, as  
2575 that chapter may hereafter be amended, have been and are being  
2576 complied with.

2577  
2578 Any person bringing such an action must prove negligence to  
2579 recover damages under this subsection. For the purposes of this  
2580 subsection, noncompliance with this act, or any of the rules  
2581 promulgated pursuant hereto, as the same may hereafter be  
2582 amended, shall be prima facie evidence of negligence.

2583 (5) (a) In any civil action against the owner or operator  
2584 of a drycleaning facility or a wholesale supply facility, or the  
2585 owner of the real property on which such facility is located, if  
2586 such facility is not eligible under s. 376.3078(3) and is not  
2587 involved in voluntary cleanup under s. 376.3078(11), for damages  
2588 arising from the discharge of drycleaning solvents from a  
2589 drycleaning facility or wholesale supply facility, the  
2590 provisions of subsection (3) shall not apply if it can be proven  
2591 that, at the time of the discharge the alleged damages resulted  
2592 solely from a discharge from a drycleaning facility or wholesale  
2593 supply facility that was in compliance with department rules  
2594 regulating drycleaning facilities or wholesale supply  
2595 facilities.

2596 (b) Any person bringing such an action must prove  
2597 negligence in order to recover damages under this subsection.  
2598 For the purposes of this subsection, noncompliance with s.  
2599 376.303 or s. 376.3078, or any of the rules promulgated pursuant  
2600 thereto, or any applicable state or federal law or regulation,  
2601 as the same may hereafter be amended, shall be prima facie  
2602 evidence of negligence.

2603 (6) The court, in issuing any final judgment in any such  
2604 action, may award costs of litigation (including reasonable

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2605 attorney's and expert witness fees) to any party, whenever the  
 2606 court determines such an award is in the public interest.

2607

2608 Reviser's note.--Amended to conform to the repeal of  
 2609 s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

2610

2611 Section 69. Section 376.315, Florida Statutes, is amended  
 2612 to read:

2613 376.315 Construction of ss. 376.30-376.317 ~~376.30-~~  
 2614 ~~376.319~~--Sections 376.30-376.317 ~~376.30-376.319~~, being  
 2615 necessary for the general welfare and the public health and  
 2616 safety of the state and its inhabitants, shall be liberally  
 2617 construed to effect the purposes set forth under ss. 376.30-  
 2618 376.317 ~~376.30-376.319~~ and the Federal Water Pollution Control  
 2619 Act, as amended.

2620

2621 Reviser's note.--Amended to conform to the repeal of  
 2622 s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

2623

2624 Section 70. Subsection (1) of section 376.317, Florida  
 2625 Statutes, is amended to read:

2626 376.317 Superseded laws; state preemption.--

2627 (1) If any provision of ss. 376.30-376.317 ~~376.30-376.319~~  
 2628 or of the rules developed pursuant to such sections, which  
 2629 provision pertains to a facility maintained for the purpose of  
 2630 the underground storage of petroleum products for use as fuel in  
 2631 vehicles, including, but not limited to, those vehicles used on  
 2632 and off roads, aircraft, watercraft, and rail, is in conflict

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2633 with any other provision, limitation, or restriction which is  
2634 now in effect under any law of this state or any ordinance of a  
2635 local government, political subdivision, or municipality, or any  
2636 rule or regulation adopted thereunder, the provision of ss.  
2637 376.30-376.317 ~~376.30-376.319~~ shall control, except as provided  
2638 in subsection (3).

2639  
2640 Reviser's note.--Amended to conform to the repeal of  
2641 s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

2642  
2643 Section 71. Paragraph (d) of subsection (1) of section  
2644 376.82, Florida Statutes, is amended to read:

2645 376.82 Eligibility criteria and liability protection.--

2646 (1) ELIGIBILITY.--Any person who has not caused or  
2647 contributed to the contamination of a brownfield site on or  
2648 after July 1, 1997, is eligible to participate in the brownfield  
2649 program established in ss. 376.77-376.85, subject to the  
2650 following:

2651 (d) After July 1, 1997, petroleum and drycleaning  
2652 contamination sites shall not receive both restoration funding  
2653 assistance available for the discharge under this chapter and  
2654 any state assistance available under s. 288.107. Nothing in  
2655 this act shall affect the cleanup criteria, priority ranking,  
2656 and other rights and obligations inherent in petroleum  
2657 contamination and drycleaning contamination site rehabilitation  
2658 under ss. 376.30-376.317 ~~376.30-376.319~~, or the availability of  
2659 economic incentives otherwise provided for by law.

2660

2661 Reviser's note.--Amended to conform to the repeal of  
 2662 s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

2663  
 2664 Section 72. Paragraph (d) of subsection (1) of section  
 2665 376.84, Florida Statutes, is amended to read:

2666 376.84 Brownfield redevelopment economic incentives.--It  
 2667 is the intent of the Legislature that brownfield redevelopment  
 2668 activities be viewed as opportunities to significantly improve  
 2669 the utilization, general condition, and appearance of these  
 2670 sites. Different standards than those in place for new  
 2671 development, as allowed under current state and local laws,  
 2672 should be used to the fullest extent to encourage the  
 2673 redevelopment of a brownfield. State and local governments are  
 2674 encouraged to offer redevelopment incentives for this purpose,  
 2675 as an ongoing public investment in infrastructure and services,  
 2676 to help eliminate the public health and environmental hazards,  
 2677 and to promote the creation of jobs in these areas. Such  
 2678 incentives may include financial, regulatory, and technical  
 2679 assistance to persons and businesses involved in the  
 2680 redevelopment of the brownfield pursuant to this act.

2681 (1) Financial incentives and local incentives for  
 2682 redevelopment may include, but not be limited to:

2683 (d) Waiver, reduction, or limitation by line of business  
 2684 with respect to business ~~occupational license~~ taxes pursuant to  
 2685 chapter 205.

2686  
 2687 Reviser's note.--Amended to conform to the  
 2688 redesignation of occupational license taxes in chapter



2689 | 205 as business taxes by ch. 2006-152, Laws of  
 2690 | Florida.

2691 |  
 2692 | Section 73. Subsection (24) of section 380.06, Florida  
 2693 | Statutes, is amended to read:

2694 | 380.06 Developments of regional impact.--

2695 | (24) STATUTORY EXEMPTIONS.--

2696 | (a) Any proposed hospital is exempt from the provisions of  
 2697 | this section.

2698 | (b) Any proposed electrical transmission line or  
 2699 | electrical power plant is exempt from the provisions of this  
 2700 | section.

2701 | (c) Any proposed addition to an existing sports facility  
 2702 | complex is exempt from the provisions of this section if the  
 2703 | addition meets the following characteristics:

2704 | 1. It would not operate concurrently with the scheduled  
 2705 | hours of operation of the existing facility.

2706 | 2. Its seating capacity would be no more than 75 percent  
 2707 | of the capacity of the existing facility.

2708 | 3. The sports facility complex property is owned by a  
 2709 | public body prior to July 1, 1983.

2710 |  
 2711 | This exemption does not apply to any pari-mutuel facility.

2712 | (d) Any proposed addition or cumulative additions  
 2713 | subsequent to July 1, 1988, to an existing sports facility  
 2714 | complex owned by a state university is exempt if the increased  
 2715 | seating capacity of the complex is no more than 30 percent of  
 2716 | the capacity of the existing facility.

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2717 (e) Any addition of permanent seats or parking spaces for  
2718 an existing sports facility located on property owned by a  
2719 public body prior to July 1, 1973, is exempt from the provisions  
2720 of this section if future additions do not expand existing  
2721 permanent seating or parking capacity more than 15 percent  
2722 annually in excess of the prior year's capacity.

2723 (f) Any increase in the seating capacity of an existing  
2724 sports facility having a permanent seating capacity of at least  
2725 50,000 spectators is exempt from the provisions of this section,  
2726 provided that such an increase does not increase permanent  
2727 seating capacity by more than 5 percent per year and not to  
2728 exceed a total of 10 percent in any 5-year period, and provided  
2729 that the sports facility notifies the appropriate local  
2730 government within which the facility is located of the increase  
2731 at least 6 months prior to the initial use of the increased  
2732 seating, in order to permit the appropriate local government to  
2733 develop a traffic management plan for the traffic generated by  
2734 the increase. Any traffic management plan shall be consistent  
2735 with the local comprehensive plan, the regional policy plan, and  
2736 the state comprehensive plan.

2737 (g) Any expansion in the permanent seating capacity or  
2738 additional improved parking facilities of an existing sports  
2739 facility is exempt from the provisions of this section, if the  
2740 following conditions exist:

2741 1.a. The sports facility had a permanent seating capacity  
2742 on January 1, 1991, of at least 41,000 spectator seats;

2743 b. The sum of such expansions in permanent seating  
2744 capacity does not exceed a total of 10 percent in any 5-year

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2745 | period and does not exceed a cumulative total of 20 percent for  
2746 | any such expansions; or

2747 |       c. The increase in additional improved parking facilities  
2748 | is a one-time addition and does not exceed 3,500 parking spaces  
2749 | serving the sports facility; and

2750 |       2. The local government having jurisdiction of the sports  
2751 | facility includes in the development order or development permit  
2752 | approving such expansion under this paragraph a finding of fact  
2753 | that the proposed expansion is consistent with the  
2754 | transportation, water, sewer and stormwater drainage provisions  
2755 | of the approved local comprehensive plan and local land  
2756 | development regulations relating to those provisions.

2757 |

2758 | Any owner or developer who intends to rely on this statutory  
2759 | exemption shall provide to the department a copy of the local  
2760 | government application for a development permit. Within 45 days  
2761 | of receipt of the application, the department shall render to  
2762 | the local government an advisory and nonbinding opinion, in  
2763 | writing, stating whether, in the department's opinion, the  
2764 | prescribed conditions exist for an exemption under this  
2765 | paragraph. The local government shall render the development  
2766 | order approving each such expansion to the department. The  
2767 | owner, developer, or department may appeal the local government  
2768 | development order pursuant to s. 380.07, within 45 days after  
2769 | the order is rendered. The scope of review shall be limited to  
2770 | the determination of whether the conditions prescribed in this  
2771 | paragraph exist. If any sports facility expansion undergoes  
2772 | development of regional impact review, all previous expansions

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2773 | which were exempt under this paragraph shall be included in the  
2774 | development of regional impact review.

2775 |       (h) Expansion to port harbors, spoil disposal sites,  
2776 | navigation channels, turning basins, harbor berths, and other  
2777 | related inwater harbor facilities of ports listed in s.  
2778 | 403.021(9)(b), port transportation facilities and projects  
2779 | listed in s. 311.07(3)(b), and intermodal transportation  
2780 | facilities identified pursuant to s. 311.09(3) are exempt from  
2781 | the provisions of this section when such expansions, projects,  
2782 | or facilities are consistent with comprehensive master plans  
2783 | that are in compliance with the provisions of s. 163.3178.

2784 |       (i) Any proposed facility for the storage of any petroleum  
2785 | product or any expansion of an existing facility is exempt from  
2786 | the provisions of this section.

2787 |       (j) Any renovation or redevelopment within the same land  
2788 | parcel which does not change land use or increase density or  
2789 | intensity of use.

2790 |       (k) Waterport and marina development, including dry  
2791 | storage facilities, are exempt from the provisions of this  
2792 | section.

2793 |       (l) Any proposed development within an urban service  
2794 | boundary established under s. 163.3177(14) is exempt from the  
2795 | provisions of this section if the local government having  
2796 | jurisdiction over the area where the development is proposed has  
2797 | adopted the urban service boundary, has entered into a binding  
2798 | agreement with jurisdictions that would be impacted and with the  
2799 | Department of Transportation regarding the mitigation of impacts  
2800 | on state and regional transportation facilities, and has adopted

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2801 a proportionate share methodology pursuant to s. 163.3180(16).

2802 (m) Any proposed development within a rural land  
 2803 stewardship area created under s. 163.3177(11)(d) is exempt from  
 2804 the provisions of this section if the local government that has  
 2805 adopted the rural land stewardship area has entered into a  
 2806 binding agreement with jurisdictions that would be impacted and  
 2807 the Department of Transportation regarding the mitigation of  
 2808 impacts on state and regional transportation facilities, and has  
 2809 adopted a proportionate share methodology pursuant to s.  
 2810 163.3180(16).

2811 (n) Any proposed development or redevelopment within an  
 2812 area designated as an urban infill and redevelopment area under  
 2813 s. 163.2517 is exempt from this section if the local government  
 2814 has entered into a binding agreement with jurisdictions that  
 2815 would be impacted and the Department of Transportation regarding  
 2816 the mitigation of impacts on state and regional transportation  
 2817 facilities, and has adopted a proportionate share methodology  
 2818 pursuant to s. 163.3180(16).

2819 (o) The establishment, relocation, or expansion of any  
 2820 military installation as defined in s. 163.3175, is exempt from  
 2821 this section.

2822 (p) Any self-storage warehousing that does not allow  
 2823 retail or other services is exempt from this section.

2824 (q) Any proposed nursing home or assisted living facility  
 2825 is exempt from this section.

2826 (r) Any development identified in an airport master plan  
 2827 and adopted into the comprehensive plan pursuant to s.  
 2828 163.3177(6)(k) is exempt from this section.

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2829 (s) Any development identified in a campus master plan and  
2830 adopted pursuant to s. 1013.30 is exempt from this section.

2831 (t) Any development in a specific area plan which is  
2832 prepared pursuant to s. 163.3245 and adopted into the  
2833 comprehensive plan is exempt from this section.

2834 (u) Any development within a county with a research and  
2835 education authority created by special act and that is also  
2836 within a research and development park that is operated or  
2837 managed by a research and development authority pursuant to part  
2838 V of chapter 159 is exempt from this section.

2839

2840 If a use is exempt from review as a development of regional  
2841 impact under paragraphs (a)-(t), ~~except for paragraph (u)~~, but  
2842 will be part of a larger project that is subject to review as a  
2843 development of regional impact, the impact of the exempt use  
2844 must be included in the review of the larger project.

2845

2846 Reviser's note.--Amended to improve clarity and  
2847 eliminate redundancy.

2848

2849 Section 74. Paragraph (c) of subsection (3) of section  
2850 380.23, Florida Statutes, is amended to read:

2851 380.23 Federal consistency.--

2852 (3) Consistency review shall be limited to review of the  
2853 following activities, uses, and projects to ensure that such  
2854 activities, uses, and projects are conducted in accordance with  
2855 the state's coastal management program:

2856 (c) Federally licensed or permitted activities affecting

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2857 land or water uses when such activities are in or seaward of the  
 2858 jurisdiction of local governments required to develop a coastal  
 2859 zone protection element as provided in s. 380.24 and when such  
 2860 activities involve:

2861 1. Permits and licenses required under the Rivers and  
 2862 Harbors Act of 1899, 33 U.S.C. ss. 401 et seq., as amended.

2863 2. Permits and licenses required under the Marine  
 2864 Protection, Research and Sanctuaries Act of 1972, 33 U.S.C. ss.  
 2865 1401-1445 and 16 U.S.C. ss. 1431-1445, as amended.

2866 3. Permits and licenses required under the Federal Water  
 2867 Pollution Control Act of 1972, 33 U.S.C. ss. 1251 et seq., as  
 2868 amended, unless such permitting activities have been delegated  
 2869 to the state pursuant to said act.

2870 4. Permits and licenses relating to the transportation of  
 2871 hazardous substance materials or transportation and dumping  
 2872 which are issued pursuant to the Hazardous Materials  
 2873 Transportation Act, 49 U.S.C. ss. 1501 et seq., as amended, or  
 2874 33 U.S.C. s. 1321, as amended.

2875 5. Permits and licenses required under 15 U.S.C. ss. 717-  
 2876 717w, 3301-3432, 42 U.S.C. ss. 7101-7352, and 43 U.S.C. ss.  
 2877 1331-1356 for construction and operation of interstate gas  
 2878 pipelines and storage facilities.

2879 6. Permits and licenses required for the siting and  
 2880 construction of any new electrical power plants as defined in s.  
 2881 403.503(13) ~~403.503(12)~~, as amended, and the licensing and  
 2882 relicensing of hydroelectric power plants under the Federal  
 2883 Power Act, 16 U.S.C. ss. 791a et seq., as amended.

2884 7. Permits and licenses required under the Mining Law of

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2885 1872, 30 U.S.C. ss. 21 et seq., as amended; the Mineral Lands  
 2886 Leasing Act, 30 U.S.C. ss. 181 et seq., as amended; the Mineral  
 2887 Leasing Act for Acquired Lands, 30 U.S.C. ss. 351 et seq., as  
 2888 amended; the Federal Land Policy and Management Act, 43 U.S.C.  
 2889 ss. 1701 et seq., as amended; the Mining in the Parks Act, 16  
 2890 U.S.C. ss. 1901 et seq., as amended; and the OCS Lands Act, 43  
 2891 U.S.C. ss. 1331 et seq., as amended, for drilling, mining,  
 2892 pipelines, geological and geophysical activities, or rights-of-  
 2893 way on public lands and permits and licenses required under the  
 2894 Indian Mineral Development Act, 25 U.S.C. ss. 2101 et seq., as  
 2895 amended.

2896 8. Permits and licenses for areas leased under the OCS  
 2897 Lands Act, 43 U.S.C. ss. 1331 et seq., as amended, including  
 2898 leases and approvals of exploration, development, and production  
 2899 plans.

2900 9. Permits and licenses required under the Deepwater Port  
 2901 Act of 1974, 33 U.S.C. ss. 1501 et seq., as amended.

2902 10. Permits required for the taking of marine mammals  
 2903 under the Marine Mammal Protection Act of 1972, as amended, 16  
 2904 U.S.C. s. 1374.

2905

2906 Reviser's note.--Amended to conform to the  
 2907 redesignation of s. 403.503(12) as s. 403.503(13) by  
 2908 s. 20, ch. 2006-230, Laws of Florida.

2909

2910 Section 75. Paragraph (i) of subsection (3) of section  
 2911 381.028, Florida Statutes, is amended to read:

2912 381.028 Adverse medical incidents.--



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2913 (3) DEFINITIONS.--As used in s. 25, Art. X of the State  
 2914 Constitution and this act, the term:

2915 (i) "Privacy restrictions imposed by federal law" means  
 2916 the provisions relating to the disclosure of patient privacy  
 2917 information under federal law, including, but not limited to,  
 2918 the Health Insurance Portability and Accountability Act of 1996  
 2919 (HIPAA), Pub. L. No. 104-191 ~~104-91~~, and its implementing  
 2920 regulations, the Federal Privacy Act, 5 U.S.C. s. 552(a), and  
 2921 its implementing regulations, and any other federal law,  
 2922 including, but not limited to, federal common law and decisional  
 2923 law, that would prohibit the disclosure of patient privacy  
 2924 information.

2925  
 2926 Reviser's note.--Amended to conform to context. The  
 2927 Health Insurance Portability and Accountability Act of  
 2928 1996 is Pub. L. No. 104-191.

2929  
 2930 Section 76. Subsection (4) of section 400.0073, Florida  
 2931 Statutes, is amended to read:

2932 400.0073 State and local ombudsman council  
 2933 investigations.--

2934 (4) If the ombudsman or any state or local council member  
 2935 is not allowed to enter a long-term care facility, the  
 2936 administrator of the facility shall be considered to have  
 2937 interfered with a representative of the office, the state  
 2938 council, or the local council in the performance of official  
 2939 duties as described in s. 400.0083(1) and to have committed a  
 2940 violation of this part. The ombudsman shall report a facility's

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2941 refusal to allow entry to the agency, and the agency shall  
 2942 record the report and take it into consideration when  
 2943 determining actions allowable under s. 400.102, s. 400.121, s.  
 2944 429.14 ~~400.414~~, s. 429.19 ~~400.419~~, s. 429.69 ~~400.6194~~, or s.  
 2945 429.71 ~~400.6196~~.

2946  
 2947 Reviser's note.--Amended to conform to the transfer of  
 2948 sections comprising parts III and VII of chapter 400  
 2949 to parts I and II of chapter 429 by ss. 2, 3, ch.  
 2950 2006-197, Laws of Florida.

2951  
 2952 Section 77. Paragraph (a) of subsection (2) and subsection  
 2953 (4) of section 400.0074, Florida Statutes, are amended to read:

2954 400.0074 Local ombudsman council onsite administrative  
 2955 assessments.--

2956 (2) An onsite administrative assessment conducted by a  
 2957 local council shall be subject to the following conditions:

2958 (a) To the extent possible and reasonable, the  
 2959 administrative assessments shall not duplicate the efforts of  
 2960 the agency surveys and inspections conducted under part parts  
 2961 ~~II, III, and VII~~ of this chapter and parts I and II of chapter  
 2962 429.

2963 (4) An onsite administrative assessment may not be  
 2964 accomplished by forcible entry. However, if the ombudsman or a  
 2965 state or local council member is not allowed to enter a long-  
 2966 term care facility, the administrator of the facility shall be  
 2967 considered to have interfered with a representative of the  
 2968 office, the state council, or the local council in the

2969 performance of official duties as described in s. 400.0083(1)  
 2970 and to have committed a violation of this part. The ombudsman  
 2971 shall report the refusal by a facility to allow entry to the  
 2972 agency, and the agency shall record the report and take it into  
 2973 consideration when determining actions allowable under s.  
 2974 400.102, s. 400.121, s. 429.14 ~~400.414~~, s. 429.19 ~~400.419~~, s.  
 2975 429.69 ~~400.6194~~, or s. 429.71 ~~400.6196~~.

2976  
 2977 Reviser's note.--Amended to conform to the transfer of  
 2978 sections comprising parts III and VII of chapter 400  
 2979 to parts I and II of chapter 429 by ss. 2, 3, ch.  
 2980 2006-197, Laws of Florida.

2981  
 2982 Section 78. Paragraph (a) of subsection (2) of section  
 2983 400.0075, Florida Statutes, is amended to read:

2984 400.0075 Complaint notification and resolution  
 2985 procedures.--

2986 (2) (a) Upon referral from a local council, the state  
 2987 council shall assume the responsibility for the disposition of  
 2988 the complaint. If a long-term care facility fails to take action  
 2989 on a complaint by the state council, the state council may,  
 2990 after obtaining approval from the ombudsman and a majority of  
 2991 the state council members:

2992 1. In accordance with s. 400.0077, publicize the  
 2993 complaint, the recommendations of the local or state council,  
 2994 and the response of the long-term care facility.

2995 2. Recommend to the department and the agency a series of  
 2996 facility reviews pursuant to s. 400.19, s. 429.34 ~~400.434~~, or s.

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2997 | 429.67 ~~400.619~~ to ensure correction and nonrecurrence of  
 2998 | conditions that give rise to complaints against a long-term care  
 2999 | facility.

3000 |         3. Recommend to the department and the agency that the  
 3001 | long-term care facility no longer receive payments under any  
 3002 | state assistance program, including Medicaid.

3003 |         4. Recommend to the department and the agency that  
 3004 | procedures be initiated for revocation of the long-term care  
 3005 | facility's license in accordance with chapter 120.

3006 |  
 3007 |         Reviser's note.--Amended to conform to the transfer of  
 3008 | sections comprising parts III and VII of chapter 400  
 3009 | to parts I and II of chapter 429 by ss. 2, 3, ch.  
 3010 | 2006-197, Laws of Florida.

3011 |  
 3012 |         Section 79. Subsection (16) of section 400.506, Florida  
 3013 | Statutes, is amended to read:

3014 |         400.506 Licensure of nurse registries; requirements;  
 3015 | penalties.--

3016 |         (16) Each nurse registry shall prepare and maintain a  
 3017 | comprehensive emergency management plan that is consistent with  
 3018 | the criteria in this subsection and with the local special needs  
 3019 | plan. The plan shall be updated annually. The plan shall include  
 3020 | the means by which the nurse registry will continue to provide  
 3021 | the same type and quantity of services to its patients who  
 3022 | evacuate to special needs shelters which were being provided to  
 3023 | those patients prior to evacuation. The plan shall specify how  
 3024 | the nurse registry shall facilitate the provision of continuous

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3025 care by persons referred for contract to persons who are  
3026 registered pursuant to s. 252.355 during an emergency that  
3027 interrupts the provision of care or services in private  
3028 residences ~~residencies~~. Nurse registries may establish links to  
3029 local emergency operations centers to determine a mechanism by  
3030 which to approach specific areas within a disaster area in order  
3031 for a provider to reach its clients. Nurse registries shall  
3032 demonstrate a good faith effort to comply with the requirements  
3033 of this subsection by documenting attempts of staff to follow  
3034 procedures outlined in the nurse registry's comprehensive  
3035 emergency management plan which support a finding that the  
3036 provision of continuing care has been attempted for patients  
3037 identified as needing care by the nurse registry and registered  
3038 under s. 252.355 in the event of an emergency under subsection  
3039 (1).

3040 (a) All persons referred for contract who care for persons  
3041 registered pursuant to s. 252.355 must include in the patient  
3042 record a description of how care will be continued during a  
3043 disaster or emergency that interrupts the provision of care in  
3044 the patient's home. It shall be the responsibility of the person  
3045 referred for contract to ensure that continuous care is  
3046 provided.

3047 (b) Each nurse registry shall maintain a current  
3048 prioritized list of patients in private residences who are  
3049 registered pursuant to s. 252.355 and are under the care of  
3050 persons referred for contract and who need continued services  
3051 during an emergency. This list shall indicate, for each patient,  
3052 if the client is to be transported to a special needs shelter

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3053 and if the patient is receiving skilled nursing services. Nurse  
3054 registries shall make this list available to county health  
3055 departments and to local emergency management agencies upon  
3056 request.

3057 (c) Each person referred for contract who is caring for a  
3058 patient who is registered pursuant to s. 252.355 shall provide a  
3059 list of the patient's medication and equipment needs to the  
3060 nurse registry. Each person referred for contract shall make  
3061 this information available to county health departments and to  
3062 local emergency management agencies upon request.

3063 (d) Each person referred for contract shall not be  
3064 required to continue to provide care to patients in emergency  
3065 situations that are beyond the person's control and that make it  
3066 impossible to provide services, such as when roads are  
3067 impassable or when patients do not go to the location specified  
3068 in their patient records.

3069 (e) The comprehensive emergency management plan required  
3070 by this subsection is subject to review and approval by the  
3071 county health department. During its review, the county health  
3072 department shall contact state and local health and medical  
3073 stakeholders when necessary. The county health department shall  
3074 complete its review to ensure that the plan complies with the  
3075 criteria in the Agency for Health Care Administration rules  
3076 within 90 days after receipt of the plan and shall either  
3077 approve the plan or advise the nurse registry of necessary  
3078 revisions. If a nurse registry fails to submit a plan or fails  
3079 to submit requested information or revisions to the county  
3080 health department within 30 days after written notification from

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3081 the county health department, the county health department shall  
 3082 notify the Agency for Health Care Administration. The agency  
 3083 shall notify the nurse registry that its failure constitutes a  
 3084 deficiency, subject to a fine of \$5,000 per occurrence. If the  
 3085 plan is not submitted, information is not provided, or revisions  
 3086 are not made as requested, the agency may impose the fine.

3087 (f) The Agency for Health Care Administration shall adopt  
 3088 rules establishing minimum criteria for the comprehensive  
 3089 emergency management plan and plan updates required by this  
 3090 subsection, with the concurrence of the Department of Health and  
 3091 in consultation with the Department of Community Affairs.

3092  
 3093 Reviser's note.--Amended to improve clarity and  
 3094 conform to context.

3095  
 3096 Section 80. Paragraph (b) of subsection (2) of section  
 3097 402.164, Florida Statutes, is amended to read:

3098 402.164 Legislative intent; definitions.--

3099 (2) As used in ss. 402.164-402.167, the term:

3100 (b) "Client" means a client of the Agency for Persons with  
 3101 Disabilities, the Agency for Health Care Administration, the  
 3102 Department of Children and Family Services, or the Department of  
 3103 Elderly Affairs, as defined in s. 393.063, s. 394.67, s.  
 3104 397.311, or s. 400.960, a forensic client or client as defined  
 3105 in s. 916.106, a child or youth as defined in s. 39.01, a child  
 3106 as defined in s. 827.01, a family as defined in s. 414.0252, a  
 3107 participant as defined in s. 429.901 ~~400.551~~, a resident as  
 3108 defined in s. 429.02, a Medicaid recipient or recipient as

3109 defined in s. 409.901, a child receiving child care as defined  
 3110 in s. 402.302, a disabled adult as defined in s. 410.032 or s.  
 3111 410.603, or a victim as defined in s. 39.01 or s. 415.102 as  
 3112 each definition applies within its respective chapter.

3113

3114 Reviser's note.--Amended to confirm the substitution  
 3115 by the editors of a reference to s. 429.901 for a  
 3116 reference to s. 400.551, which was transferred by s.  
 3117 4, ch. 2006-197, Laws of Florida.

3118

3119 Section 81. Paragraphs (a) and (b) of subsection (1) and  
 3120 paragraph (b) of subsection (3) of section 403.091, Florida  
 3121 Statutes, are amended to read:

3122 403.091 Inspections.--

3123 (1) (a) Any duly authorized representative of the  
 3124 department may at any reasonable time enter and inspect, for the  
 3125 purpose of ascertaining the state of compliance with the law or  
 3126 rules and regulations of the department, any property, premises,  
 3127 or place, except a building which is used exclusively for a  
 3128 private residence, on or at which:

3129 1. A hazardous waste generator, transporter, or facility  
 3130 or other air or water contaminant source;

3131 2. A discharger, including any nondomestic discharger  
 3132 which introduces any pollutant into a publicly owned treatment  
 3133 works;

3134 3. Any facility, as defined in s. 376.301; or

3135 4. A resource recovery and management facility

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3137 is located or is being constructed or installed or where records  
3138 which are required under this chapter, ss. 376.30-376.317  
3139 ~~376.30-376.319~~, or department rule are kept.

3140 (b) Any duly authorized representative may at reasonable  
3141 times have access to and copy any records required under this  
3142 chapter or ss. 376.30-376.317 ~~376.30-376.319~~; inspect any  
3143 monitoring equipment or method; sample for any pollutants as  
3144 defined in s. 376.301, effluents, or wastes which the owner or  
3145 operator of such source may be discharging or which may  
3146 otherwise be located on or underlying the owner's or operator's  
3147 property; and obtain any other information necessary to  
3148 determine compliance with permit conditions or other  
3149 requirements of this chapter, ss. 376.30-376.317 ~~376.30-376.319~~,  
3150 or department rules.

3151 (3)

3152 (b) Upon proper affidavit being made, an inspection  
3153 warrant may be issued under the provisions of this chapter or  
3154 ss. 376.30-376.317 ~~376.30-376.319~~:

3155 1. When it appears that the properties to be inspected may  
3156 be connected with or contain evidence of the violation of any of  
3157 the provisions of this chapter or ss. 376.30-376.317 ~~376.30-~~  
3158 ~~376.319~~ or any rule properly promulgated thereunder; or

3159 2. When the inspection sought is an integral part of a  
3160 larger scheme of systematic routine inspections which are  
3161 necessary to, and consistent with, the continuing efforts of the  
3162 department to ensure compliance with the provisions of this  
3163 chapter or ss. 376.30-376.317 ~~376.30-376.319~~ and any rules  
3164 adopted thereunder.

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

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

403.5175 Existing electrical power plant site  
certification.--

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

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

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

403.526 Preliminary statements of issues, reports, and

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3193 project analyses; studies.--

3194 (2)

3195 (d) When an agency whose agency head is a collegial body,  
 3196 such as a commission, board, or council, is required to submit a  
 3197 report pursuant to this section and is required by its own  
 3198 internal procedures to have the report reviewed by its agency  
 3199 head prior to finalization, the agency may submit to the  
 3200 department a draft version of the report by the deadline  
 3201 indicated in paragraph (a), and shall submit a final version of  
 3202 the report after review by the agency head, ~~and~~ no later than 15  
 3203 days after the deadline indicated in paragraph (a).

3204

3205 Reviser's note.--Amended to confirm the deletion by  
 3206 the editors of the word "and" following the word  
 3207 "head" to improve clarity.

3208

3209 Section 84. Paragraph (h) of subsection (1) of section  
 3210 403.5271, Florida Statutes, is amended to read:

3211 403.5271 Alternate corridors.--

3212 (1) No later than 45 days before the originally scheduled  
 3213 certification hearing, any party may propose alternate  
 3214 transmission line corridor routes for consideration under the  
 3215 provisions of this act.

3216 (h) When an agency whose agency head is a collegial body,  
 3217 such as a commission, board, or council, is required to submit a  
 3218 report pursuant to this section and is required by its own  
 3219 internal procedures to have the report reviewed by its agency  
 3220 head prior to finalization, the agency may submit to the

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3221 department a draft version of the report by the deadline  
 3222 indicated in paragraph (f), and shall submit a final version of  
 3223 the report after review by the agency head ~~and~~ no later than 7  
 3224 days after the deadline indicated in paragraph (f).

3225

3226 Reviser's note.--Amended to confirm the deletion by  
 3227 the editors of the word "and" following the word  
 3228 "head" to improve clarity.

3229

3230 Section 85. Subsection (2) of section 403.528, Florida  
 3231 Statutes, is amended to read:

3232 403.528 Alteration of time limits.--

3233 (2) A comprehensive application encompassing more than one  
 3234 proposed transmission line may be good cause for alteration  
 3235 ~~alternation~~ of time limits.

3236

3237 Reviser's note.--Amended to confirm the substitution  
 3238 by the editors of the word "alteration" for the word  
 3239 "alternation" to conform to context.

3240

3241 Section 86. Subsections (2), (3), and (5) of section  
 3242 403.7043, Florida Statutes, are amended to read:

3243 403.7043 Compost standards and applications.--

3244 (2) ~~Within 6 months after October 1, 1988,~~ The department  
 3245 shall ~~initiate rulemaking to~~ establish standards for the  
 3246 production of compost ~~and shall complete and promulgate those~~  
 3247 ~~rules within 12 months after initiating the process of~~  
 3248 ~~rulemaking,~~ including rules establishing:

3249 (a) Requirements necessary to produce hygienically safe  
 3250 compost products for varying applications.

3251 (b) A classification scheme for compost based on: the  
 3252 types of waste composted, including at least one type containing  
 3253 only yard trash; the maturity of the compost, including at least  
 3254 three degrees of decomposition for fresh, semimature, and  
 3255 mature; and the levels of organic and inorganic constituents in  
 3256 the compost. This scheme shall address:

- 3257 1. Methods for measurement of the compost maturity.
- 3258 2. Particle sizes.
- 3259 3. Moisture content.
- 3260 4. Average levels of organic and inorganic constituents,  
 3261 including heavy metals, for such classes of compost as the  
 3262 department establishes, and the analytical methods to determine  
 3263 those levels.

3264 (3) The department's rules ~~Within 6 months after October~~  
 3265 ~~1, 1988, the department shall initiate rulemaking to prescribe~~  
 3266 ~~the allowable uses and application rates of compost and shall~~  
 3267 ~~complete and promulgate those rules within 12 months after~~  
 3268 ~~initiating the process of rulemaking,~~ based on the following  
 3269 criteria:

3270 (a) The total quantity of organic and inorganic  
 3271 constituents, including heavy metals, allowed to be applied  
 3272 through the addition of compost to the soil per acre per year.

3273 (b) The allowable uses of compost based on maturity and  
 3274 type of compost.

3275 (5) The provisions of s. 403.706 shall not prohibit any  
 3276 county or municipality which had ~~has~~ in place a memorandum of

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3277 understanding or other written agreement as of October 1, 1988,  
 3278 from proceeding with plans to build a compost facility.

3279  
 3280 Reviser's note.--Subsections (2) and (3), which relate  
 3281 to initial rulemaking, are amended to delete  
 3282 provisions that have served their purpose. Subsection  
 3283 (5) is amended to conform to context.

3284  
 3285 Section 87. Subsection (13) of section 403.708, Florida  
 3286 Statutes, is amended to read:

3287 403.708 Prohibition; penalty.--

3288 (13) ~~In accordance with the following schedule,~~ No person  
 3289 who knows or who should know of the nature of the following ~~such~~  
 3290 solid waste shall dispose of such solid waste in landfills:

3291 (a) ~~Lead-acid batteries, after January 1, 1989.~~ Lead-acid  
 3292 batteries also shall not be disposed of in any waste-to-energy  
 3293 facility ~~after January 1, 1989.~~ To encourage proper collection  
 3294 and recycling, all persons who sell lead-acid batteries at  
 3295 retail shall accept used lead-acid batteries as trade-ins for  
 3296 new lead-acid batteries.

3297 (b) ~~Used oil, after October 1, 1988.~~

3298 (c) ~~Yard trash, after January 1, 1992,~~ except in unlined  
 3299 landfills classified by department rule. Yard trash that is  
 3300 source separated from solid waste may be accepted at a solid  
 3301 waste disposal area where the area provides and maintains  
 3302 separate yard trash composting facilities. The department  
 3303 recognizes that incidental amounts of yard trash may be disposed  
 3304 of in lined landfills. In any enforcement action taken pursuant

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3305 to this paragraph, the department shall consider the difficulty  
 3306 of removing incidental amounts of yard trash from a mixed solid  
 3307 waste stream.

3308 (d) White goods, ~~after January 1, 1990.~~

3309  
 3310 ~~Prior to the effective dates specified in paragraphs (a) (d),~~  
 3311 ~~the department shall identify and assist in developing~~  
 3312 ~~alternative disposal, processing, or recycling options for the~~  
 3313 ~~solid wastes identified in paragraphs (a) (d).~~

3314  
 3315 Reviser's note.--Amended to delete provisions that  
 3316 have served their purpose.

3317  
 3318 Section 88. Paragraph (f) of subsection (3) of section  
 3319 408.036, Florida Statutes, is amended to read:

3320 408.036 Projects subject to review; exemptions.--

3321 (3) EXEMPTIONS.--Upon request, the following projects are  
 3322 subject to exemption from the provisions of subsection (1):

3323 (f) For the creation of a single nursing home within a  
 3324 district by combining licensed beds from two or more licensed  
 3325 nursing homes within such district, regardless of subdistrict  
 3326 boundaries, if 50 percent of the beds in the created nursing  
 3327 home are transferred from the only nursing home in a county and  
 3328 its utilization data demonstrate that it had an occupancy rate  
 3329 of less than 75 percent for the 12-month period ending 90 days  
 3330 before the request for the exemption. This paragraph is repealed  
 3331 upon the expiration of the moratorium established in s.

3332 408.0435(1) ~~651.1185(1)~~.

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

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

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

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

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

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

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

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

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

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

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

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



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3361 (10) Mobile surgical facilities, as provided under part I  
 3362 of chapter 395.

3363 (11) Private review agents, as provided under part I of  
 3364 chapter 395.

3365 (12) Health care risk managers, as provided under part I  
 3366 of chapter 395.

3367 (13) Nursing homes, as provided under part II of chapter  
 3368 400.

3369 (14) Assisted living facilities, as provided under part I  
 3370 ~~III~~ of chapter 429 ~~400~~.

3371 (15) Home health agencies, as provided under part III ~~IV~~  
 3372 of chapter 400.

3373 (16) Nurse registries, as provided under part III ~~IV~~ of  
 3374 chapter 400.

3375 (17) Companion services or homemaker services providers,  
 3376 as provided under part III ~~IV~~ of chapter 400.

3377 (18) Adult day care centers, as provided under part III ~~V~~  
 3378 of chapter 429 ~~400~~.

3379 (19) Hospices, as provided under part IV ~~VI~~ of chapter  
 3380 400.

3381 (20) Adult family-care homes, as provided under part II  
 3382 ~~VII~~ of chapter 429 ~~400~~.

3383 (21) Homes for special services, as provided under part V  
 3384 ~~VIII~~ of chapter 400.

3385 (22) Transitional living facilities, as provided under  
 3386 part V ~~VIII~~ of chapter 400.

3387 (23) Prescribed pediatric extended care centers, as  
 3388 provided under part VI ~~IX~~ of chapter 400.

3389 (24) Home medical equipment providers, as provided under  
 3390 part VII ~~X~~ of chapter 400.

3391 (25) Intermediate care facilities for persons with  
 3392 developmental disabilities, as provided under part VIII ~~XI~~ of  
 3393 chapter 400.

3394 (26) Health care services pools, as provided under part IX  
 3395 ~~XII~~ of chapter 400.

3396 (27) Health care clinics, as provided under part X ~~XIII~~ of  
 3397 chapter 400.

3398 (28) Clinical laboratories, as provided under part I of  
 3399 chapter 483.

3400 (29) Multiphasic health testing centers, as provided under  
 3401 part II of chapter 483.

3402 (30) Organ and tissue procurement agencies, as provided  
 3403 under chapter 765.

3404

3405 Reviser's note.--Amended to conform to the  
 3406 redesignation of former parts III, V, and VII of  
 3407 chapter 400 as parts I, III, and II of chapter 429,  
 3408 respectively, by ss. 2, 3, 4, ch. 2006-197, Laws of  
 3409 Florida.

3410

3411 Section 90. Subsection (3) of section 408.803, Florida  
 3412 Statutes, is amended to read:

3413 408.803 Definitions.--As used in this part, the term:

3414 (3) "Authorizing statute" means the statute authorizing  
 3415 the licensed operation of a provider listed in s. 408.802 and  
 3416 includes chapters 112, 383, 390, 394, 395, 400, 429, 440, 483,

3417 and 765.

3418

3419 Reviser's note.--Amended to conform to the  
 3420 redesignation of former parts III, V, and VII of  
 3421 chapter 400 as chapter 429 by ch. 2006-197, Laws of  
 3422 Florida.

3423

3424 Section 91. Paragraph (b) of subsection (7) of section  
 3425 408.806, Florida Statutes, is amended to read:

3426 408.806 License application process.--

3427 (7)

3428 (b) An initial inspection is not required for companion  
 3429 services or homemaker services providers, as provided under part  
 3430 III ~~IV~~ of chapter 400, or for health care services pools, as  
 3431 provided under part IX ~~XII~~ of chapter 400.

3432

3433 Reviser's note.--Amended to conform to the  
 3434 redesignation of parts within chapter 400 necessitated  
 3435 by the redesignation of former parts III, V, and VIII  
 3436 as chapter 429 by ch. 2006-197, Laws of Florida.

3437

3438 Section 92. Subsections (14), (15), (16), (17), (18),  
 3439 (19), (20), (21), (22), (23), (24), (25), and (26) of section  
 3440 408.820, Florida Statutes, are amended to read:

3441 408.820 Exemptions.--Except as prescribed in authorizing  
 3442 statutes, the following exemptions shall apply to specified  
 3443 requirements of this part:

3444 (14) Assisted living facilities, as provided under part I

3445 ~~III~~ of chapter 429 ~~400~~, are exempt from s. 408.810(10).

3446       (15) Home health agencies, as provided under part III ~~IV~~

3447 of chapter 400, are exempt from s. 408.810(10).

3448       (16) Nurse registries, as provided under part III ~~IV~~ of

3449 chapter 400, are exempt from s. 408.810(6) and (10).

3450       (17) Companion services or homemaker services providers,

3451 as provided under part III ~~IV~~ of chapter 400, are exempt from s.

3452 408.810(6)-(10).

3453       (18) Adult day care centers, as provided under part III ~~V~~

3454 of chapter 429 ~~400~~, are exempt from s. 408.810(10).

3455       (19) Adult family-care homes, as provided under part II

3456 ~~VII~~ of chapter 429 ~~400~~, are exempt from s. 408.810(7)-(10).

3457       (20) Homes for special services, as provided under part V

3458 ~~VIII~~ of chapter 400, are exempt from s. 408.810(7)-(10).

3459       (21) Transitional living facilities, as provided under

3460 part V ~~VIII~~ of chapter 400, are exempt from s. 408.810(7)-(10).

3461       (22) Prescribed pediatric extended care centers, as

3462 provided under part VI ~~IX~~ of chapter 400, are exempt from s.

3463 408.810(10).

3464       (23) Home medical equipment providers, as provided under

3465 part VII ~~X~~ of chapter 400, are exempt from s. 408.810(10).

3466       (24) Intermediate care facilities for persons with

3467 developmental disabilities, as provided under part VIII ~~XI~~ of

3468 chapter 400, are exempt from s. 408.810(7).

3469       (25) Health care services pools, as provided under part IX

3470 ~~XII~~ of chapter 400, are exempt from s. 408.810(6)-(10).

3471       (26) Health care clinics, as provided under part X ~~XIII~~ of

3472 chapter 400, are exempt from ss. 408.809 and 408.810(1), (6),

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3473 (7), and (10).

3474

3475 Reviser's note.--Amended to conform to the  
 3476 redesignation of former parts III, V, and VII of  
 3477 chapter 400 as parts I, III, and II of chapter 429,  
 3478 respectively, by ss. 2, 3, 4, ch. 2006-197, Laws of  
 3479 Florida.

3480

3481 Section 93. Section 408.832, Florida Statutes, is amended  
 3482 to read:

3483 408.832 Conflicts.--In case of conflict between the  
 3484 provisions of part II of chapter 408 and the authorizing  
 3485 statutes governing the licensure of health care providers by the  
 3486 Agency for Health Care Administration found in s. 112.0455 and  
 3487 chapters 383, 390, 394, 395, 400, 429, 440, 483, and 765, the  
 3488 provisions of part II of chapter 408 shall prevail.

3489

3490 Reviser's note.--Amended to conform to the  
 3491 redesignation of former parts III, V, and VII of  
 3492 chapter 400 as chapter 429 pursuant to ch. 2006-197,  
 3493 Laws of Florida.

3494

3495 Section 94. Paragraph (a) of subsection (3) of section  
 3496 409.1685, Florida Statutes, is amended to read:

3497 409.1685 Children in foster care; annual report to  
 3498 Legislature.--The Department of Children and Family Services  
 3499 shall submit a written report to the substantive committees of  
 3500 the Legislature concerning the status of children in foster care

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3501 and concerning the judicial review mandated by part X of chapter  
 3502 39. This report shall be submitted by March 1 of each year and  
 3503 shall include the following information for the prior calendar  
 3504 year:

3505 (3) The number of termination of parental rights  
 3506 proceedings instituted during that period which shall include:

3507 (a) The number of termination of parental rights  
 3508 proceedings initiated pursuant to former s. 39.703; and

3509  
 3510 Reviser's note.--Amended to clarify the status of  
 3511 referenced s. 39.703, which was repealed by s. 35, ch.  
 3512 2006-86, Laws of Florida.

3513  
 3514 Section 95. Paragraph (e) of subsection (4) of section  
 3515 409.221, Florida Statutes, is amended to read:

3516 409.221 Consumer-directed care program.--

3517 (4) CONSUMER-DIRECTED CARE.--

3518 (e) Services.--Consumers shall use the budget allowance  
 3519 only to pay for home and community-based services that meet the  
 3520 consumer's long-term care needs and are a cost-efficient use of  
 3521 funds. Such services may include, but are not limited to, the  
 3522 following:

3523 1. Personal care.

3524 2. Homemaking and chores, including housework, meals,  
 3525 shopping, and transportation.

3526 3. Home modifications and assistive devices which may  
 3527 increase the consumer's independence or make it possible to  
 3528 avoid institutional placement.

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3529 4. Assistance in taking self-administered medication.

3530 5. Day care and respite care services, including those  
 3531 provided by nursing home facilities pursuant to s. 400.141(6) or  
 3532 by adult day care facilities licensed pursuant to s. 429.907  
 3533 ~~400.554~~.

3534 6. Personal care and support services provided in an  
 3535 assisted living facility.

3536

3537 Reviser's note.--Amended to conform to the transfer of  
 3538 s. 400.554 to s. 429.907 by s. 4, ch. 2006-197, Laws  
 3539 of Florida.

3540

3541 Section 96. Paragraph (a) of subsection (2) of section  
 3542 409.908, Florida Statutes, is amended to read:

3543 409.908 Reimbursement of Medicaid providers.--Subject to  
 3544 specific appropriations, the agency shall reimburse Medicaid  
 3545 providers, in accordance with state and federal law, according  
 3546 to methodologies set forth in the rules of the agency and in  
 3547 policy manuals and handbooks incorporated by reference therein.

3548 These methodologies may include fee schedules, reimbursement  
 3549 methods based on cost reporting, negotiated fees, competitive  
 3550 bidding pursuant to s. 287.057, and other mechanisms the agency  
 3551 considers efficient and effective for purchasing services or  
 3552 goods on behalf of recipients. If a provider is reimbursed based  
 3553 on cost reporting and submits a cost report late and that cost  
 3554 report would have been used to set a lower reimbursement rate  
 3555 for a rate semester, then the provider's rate for that semester  
 3556 shall be retroactively calculated using the new cost report, and

3557 full payment at the recalculated rate shall be effected  
 3558 retroactively. Medicare-granted extensions for filing cost  
 3559 reports, if applicable, shall also apply to Medicaid cost  
 3560 reports. Payment for Medicaid compensable services made on  
 3561 behalf of Medicaid eligible persons is subject to the  
 3562 availability of moneys and any limitations or directions  
 3563 provided for in the General Appropriations Act or chapter 216.  
 3564 Further, nothing in this section shall be construed to prevent  
 3565 or limit the agency from adjusting fees, reimbursement rates,  
 3566 lengths of stay, number of visits, or number of services, or  
 3567 making any other adjustments necessary to comply with the  
 3568 availability of moneys and any limitations or directions  
 3569 provided for in the General Appropriations Act, provided the  
 3570 adjustment is consistent with legislative intent.

3571 (2)(a)1. Reimbursement to nursing homes licensed under  
 3572 part II of chapter 400 and state-owned-and-operated intermediate  
 3573 care facilities for the developmentally disabled licensed under  
 3574 part VIII ~~XI~~ of chapter 400 must be made prospectively.

3575 2. Unless otherwise limited or directed in the General  
 3576 Appropriations Act, reimbursement to hospitals licensed under  
 3577 part I of chapter 395 for the provision of swing-bed nursing  
 3578 home services must be made on the basis of the average statewide  
 3579 nursing home payment, and reimbursement to a hospital licensed  
 3580 under part I of chapter 395 for the provision of skilled nursing  
 3581 services must be made on the basis of the average nursing home  
 3582 payment for those services in the county in which the hospital  
 3583 is located. When a hospital is located in a county that does not  
 3584 have any community nursing homes, reimbursement shall be



3585 determined by averaging the nursing home payments in counties  
 3586 that surround the county in which the hospital is located.  
 3587 Reimbursement to hospitals, including Medicaid payment of  
 3588 Medicare copayments, for skilled nursing services shall be  
 3589 limited to 30 days, unless a prior authorization has been  
 3590 obtained from the agency. Medicaid reimbursement may be extended  
 3591 by the agency beyond 30 days, and approval must be based upon  
 3592 verification by the patient's physician that the patient  
 3593 requires short-term rehabilitative and recuperative services  
 3594 only, in which case an extension of no more than 15 days may be  
 3595 approved. Reimbursement to a hospital licensed under part I of  
 3596 chapter 395 for the temporary provision of skilled nursing  
 3597 services to nursing home residents who have been displaced as  
 3598 the result of a natural disaster or other emergency may not  
 3599 exceed the average county nursing home payment for those  
 3600 services in the county in which the hospital is located and is  
 3601 limited to the period of time which the agency considers  
 3602 necessary for continued placement of the nursing home residents  
 3603 in the hospital.

3604  
 3605 Reviser's note.--Amended to conform to the transfer of  
 3606 sections comprising parts III, V, and VII of chapter  
 3607 400 to chapter 429 by ss. 2, 3, and 4, ch. 2006-197,  
 3608 Laws of Florida.

3609  
 3610 Section 97. Paragraph (b) of subsection (4) of section  
 3611 409.912, Florida Statutes, is amended to read:  
 3612 409.912 Cost-effective purchasing of health care.--The

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3613 agency shall purchase goods and services for Medicaid recipients  
3614 in the most cost-effective manner consistent with the delivery  
3615 of quality medical care. To ensure that medical services are  
3616 effectively utilized, the agency may, in any case, require a  
3617 confirmation or second physician's opinion of the correct  
3618 diagnosis for purposes of authorizing future services under the  
3619 Medicaid program. This section does not restrict access to  
3620 emergency services or poststabilization care services as defined  
3621 in 42 C.F.R. part 438.114. Such confirmation or second opinion  
3622 shall be rendered in a manner approved by the agency. The agency  
3623 shall maximize the use of prepaid per capita and prepaid  
3624 aggregate fixed-sum basis services when appropriate and other  
3625 alternative service delivery and reimbursement methodologies,  
3626 including competitive bidding pursuant to s. 287.057, designed  
3627 to facilitate the cost-effective purchase of a case-managed  
3628 continuum of care. The agency shall also require providers to  
3629 minimize the exposure of recipients to the need for acute  
3630 inpatient, custodial, and other institutional care and the  
3631 inappropriate or unnecessary use of high-cost services. The  
3632 agency shall contract with a vendor to monitor and evaluate the  
3633 clinical practice patterns of providers in order to identify  
3634 trends that are outside the normal practice patterns of a  
3635 provider's professional peers or the national guidelines of a  
3636 provider's professional association. The vendor must be able to  
3637 provide information and counseling to a provider whose practice  
3638 patterns are outside the norms, in consultation with the agency,  
3639 to improve patient care and reduce inappropriate utilization.  
3640 The agency may mandate prior authorization, drug therapy

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3641 management, or disease management participation for certain  
3642 populations of Medicaid beneficiaries, certain drug classes, or  
3643 particular drugs to prevent fraud, abuse, overuse, and possible  
3644 dangerous drug interactions. The Pharmaceutical and Therapeutics  
3645 Committee shall make recommendations to the agency on drugs for  
3646 which prior authorization is required. The agency shall inform  
3647 the Pharmaceutical and Therapeutics Committee of its decisions  
3648 regarding drugs subject to prior authorization. The agency is  
3649 authorized to limit the entities it contracts with or enrolls as  
3650 Medicaid providers by developing a provider network through  
3651 provider credentialing. The agency may competitively bid single-  
3652 source-provider contracts if procurement of goods or services  
3653 results in demonstrated cost savings to the state without  
3654 limiting access to care. The agency may limit its network based  
3655 on the assessment of beneficiary access to care, provider  
3656 availability, provider quality standards, time and distance  
3657 standards for access to care, the cultural competence of the  
3658 provider network, demographic characteristics of Medicaid  
3659 beneficiaries, practice and provider-to-beneficiary standards,  
3660 appointment wait times, beneficiary use of services, provider  
3661 turnover, provider profiling, provider licensure history,  
3662 previous program integrity investigations and findings, peer  
3663 review, provider Medicaid policy and billing compliance records,  
3664 clinical and medical record audits, and other factors. Providers  
3665 shall not be entitled to enrollment in the Medicaid provider  
3666 network. The agency shall determine instances in which allowing  
3667 Medicaid beneficiaries to purchase durable medical equipment and  
3668 other goods is less expensive to the Medicaid program than long-

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3669 term rental of the equipment or goods. The agency may establish  
3670 rules to facilitate purchases in lieu of long-term rentals in  
3671 order to protect against fraud and abuse in the Medicaid program  
3672 as defined in s. 409.913. The agency may seek federal waivers  
3673 necessary to administer these policies.

3674 (4) The agency may contract with:

3675 (b) An entity that is providing comprehensive behavioral  
3676 health care services to certain Medicaid recipients through a  
3677 capitated, prepaid arrangement pursuant to the federal waiver  
3678 provided for by s. 409.905(5). Such an entity must be licensed  
3679 under chapter 624, chapter 636, or chapter 641 and must possess  
3680 the clinical systems and operational competence to manage risk  
3681 and provide comprehensive behavioral health care to Medicaid  
3682 recipients. As used in this paragraph, the term "comprehensive  
3683 behavioral health care services" means covered mental health and  
3684 substance abuse treatment services that are available to  
3685 Medicaid recipients. The secretary of the Department of Children  
3686 and Family Services shall approve provisions of procurements  
3687 related to children in the department's care or custody prior to  
3688 enrolling such children in a prepaid behavioral health plan. Any  
3689 contract awarded under this paragraph must be competitively  
3690 procured. In developing the behavioral health care prepaid plan  
3691 procurement document, the agency shall ensure that the  
3692 procurement document requires the contractor to develop and  
3693 implement a plan to ensure compliance with s. 394.4574 related  
3694 to services provided to residents of licensed assisted living  
3695 facilities that hold a limited mental health license. Except as  
3696 provided in subparagraph 8., and except in counties where the

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3697 Medicaid managed care pilot program is authorized pursuant to s.  
3698 409.91211, the agency shall seek federal approval to contract  
3699 with a single entity meeting these requirements to provide  
3700 comprehensive behavioral health care services to all Medicaid  
3701 recipients not enrolled in a Medicaid managed care plan  
3702 authorized under s. 409.91211 or a Medicaid health maintenance  
3703 organization in an AHCA area. In an AHCA area where the Medicaid  
3704 managed care pilot program is authorized pursuant to s.  
3705 409.91211 in one or more counties, the agency may procure a  
3706 contract with a single entity to serve the remaining counties as  
3707 an AHCA area or the remaining counties may be included with an  
3708 adjacent AHCA area and shall be subject to this paragraph. Each  
3709 entity must offer sufficient choice of providers in its network  
3710 to ensure recipient access to care and the opportunity to select  
3711 a provider with whom they are satisfied. The network shall  
3712 include all public mental health hospitals. To ensure unimpaired  
3713 access to behavioral health care services by Medicaid  
3714 recipients, all contracts issued pursuant to this paragraph  
3715 shall require 80 percent of the capitation paid to the managed  
3716 care plan, including health maintenance organizations, to be  
3717 expended for the provision of behavioral health care services.  
3718 In the event the managed care plan expends less than 80 percent  
3719 of the capitation paid pursuant to this paragraph for the  
3720 provision of behavioral health care services, the difference  
3721 shall be returned to the agency. The agency shall provide the  
3722 managed care plan with a certification letter indicating the  
3723 amount of capitation paid during each calendar year for the  
3724 provision of behavioral health care services pursuant to this

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3725 section. The agency may reimburse for substance abuse treatment  
3726 services on a fee-for-service basis until the agency finds that  
3727 adequate funds are available for capitated, prepaid  
3728 arrangements.

3729 1. By January 1, 2001, the agency shall modify the  
3730 contracts with the entities providing comprehensive inpatient  
3731 and outpatient mental health care services to Medicaid  
3732 recipients in Hillsborough, Highlands, Hardee, Manatee, and Polk  
3733 Counties, to include substance abuse treatment services.

3734 2. By July 1, 2003, the agency and the Department of  
3735 Children and Family Services shall execute a written agreement  
3736 that requires collaboration and joint development of all policy,  
3737 budgets, procurement documents, contracts, and monitoring plans  
3738 that have an impact on the state and Medicaid community mental  
3739 health and targeted case management programs.

3740 3. Except as provided in subparagraph 8., by July 1, 2006,  
3741 the agency and the Department of Children and Family Services  
3742 shall contract with managed care entities in each AHCA area  
3743 except area 6 or arrange to provide comprehensive inpatient and  
3744 outpatient mental health and substance abuse services through  
3745 capitated prepaid arrangements to all Medicaid recipients who  
3746 are eligible to participate in such plans under federal law and  
3747 regulation. In AHCA areas where eligible individuals number less  
3748 than 150,000, the agency shall contract with a single managed  
3749 care plan to provide comprehensive behavioral health services to  
3750 all recipients who are not enrolled in a Medicaid health  
3751 maintenance organization or a Medicaid capitated managed care  
3752 plan authorized under s. 409.91211. The agency may contract with

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3753 | more than one comprehensive behavioral health provider to  
3754 | provide care to recipients who are not enrolled in a Medicaid  
3755 | capitated managed care plan authorized under s. 409.91211 or a  
3756 | Medicaid health maintenance organization in AHCA areas where the  
3757 | eligible population exceeds 150,000. In an AHCA area where the  
3758 | Medicaid managed care pilot program is authorized pursuant to s.  
3759 | 409.91211 in one or more counties, the agency may procure a  
3760 | contract with a single entity to serve the remaining counties as  
3761 | an AHCA area or the remaining counties may be included with an  
3762 | adjacent AHCA area and shall be subject to this paragraph.  
3763 | Contracts for comprehensive behavioral health providers awarded  
3764 | pursuant to this section shall be competitively procured. Both  
3765 | for-profit and not-for-profit corporations shall be eligible to  
3766 | compete. Managed care plans contracting with the agency under  
3767 | subsection (3) shall provide and receive payment for the same  
3768 | comprehensive behavioral health benefits as provided in AHCA  
3769 | rules, including handbooks incorporated by reference. In AHCA  
3770 | area 11, the agency shall contract with at least two  
3771 | comprehensive behavioral health care providers to provide  
3772 | behavioral health care to recipients in that area who are  
3773 | enrolled in, or assigned to, the MediPass program. One of the  
3774 | behavioral health care contracts shall be with the existing  
3775 | provider service network pilot project, as described in  
3776 | paragraph (d), for the purpose of demonstrating the cost-  
3777 | effectiveness of the provision of quality mental health services  
3778 | through a public hospital-operated managed care model. Payment  
3779 | shall be at an agreed-upon capitated rate to ensure cost  
3780 | savings. Of the recipients in area 11 who are assigned to

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3781 MediPass under the provisions of s. 409.9122(2)(k), a minimum of  
3782 50,000 of those MediPass-enrolled recipients shall be assigned  
3783 to the existing provider service network in area 11 for their  
3784 behavioral care.

3785 4. By October 1, 2003, the agency and the department shall  
3786 submit a plan to the Governor, the President of the Senate, and  
3787 the Speaker of the House of Representatives which provides for  
3788 the full implementation of capitated prepaid behavioral health  
3789 care in all areas of the state.

3790 a. Implementation shall begin in 2003 in those AHCA areas  
3791 of the state where the agency is able to establish sufficient  
3792 capitation rates.

3793 b. If the agency determines that the proposed capitation  
3794 rate in any area is insufficient to provide appropriate  
3795 services, the agency may adjust the capitation rate to ensure  
3796 that care will be available. The agency and the department may  
3797 use existing general revenue to address any additional required  
3798 match but may not over-obligate existing funds on an annualized  
3799 basis.

3800 c. Subject to any limitations provided for in the General  
3801 Appropriations Act, the agency, in compliance with appropriate  
3802 federal authorization, shall develop policies and procedures  
3803 that allow for certification of local and state funds.

3804 5. Children residing in a statewide inpatient psychiatric  
3805 program, or in a Department of Juvenile Justice or a Department  
3806 of Children and Family Services residential program approved as  
3807 a Medicaid behavioral health overlay services provider shall not  
3808 be included in a behavioral health care prepaid health plan or



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3809 any other Medicaid managed care plan pursuant to this paragraph.

3810         6. In converting to a prepaid system of delivery, the  
3811 agency shall in its procurement document require an entity  
3812 providing only comprehensive behavioral health care services to  
3813 prevent the displacement of indigent care patients by enrollees  
3814 in the Medicaid prepaid health plan providing behavioral health  
3815 care services from facilities receiving state funding to provide  
3816 indigent behavioral health care, to facilities licensed under  
3817 chapter 395 which do not receive state funding for indigent  
3818 behavioral health care, or reimburse the unsubsidized facility  
3819 for the cost of behavioral health care provided to the displaced  
3820 indigent care patient.

3821         7. Traditional community mental health providers under  
3822 contract with the Department of Children and Family Services  
3823 pursuant to part IV of chapter 394, child welfare providers  
3824 under contract with the Department of Children and Family  
3825 Services in areas 1 and 6, and inpatient mental health providers  
3826 licensed pursuant to chapter 395 must be offered an opportunity  
3827 to accept or decline a contract to participate in any provider  
3828 network for prepaid behavioral health services.

3829         8. For fiscal year 2004-2005, all Medicaid eligible  
3830 children, except children in areas 1 and 6, whose cases are open  
3831 for child welfare services in the HomeSafeNet system, shall be  
3832 enrolled in MediPass or in Medicaid fee-for-service and all  
3833 their behavioral health care services including inpatient,  
3834 outpatient psychiatric, community mental health, and case  
3835 management shall be reimbursed on a fee-for-service basis.  
3836 Beginning July 1, 2005, such children, who are open for child

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3837 welfare services in the HomeSafeNet system, shall receive their  
3838 behavioral health care services through a specialty prepaid plan  
3839 operated by community-based lead agencies either through a  
3840 single agency or formal agreements among several agencies. The  
3841 specialty prepaid plan must result in savings to the state  
3842 comparable to savings achieved in other Medicaid managed care  
3843 and prepaid programs. Such plan must provide mechanisms to  
3844 maximize state and local revenues. The specialty prepaid plan  
3845 shall be developed by the agency and the Department of Children  
3846 and Family Services. The agency is authorized to seek any  
3847 federal waivers to implement this initiative.

3848

3849 Reviser's note.--Amended to confirm the insertion by  
3850 the editors of the word "to" following the word  
3851 "pursuant" to improve clarity.

3852

3853 Section 98. Paragraph (e) of subsection (4) of section  
3854 409.91211, Florida Statutes, is amended to read:

3855 409.91211 Medicaid managed care pilot program.--

3856 (4)

3857 (e) After a recipient has made a selection or has been  
3858 enrolled in a capitated managed care network, the recipient  
3859 shall have 90 days in which to voluntarily disenroll and select  
3860 another capitated managed care network. After 90 days, no  
3861 further changes may be made except for cause. Cause shall  
3862 include, but not be limited to, poor quality of care, lack of  
3863 access to necessary specialty services, an unreasonable delay or  
3864 denial of service, inordinate or inappropriate changes of

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3865 primary care providers, service access impairments due to  
3866 significant changes in the geographic location of services, or  
3867 fraudulent enrollment. The agency may require a recipient to use  
3868 the capitated managed care network's grievance process as  
3869 specified in paragraph (3) (q) ~~(3) (g)~~ prior to the agency's  
3870 determination of cause, except in cases in which immediate risk  
3871 of permanent damage to the recipient's health is alleged. The  
3872 grievance process, when used, must be completed in time to  
3873 permit the recipient to disenroll no later than the first day of  
3874 the second month after the month the disenrollment request was  
3875 made. If the capitated managed care network, as a result of the  
3876 grievance process, approves an enrollee's request to disenroll,  
3877 the agency is not required to make a determination in the case.  
3878 The agency must make a determination and take final action on a  
3879 recipient's request so that disenrollment occurs no later than  
3880 the first day of the second month after the month the request  
3881 was made. If the agency fails to act within the specified  
3882 timeframe, the recipient's request to disenroll is deemed to be  
3883 approved as of the date agency action was required. Recipients  
3884 who disagree with the agency's finding that cause does not exist  
3885 for disenrollment shall be advised of their right to pursue a  
3886 Medicaid fair hearing to dispute the agency's finding.

3887  
3888 Reviser's note.--Amended to substitute a reference to  
3889 paragraph (3) (q), relating to grievance procedures,  
3890 for a reference to paragraph (3) (g), relating to a  
3891 process for validating the growth of per-member costs.

3892

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3893 Section 99. Paragraph (d) of subsection (1) of section  
 3894 419.001, Florida Statutes, is amended to read:

3895 419.001 Site selection of community residential homes.--

3896 (1) For the purposes of this section, the following  
 3897 definitions shall apply:

3898 (d) "Resident" means any of the following: a frail elder  
 3899 as defined in s. 429.65 ~~400.618~~; a physically disabled or  
 3900 handicapped person as defined in s. 760.22(7)(a); a  
 3901 developmentally disabled person as defined in s. 393.063; a  
 3902 nondangerous mentally ill person as defined in s. 394.455(18);  
 3903 or a child who is found to be dependent or a child in need of  
 3904 services as defined in s. 39.01(14), s. 984.03(9) or (12), or s.  
 3905 985.03.

3906  
 3907 Reviser's note.--Amended to conform to the  
 3908 redesignation of s. 400.618 as s. 429.65 by s. 3, ch.  
 3909 2006-197, Laws of Florida.

3910  
 3911 Section 100. Section 421.49, Florida Statutes, is amended  
 3912 to read:

3913 421.49 Area of operation of housing authorities for  
 3914 defense housing.--In the development or the administration of  
 3915 projects, under ss. 421.46-421.48 ~~421.37-421.48~~, to assure the  
 3916 availability of safe and sanitary dwellings for persons engaged  
 3917 in national defense activities or in otherwise carrying out the  
 3918 purposes of such law, or in the administration of such projects  
 3919 in accordance with the provisions of the housing authorities  
 3920 law, a housing authority of a city may exercise its powers

3921 within the territorial boundaries of said city and an area  
 3922 within 10 miles from said boundaries, excluding the area within  
 3923 the territorial boundaries of any other city which has  
 3924 heretofore established a housing authority.

3925  
 3926 Reviser's note.--Amended to conform to the repeal of  
 3927 ss. 421.37-421.45 by s. 60, ch. 2001-62, Laws of  
 3928 Florida.

3929  
 3930 Section 101. Paragraph (b) of subsection (3) of section  
 3931 429.07, Florida Statutes, is amended to read:

3932 429.07 License required; fee, display.--

3933 (3) Any license granted by the agency must state the  
 3934 maximum resident capacity of the facility, the type of care for  
 3935 which the license is granted, the date the license is issued,  
 3936 the expiration date of the license, and any other information  
 3937 deemed necessary by the agency. Licenses shall be issued for one  
 3938 or more of the following categories of care: standard, extended  
 3939 congregate care, limited nursing services, or limited mental  
 3940 health.

3941 (b) An extended congregate care license shall be issued to  
 3942 facilities providing, directly or through contract, services  
 3943 beyond those authorized in paragraph (a), including acts  
 3944 performed pursuant to part I of chapter 464 by persons licensed  
 3945 thereunder, and supportive services defined by rule to persons  
 3946 who otherwise would be disqualified from continued residence in  
 3947 a facility licensed under this part.

3948 1. In order for extended congregate care services to be

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3949 provided in a facility licensed under this part, the agency must  
3950 first determine that all requirements established in law and  
3951 rule are met and must specifically designate, on the facility's  
3952 license, that such services may be provided and whether the  
3953 designation applies to all or part of a facility. Such  
3954 designation may be made at the time of initial licensure or  
3955 relicensure, or upon request in writing by a licensee under this  
3956 part. Notification of approval or denial of such request shall  
3957 be made within 90 days after receipt of such request and all  
3958 necessary documentation. Existing facilities qualifying to  
3959 provide extended congregate care services must have maintained a  
3960 standard license and may not have been subject to administrative  
3961 sanctions during the previous 2 years, or since initial  
3962 licensure if the facility has been licensed for less than 2  
3963 years, for any of the following reasons:

- 3964 a. A class I or class II violation;
- 3965 b. Three or more repeat or recurring class III violations  
3966 of identical or similar resident care standards as specified in  
3967 rule from which a pattern of noncompliance is found by the  
3968 agency;
- 3969 c. Three or more class III violations that were not  
3970 corrected in accordance with the corrective action plan approved  
3971 by the agency;
- 3972 d. Violation of resident care standards resulting in a  
3973 requirement to employ the services of a consultant pharmacist or  
3974 consultant dietitian;
- 3975 e. Denial, suspension, or revocation of a license for  
3976 another facility under this part in which the applicant for an

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3977 extended congregate care license has at least 25 percent  
3978 ownership interest; or

3979 f. Imposition of a moratorium on admissions or initiation  
3980 of injunctive proceedings.

3981 2. Facilities that are licensed to provide extended  
3982 congregate care services shall maintain a written progress  
3983 report on each person who receives such services, which report  
3984 describes the type, amount, duration, scope, and outcome of  
3985 services that are rendered and the general status of the  
3986 resident's health. A registered nurse, or appropriate designee,  
3987 representing the agency shall visit such facilities at least  
3988 quarterly to monitor residents who are receiving extended  
3989 congregate care services and to determine if the facility is in  
3990 compliance with this part and with rules that relate to extended  
3991 congregate care. One of these visits may be in conjunction with  
3992 the regular survey. The monitoring visits may be provided  
3993 through contractual arrangements with appropriate community  
3994 agencies. A registered nurse shall serve as part of the team  
3995 that inspects such facility. The agency may waive one of the  
3996 required yearly monitoring visits for a facility that has been  
3997 licensed for at least 24 months to provide extended congregate  
3998 care services, if, during the inspection, the registered nurse  
3999 determines that extended congregate care services are being  
4000 provided appropriately, and if the facility has no class I or  
4001 class II violations and no uncorrected class III violations.  
4002 Before such decision is made, the agency shall consult with the  
4003 long-term care ombudsman council for the area in which the  
4004 facility is located to determine if any complaints have been

4005 | made and substantiated about the quality of services or care.  
 4006 | The agency may not waive one of the required yearly monitoring  
 4007 | visits if complaints have been made and substantiated.

4008 |         3. Facilities that are licensed to provide extended  
 4009 | congregate care services shall:

4010 |             a. Demonstrate the capability to meet unanticipated  
 4011 | resident service needs.

4012 |             b. Offer a physical environment that promotes a homelike  
 4013 | setting, provides for resident privacy, promotes resident  
 4014 | independence, and allows sufficient congregate space as defined  
 4015 | by rule.

4016 |             c. Have sufficient staff available, taking into account  
 4017 | the physical plant and firesafety features of the building, to  
 4018 | assist with the evacuation of residents in an emergency, as  
 4019 | necessary.

4020 |             d. Adopt and follow policies and procedures that maximize  
 4021 | resident independence, dignity, choice, and decisionmaking to  
 4022 | permit residents to age in place to the extent possible, so that  
 4023 | moves due to changes in functional status are minimized or  
 4024 | avoided.

4025 |             e. Allow residents or, if applicable, a resident's  
 4026 | representative, designee, surrogate, guardian, or attorney in  
 4027 | fact to make a variety of personal choices, participate in  
 4028 | developing service plans, and share responsibility in  
 4029 | decisionmaking.

4030 |             f. Implement the concept of managed risk.

4031 |             g. Provide, either directly or through contract, the  
 4032 | services of a person licensed pursuant to part I of chapter 464.



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4033 h. In addition to the training mandated in s. 429.52,  
4034 provide specialized training as defined by rule for facility  
4035 staff.

4036 4. Facilities licensed to provide extended congregate care  
4037 services are exempt from the criteria for continued residency as  
4038 set forth in rules adopted under s. 429.41. Facilities so  
4039 licensed shall adopt their own requirements within guidelines  
4040 for continued residency set forth by the department in rule.  
4041 However, such facilities may not serve residents who require 24-  
4042 hour nursing supervision. Facilities licensed to provide  
4043 extended congregate care services shall provide each resident  
4044 with a written copy of facility policies governing admission and  
4045 retention.

4046 5. The primary purpose of extended congregate care  
4047 services is to allow residents, as they become more impaired,  
4048 the option of remaining in a familiar setting from which they  
4049 would otherwise be disqualified for continued residency. A  
4050 facility licensed to provide extended congregate care services  
4051 may also admit an individual who exceeds the admission criteria  
4052 for a facility with a standard license, if the individual is  
4053 determined appropriate for admission to the extended congregate  
4054 care facility.

4055 6. Before admission of an individual to a facility  
4056 licensed to provide extended congregate care services, the  
4057 individual must undergo a medical examination as provided in s.  
4058 429.26(4) ~~400.26(4)~~ and the facility must develop a preliminary  
4059 service plan for the individual.

4060 7. When a facility can no longer provide or arrange for

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4061 services in accordance with the resident's service plan and  
 4062 needs and the facility's policy, the facility shall make  
 4063 arrangements for relocating the person in accordance with s.  
 4064 429.28(1)(k).

4065 8. Failure to provide extended congregate care services  
 4066 may result in denial of extended congregate care license  
 4067 renewal.

4068 9. No later than January 1 of each year, the department,  
 4069 in consultation with the agency, shall prepare and submit to the  
 4070 Governor, the President of the Senate, the Speaker of the House  
 4071 of Representatives, and the chairs of appropriate legislative  
 4072 committees, a report on the status of, and recommendations  
 4073 related to, extended congregate care services. The status report  
 4074 must include, but need not be limited to, the following  
 4075 information:

4076 a. A description of the facilities licensed to provide  
 4077 such services, including total number of beds licensed under  
 4078 this part.

4079 b. The number and characteristics of residents receiving  
 4080 such services.

4081 c. The types of services rendered that could not be  
 4082 provided through a standard license.

4083 d. An analysis of deficiencies cited during licensure  
 4084 inspections.

4085 e. The number of residents who required extended  
 4086 congregate care services at admission and the source of  
 4087 admission.

4088 f. Recommendations for statutory or regulatory changes.

4089 g. The availability of extended congregate care to state  
 4090 clients residing in facilities licensed under this part and in  
 4091 need of additional services, and recommendations for  
 4092 appropriations to subsidize extended congregate care services  
 4093 for such persons.

4094 h. Such other information as the department considers  
 4095 appropriate.

4096

4097 Reviser's note.--Amended to confirm the substitution  
 4098 by the editors of a reference to s. 429.26(4) for a  
 4099 reference to s. 400.26(4) to correct an apparent  
 4100 error. Section 400.26 was repealed in 1970; s.  
 4101 429.26(4) relates to medical examinations.

4102

4103 Section 102. Subsection (2) of section 429.35, Florida  
 4104 Statutes, is amended to read:

4105 429.35 Maintenance of records; reports.--

4106 (2) Within 60 days after the date of the biennial  
 4107 inspection visit or within 30 days after the date of any interim  
 4108 visit, the agency shall forward the results of the inspection to  
 4109 the local ombudsman council in whose planning and service area,  
 4110 as defined in part II of chapter 400, the facility is located;  
 4111 to at least one public library or, in the absence of a public  
 4112 library, the county seat in the county in which the inspected  
 4113 assisted living facility is located; and, when appropriate, to  
 4114 the district Adult Services and Mental Health Program Offices.

4115

4116 Reviser's note.--Amended to confirm the insertion by

4117 the editors of the words "of chapter 400" following  
 4118 the cite to "part II" to improve clarity; planning and  
 4119 service areas are defined in s. 400.021(15) within  
 4120 part II of chapter 400.

4121  
 4122 Section 103. Subsection (1) of section 429.69, Florida  
 4123 Statutes, is amended to read:

4124 429.69 Denial, revocation, or suspension of a  
 4125 license.--The agency may deny, suspend, or revoke a license for  
 4126 any of the following reasons:

4127 (1) Failure of any of the persons required to undergo  
 4128 background screening under s. 429.67 ~~400.619~~ to meet the level 1  
 4129 screening standards of s. 435.03, unless an exemption from  
 4130 disqualification has been provided by the agency.

4131  
 4132 Reviser's note.--Amended to confirm the substitution  
 4133 by the editors of a reference to s. 429.67 for a  
 4134 reference to s. 400.619 to conform to the transfer of  
 4135 s. 400.619 to s. 429.67 by s. 3, ch. 2006-197, Laws of  
 4136 Florida.

4137  
 4138 Section 104. Paragraph (h) of subsection (1) of section  
 4139 429.73, Florida Statutes, is amended to read:

4140 429.73 Rules and standards relating to adult family-care  
 4141 homes.--

4142 (1) The department, in consultation with the Department of  
 4143 Health, the Department of Children and Family Services, and the  
 4144 agency shall, by rule, establish minimum standards to ensure the

4145 health, safety, and well-being of each resident in the adult  
 4146 family-care home. The rules must address:

4147 (h) Procedures to protect the residents' rights as  
 4148 provided in s. 429.85 ~~400.628~~.

4149  
 4150 Reviser's note.--Amended to confirm the substitution  
 4151 by the editors of a reference to s. 429.85 for a  
 4152 reference to s. 400.628 to conform to the transfer of  
 4153 s. 400.628 to s. 429.85 by s. 3, ch. 2006-197, Laws of  
 4154 Florida.

4155  
 4156 Section 105. Section 429.903, Florida Statutes, is amended  
 4157 to read:

4158 429.903 Applicability.--Any facility that comes within the  
 4159 definition of an adult day care center which is not exempt under  
 4160 s. 429.905 ~~400.553~~ must be licensed by the agency as an adult  
 4161 day care center.

4162  
 4163 Reviser's note.--Amended to confirm the substitution  
 4164 by the editors of a reference to s. 429.905 for a  
 4165 reference to s. 400.553 to conform to the transfer of  
 4166 s. 400.553 to s. 429.905 by s. 4, ch. 2006-197, Laws  
 4167 of Florida.

4168  
 4169 Section 106. Subsection (1) and paragraph (d) of  
 4170 subsection (2) of section 429.909, Florida Statutes, are amended  
 4171 to read:

4172 429.909 Application for license.--

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4173 (1) An application for a license to operate an adult day  
4174 care center must be made to the agency on forms furnished by the  
4175 agency and must be accompanied by the appropriate license fee  
4176 unless the applicant is exempt from payment of the fee as  
4177 provided in s. 429.907(4) ~~400.554(4)~~.

4178 (2) The applicant for licensure must furnish:

4179 (d) Proof of compliance with level 2 background screening  
4180 as required under s. 429.919 ~~400.5572~~.

4181  
4182 Reviser's note.--Subsection (1) is amended to confirm  
4183 the substitution by the editors of a reference to s.  
4184 429.907(4) for a reference to s. 400.554(4) to conform  
4185 to the transfer of s. 400.554 to s. 429.907 by s. 4,  
4186 ch. 2006-197, Laws of Florida. Paragraph (2)(d) is  
4187 amended to confirm the substitution by the editors of  
4188 a reference to s. 429.919 for a reference to s.  
4189 400.5572 to conform to the transfer of s. 400.5572 to  
4190 s. 429.919 by s. 4, ch. 2006-197.

4191  
4192 Section 107. Subsection (1) of section 429.915, Florida  
4193 Statutes, is amended to read:

4194 429.915 Expiration of license; renewal; conditional  
4195 license or permit.--

4196 (1) A license issued for the operation of an adult day  
4197 care center, unless sooner suspended or revoked, expires 2 years  
4198 after the date of issuance. The agency shall notify a licensee  
4199 at least 120 days before the expiration date that license  
4200 renewal is required to continue operation. The notification must

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4201 be provided electronically or by mail delivery. At least 90 days  
 4202 prior to the expiration date, an application for renewal must be  
 4203 submitted to the agency. A license shall be renewed, upon the  
 4204 filing of an application on forms furnished by the agency, if  
 4205 the applicant has first met the requirements of this part and of  
 4206 the rules adopted under this part. The applicant must file with  
 4207 the application satisfactory proof of financial ability to  
 4208 operate the center in accordance with the requirements of this  
 4209 part and in accordance with the needs of the participants to be  
 4210 served and an affidavit of compliance with the background  
 4211 screening requirements of s. 429.919 ~~400.5572~~.

4212  
 4213 Reviser's note.--Amended to confirm the substitution  
 4214 by the editors of a reference to s. 429.919 for a  
 4215 reference to s. 400.5572 to conform to the transfer of  
 4216 s. 400.5572 to s. 429.919 by s. 4, ch. 2006-197, Laws  
 4217 of Florida.

4218  
 4219 Section 108. Paragraph (c) of subsection (2) of section  
 4220 429.919, Florida Statutes, is amended to read:

4221 429.919 Background screening.--

4222 (2) The owner or administrator of an adult day care center  
 4223 must conduct level 1 background screening as set forth in  
 4224 chapter 435 on all employees hired on or after October 1, 1998,  
 4225 who provide basic services or supportive and optional services  
 4226 to the participants. Such persons satisfy this requirement if:

4227 (c) The person required to be screened is employed by a  
 4228 corporation or business entity or related corporation or

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4229 business entity that owns, operates, or manages more than one  
 4230 facility or agency licensed under chapter 400 or this chapter  
 4231 ~~this chapter or chapter 429~~, and for whom a level 1 screening  
 4232 was conducted by the corporation or business entity as a  
 4233 condition of initial or continued employment.

4234  
 4235 Reviser's note.--Amended to confirm the substitution  
 4236 by the editors of the words "chapter 400 or this  
 4237 chapter" for a reference to "this chapter or chapter  
 4238 429" to conform to the transfer of some material in  
 4239 chapter 400 to chapter 429 by ch. 2006-197, Laws of  
 4240 Florida, and to correct an apparent error.

4241  
 4242 Section 109. Paragraph (ff) of subsection (2) of section  
 4243 435.03, Florida Statutes, is amended to read:

4244 435.03 Level 1 screening standards.--

4245 (2) Any person for whom employment screening is required  
 4246 by statute must not have been found guilty of, regardless of  
 4247 adjudication, or entered a plea of nolo contendere or guilty to,  
 4248 any offense prohibited under any of the following provisions of  
 4249 the Florida Statutes or under any similar statute of another  
 4250 jurisdiction:

4251 (ff) Section 916.1075 ~~916.0175~~, relating to sexual  
 4252 misconduct with certain forensic clients and reporting of such  
 4253 sexual misconduct.

4254  
 4255 Reviser's note.--Amended to correct an apparent error  
 4256 and facilitate correct interpretation. The cited



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4257 section does not exist; s. 916.1075 relates to  
4258 prohibition of sexual misconduct with forensic  
4259 clients.

4260

4261 Section 110. Paragraph (pp) of subsection (2) of section  
4262 435.04, Florida Statutes, is amended to read:

4263 435.04 Level 2 screening standards.--

4264 (2) The security background investigations under this  
4265 section must ensure that no persons subject to the provisions of  
4266 this section have been found guilty of, regardless of  
4267 adjudication, or entered a plea of nolo contendere or guilty to,  
4268 any offense prohibited under any of the following provisions of  
4269 the Florida Statutes or under any similar statute of another  
4270 jurisdiction:

4271 (pp) Section 916.1075 ~~916.0175~~, relating to sexual  
4272 misconduct with certain forensic clients and reporting of such  
4273 sexual misconduct.

4274

4275 Reviser's note.--Amended to correct an apparent error  
4276 and facilitate correct interpretation. The cited  
4277 section does not exist; s. 916.1075 relates to  
4278 prohibition of sexual misconduct with forensic  
4279 clients.

4280

4281 Section 111. Paragraph (t) of subsection (1) and  
4282 subsection (4) of section 456.072, Florida Statutes, are amended  
4283 to read:

4284 456.072 Grounds for discipline; penalties; enforcement.--

4285 (1) The following acts shall constitute grounds for which  
 4286 the disciplinary actions specified in subsection (2) may be  
 4287 taken:

4288 (t) Failing to identify through written notice, which may  
 4289 include the wearing of a name tag, or orally to a patient the  
 4290 type of license under which the practitioner is practicing. Any  
 4291 advertisement for health care services naming the practitioner  
 4292 must identify the type of license the practitioner holds. This  
 4293 paragraph does not apply to a practitioner while the  
 4294 practitioner is providing services in a facility licensed under  
 4295 chapter 394, chapter 395, ~~or~~ chapter 400, or chapter 429. Each  
 4296 board, or the department where there is no board, is authorized  
 4297 by rule to determine how its practitioners may comply with this  
 4298 disclosure requirement.

4299 (4) In addition to any other discipline imposed through  
 4300 final order, or citation, entered on or after July 1, 2001,  
 4301 under this section or discipline imposed through final order, or  
 4302 citation, entered on or after July 1, 2001, for a violation of  
 4303 any practice act, the board, or the department when there is no  
 4304 board, shall assess costs related to the investigation and  
 4305 prosecution of the case. The costs related to the investigation  
 4306 and prosecution include, but are not limited to, salaries and  
 4307 benefits of personnel, costs related to the time spent by the  
 4308 attorney and other personnel working on the case, and any other  
 4309 expenses incurred by the department for the case. The board, or  
 4310 the department when there is ~~isn~~ no board, shall determine the  
 4311 amount of costs to be assessed after its consideration of an  
 4312 affidavit of itemized costs and any written objections thereto.

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4313 In any case where the board or the department imposes a fine or  
 4314 assessment and the fine or assessment is not paid within a  
 4315 reasonable time, the reasonable time to be prescribed in the  
 4316 rules of the board, or the department when there is no board, or  
 4317 in the order assessing the fines or costs, the department or the  
 4318 Department of Legal Affairs may contract for the collection of,  
 4319 or bring a civil action to recover, the fine or assessment.

4320

4321 Reviser's note.--Paragraph (1)(t) is amended to  
 4322 conform to the fact that chapter 400 was split into  
 4323 chapters 400 and 429 by ss. 2, 3, and 4, ch. 2006-197,  
 4324 Laws of Florida. Subsection (4) is amended to confirm  
 4325 the editorial substitution of the word "is" for the  
 4326 word "in" to correct an apparent error and facilitate  
 4327 correct interpretation.

4328

4329 Section 112. Paragraph (e) of subsection (4) of section  
 4330 458.348, Florida Statutes, is amended to read:

4331 458.348 Formal supervisory relationships, standing orders,  
 4332 and established protocols; notice; standards.--

4333 (4) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE  
 4334 SETTINGS.--A physician who supervises an advanced registered  
 4335 nurse practitioner or physician assistant at a medical office  
 4336 other than the physician's primary practice location, where the  
 4337 advanced registered nurse practitioner or physician assistant is  
 4338 not under the onsite supervision of a supervising physician,  
 4339 must comply with the standards set forth in this subsection. For  
 4340 the purpose of this subsection, a physician's "primary practice

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4341 location" means the address reflected on the physician's profile  
4342 published pursuant to s. 456.041.

4343 (e) This subsection does not apply to health care services  
4344 provided in facilities licensed under chapter 395 or in  
4345 conjunction with a college of medicine, a college of nursing, an  
4346 accredited graduate medical program, or a nursing education  
4347 program; offices where the only service being performed is hair  
4348 removal by an advanced registered nurse practitioner or  
4349 physician assistant; not-for-profit, family-planning clinics  
4350 that are not licensed pursuant to chapter 390; rural and  
4351 federally qualified health centers; health care services  
4352 provided in a nursing home licensed under part II of chapter  
4353 400, an assisted living facility licensed under part I ~~III~~ of  
4354 chapter 429 ~~400~~, a continuing care facility licensed under  
4355 chapter 651, or a retirement community consisting of independent  
4356 living units and a licensed nursing home or assisted living  
4357 facility; anesthesia services provided in accordance with law;  
4358 health care services provided in a designated rural health  
4359 clinic; health care services provided to persons enrolled in a  
4360 program designed to maintain elderly persons and persons with  
4361 disabilities in a home or community-based setting; university  
4362 primary care student health centers; school health clinics; or  
4363 health care services provided in federal, state, or local  
4364 government facilities.

4365

4366 Reviser's note.--Amended to conform to the  
4367 redesignation of part III of chapter 400 as part I of  
4368 chapter 429 by s. 2, ch. 2006-197, Laws of Florida.

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Section 113. Subsection (3) of section 458.3485, Florida Statutes, is amended to read:

458.3485 Medical assistant.--

(3) CERTIFICATION.--Medical assistants may be certified by the American Association of Medical Assistants or as a Registered Medical Assistant by the American Society of Medical Technologists.

Reviser's note.--Amended to correct the name of the credentialing organization.

Section 114. Paragraph (e) of subsection (3) of section 459.025, Florida Statutes, is amended to read:

459.025 Formal supervisory relationships, standing orders, and established protocols; notice; standards.--

(3) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE SETTINGS.--An osteopathic physician who supervises an advanced registered nurse practitioner or physician assistant at a medical office other than the osteopathic physician's primary practice location, where the advanced registered nurse practitioner or physician assistant is not under the onsite supervision of a supervising osteopathic physician, must comply with the standards set forth in this subsection. For the purpose of this subsection, an osteopathic physician's "primary practice location" means the address reflected on the physician's profile published pursuant to s. 456.041.

(e) This subsection does not apply to health care services

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4397 provided in facilities licensed under chapter 395 or in  
 4398 conjunction with a college of medicine or college of nursing or  
 4399 an accredited graduate medical or nursing education program;  
 4400 offices where the only service being performed is hair removal  
 4401 by an advanced registered nurse practitioner or physician  
 4402 assistant; not-for-profit, family-planning clinics that are not  
 4403 licensed pursuant to chapter 390; rural and federally qualified  
 4404 health centers; health care services provided in a nursing home  
 4405 licensed under part II of chapter 400, an assisted living  
 4406 facility licensed under part I ~~III~~ of chapter 429 ~~400~~, a  
 4407 continuing care facility licensed under chapter 651, or a  
 4408 retirement community consisting of independent living units and  
 4409 either a licensed nursing home or assisted living facility;  
 4410 anesthesia services provided in accordance with law; health care  
 4411 services provided in a designated rural health clinic; health  
 4412 care services provided to persons enrolled in a program designed  
 4413 to maintain elderly persons and persons with disabilities in a  
 4414 home or community-based setting; university primary care student  
 4415 health centers; school health clinics; or health care services  
 4416 provided in federal, state, or local government facilities.

4417  
 4418 Reviser's note.--Amended to conform to the  
 4419 redesignation of part III of chapter 400 as part I of  
 4420 chapter 429 by s. 2, ch. 2006-197, Laws of Florida.

4421  
 4422 Section 115. Paragraph (a) of subsection (1) of section  
 4423 482.242, Florida Statutes, is amended to read:  
 4424 482.242 Preemption.--

4425 (1) This chapter is intended as comprehensive and  
 4426 exclusive regulation of pest control in this state. The  
 4427 provisions of this chapter preempt to the state all regulation  
 4428 of the activities and operations of pest control services,  
 4429 including the pesticides used pursuant to labeling and  
 4430 registration approved under part I of chapter 487. No local  
 4431 government or political subdivision of the state may enact or  
 4432 enforce an ordinance that regulates pest control, except that  
 4433 the preemption in this section does not prohibit a local  
 4434 government or political subdivision from enacting an ordinance  
 4435 regarding any of the following:

4436 (a) Local business taxes ~~occupational licenses~~ adopted  
 4437 pursuant to chapter 205.

4438  
 4439 Reviser's note.--Amended to conform to the  
 4440 redesignation of occupational license taxes in chapter  
 4441 205 as business taxes by ch. 2006-152, Laws of  
 4442 Florida.

4443  
 4444 Section 116. Subsection (5) of section 483.285, Florida  
 4445 Statutes, is amended to read:

4446 483.285 Application of part; exemptions.--This part  
 4447 applies to all multiphasic health testing centers within the  
 4448 state, but does not apply to:

4449 (5) A home health agency licensed under part III ~~IV~~ of  
 4450 chapter 400.

4451  
 4452 Reviser's note.--Amended to conform to the transfer of

4453 sections comprising former part III of chapter 400 to  
 4454 chapter 429 by s. 2, ch. 2006-197, Laws of Florida.

4455  
 4456 Section 117. Subsection (1) of section 489.127, Florida  
 4457 Statutes, is amended to read:

4458 489.127 Prohibitions; penalties.--

4459 (1) No person shall:

4460 (a) Falsely hold himself or herself or a business  
 4461 organization out as a licensee, certificateholder, or  
 4462 registrant;

4463 (b) Falsely impersonate a certificateholder or registrant;

4464 (c) Present as his or her own the certificate,  
 4465 registration, or certificate of authority of another;

4466 (d) Knowingly give false or forged evidence to the board  
 4467 or a member thereof;

4468 (e) Use or attempt to use a certificate, registration, or  
 4469 certificate of authority which has been suspended or revoked;

4470 (f) Engage in the business or act in the capacity of a  
 4471 contractor or advertise himself or herself or a business  
 4472 organization as available to engage in the business or act in  
 4473 the capacity of a contractor without being duly registered or  
 4474 certified or having a certificate of authority;

4475 (g) Operate a business organization engaged in contracting  
 4476 after 60 days following the termination of its only qualifying  
 4477 agent without designating another primary qualifying agent,  
 4478 except as provided in ss. 489.119 and 489.1195;

4479 (h) Commence or perform work for which a building permit  
 4480 is required pursuant to part VII of chapter 553 without such



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4481 building permit being in effect; or

4482 (i) Willfully or deliberately disregard or violate any  
4483 municipal or county ordinance relating to uncertified or  
4484 unregistered contractors.

4485

4486 For purposes of this subsection, a person or business  
4487 organization operating on an inactive or suspended certificate,  
4488 registration, or certificate of authority is not duly certified  
4489 or registered and is considered unlicensed. A business tax  
4490 receipt ~~An occupational license certificate~~ issued under the  
4491 authority of chapter 205 is not a license for purposes of this  
4492 part.

4493

4494 Reviser's note.--Amended to conform to the  
4495 redesignation of occupational license taxes in chapter  
4496 205 as business taxes by ch. 2006-152, Laws of  
4497 Florida.

4498

4499 Section 118. Paragraph (b) of subsection (1) of section  
4500 489.128, Florida Statutes, is amended to read:

4501 489.128 Contracts entered into by unlicensed contractors  
4502 unenforceable.--

4503 (1) As a matter of public policy, contracts entered into  
4504 on or after October 1, 1990, by an unlicensed contractor shall  
4505 be unenforceable in law or in equity by the unlicensed  
4506 contractor.

4507 (b) For purposes of this section, an individual or  
4508 business organization may not be considered unlicensed for

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4509 failing to have a business tax receipt ~~an occupational license~~  
 4510 ~~certificate~~ issued under the authority of chapter 205. A  
 4511 business organization may not be considered unlicensed for  
 4512 failing to have a certificate of authority as required by ss.  
 4513 489.119 and 489.127. For purposes of this section, a business  
 4514 organization entering into the contract may not be considered  
 4515 unlicensed if, before the date established by paragraph (c), an  
 4516 individual possessing a license required by this part concerning  
 4517 the scope of the work to be performed under the contract has  
 4518 submitted an application for a certificate of authority  
 4519 designating that individual as a qualifying agent for the  
 4520 business organization entering into the contract, and the  
 4521 application was not acted upon by the department or applicable  
 4522 board within the time limitations imposed by s. 120.60.

4523  
 4524 Reviser's note.--Amended to conform to the  
 4525 redesignation of occupational license taxes in chapter  
 4526 205 as business taxes by ch. 2006-152, Laws of  
 4527 Florida.

4528  
 4529 Section 119. Paragraph (c) of subsection (3) of section  
 4530 489.131, Florida Statutes, is amended to read:

4531 489.131 Applicability.--

4532 (3) Nothing in this part limits the power of a  
 4533 municipality or county:

4534 (c) To collect business ~~occupational license~~ taxes,  
 4535 subject to s. 205.065, and inspection fees for engaging in  
 4536 contracting or examination fees from persons who are registered

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4537 with the board pursuant to local examination requirements and  
4538 issue business ~~occupational license~~ tax receipts ~~certificates~~.  
4539 However, nothing in this part shall be construed to require  
4540 general contractors, building contractors, or residential  
4541 contractors to obtain additional business ~~occupational license~~  
4542 tax receipts ~~certificates~~ for specialty work when such specialty  
4543 work is performed by employees of such contractors on projects  
4544 for which they have substantially full responsibility and such  
4545 contractors do not hold themselves out to the public as being  
4546 specialty contractors.

4547

4548 Reviser's note.--Amended to conform to the  
4549 redesignation of occupational license taxes in chapter  
4550 205 as business taxes by ch. 2006-152, Laws of  
4551 Florida.

4552

4553 Section 120. Paragraph (b) of subsection (1) of section  
4554 489.532, Florida Statutes, is amended to read:

4555 489.532 Contracts entered into by unlicensed contractors  
4556 unenforceable.--

4557 (1) As a matter of public policy, contracts entered into  
4558 on or after October 1, 1990, by an unlicensed contractor shall  
4559 be unenforceable in law or in equity by the unlicensed  
4560 contractor.

4561 (b) For purposes of this section, an individual or  
4562 business organization shall not be considered unlicensed for  
4563 failing to have a business tax receipt ~~an occupational license~~  
4564 ~~certificate~~ issued under the authority of chapter 205.

4565  
 4566 Reviser's note.--Amended to conform to the  
 4567 redesignation of occupational license taxes in chapter  
 4568 205 as business taxes by ch. 2006-152, Laws of  
 4569 Florida.

4570  
 4571 Section 121. Subsection (1) of section 497.461, Florida  
 4572 Statutes, is amended to read:

4573 497.461 Surety bonding as alternative to trust deposit.--

4574 (1) In lieu of depositing funds into a trust as required  
 4575 by s. 497.458(1) ~~497.548(1)~~ or s. 497.464, a preneed licensee  
 4576 may elect annually, at its discretion, to comply with this  
 4577 section by filing annually a written request with, and receiving  
 4578 annual approval from, the licensing authority.

4579  
 4580 Reviser's note.--Amended to correct an apparent error  
 4581 and facilitate correct interpretation. The cited  
 4582 section does not exist; s. 497.458(1) relates to trust  
 4583 funds for preneed contracts for funeral services or  
 4584 burial services.

4585  
 4586 Section 122. Paragraphs (g) and (h) of subsection (3) of  
 4587 section 499.029, Florida Statutes, are amended to read:

4588 499.029 Cancer Drug Donation Program.--

4589 (3) As used in this section:

4590 (g) "Health care clinic" means a health care clinic  
 4591 licensed under part X ~~XIII~~ of chapter 400.

4592 (h) "Hospice" means a corporation licensed under part IV

4593 ~~VI~~ of chapter 400.

4594

4595 Reviser's note.--Amended to conform to the  
 4596 redesignation of part XIII of chapter 400 as part X  
 4597 and part VI as part IV incident to the transfer of  
 4598 former parts III, V, and VII to new chapter 429 by ch.  
 4599 2006-197, Laws of Florida.

4600

4601 Section 123. Subsection (3) of section 500.511, Florida  
 4602 Statutes, is amended to read:

4603 500.511 Fees; enforcement; preemption.--

4604 (3) PREEMPTION OF AUTHORITY TO REGULATE.--Regulation of  
 4605 bottled water plants, water vending machines, water vending  
 4606 machine operators, and packaged ice plants is preempted by the  
 4607 state. No county or municipality may adopt or enforce any  
 4608 ordinance that regulates the licensure or operation of bottled  
 4609 water plants, water vending machines, or packaged ice plants,  
 4610 unless it is determined that unique conditions exist within the  
 4611 county which require the county to regulate such entities in  
 4612 order to protect the public health. This subsection does not  
 4613 prohibit a county or municipality from requiring a business ~~an~~  
 4614 ~~occupational license~~ tax pursuant to chapter 205.

4615

4616 Reviser's note.--Amended to conform to the  
 4617 redesignation of occupational license taxes as  
 4618 business taxes in chapter 205 by ch. 2006-152, Laws of  
 4619 Florida.

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4621 Section 124. Subsection (1) of section 501.016, Florida  
 4622 Statutes, is amended to read:

4623 501.016 Health studios; security requirements.--Each  
 4624 health studio that sells contracts for health studio services  
 4625 shall meet the following requirements:

4626 (1) Each health studio shall maintain for each separate  
 4627 business location a bond issued by a surety company admitted to  
 4628 do business in this state. The principal sum of the bond shall  
 4629 be \$50,000, and the bond, when required, shall be obtained  
 4630 before a business tax receipt ~~an occupational license~~ may be  
 4631 issued under chapter 205. Upon issuance of a business tax  
 4632 receipt ~~an occupational license~~, the licensing authority shall  
 4633 immediately notify the department of such issuance in a manner  
 4634 established by the department by rule. The bond shall be in  
 4635 favor of the state for the benefit of any person injured as a  
 4636 result of a violation of ss. 501.012-501.019. The aggregate  
 4637 liability of the surety to all persons for all breaches of the  
 4638 conditions of the bonds provided herein shall in no event exceed  
 4639 the amount of the bond. The original surety bond required by  
 4640 this section shall be filed with the department.

4641  
 4642 Reviser's note.--Amended to conform to the  
 4643 redesignation of occupational licenses as business tax  
 4644 receipts in chapter 205 by ch. 2006-152, Laws of  
 4645 Florida.

4646  
 4647 Section 125. Paragraph (b) of subsection (3) of section  
 4648 501.143, Florida Statutes, is amended to read:

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4649 501.143 Dance Studio Act.--

4650 (3) REGISTRATION OF BALLROOM DANCE STUDIOS.--

4651 (b) Any person applying for or renewing a local business  
 4652 tax receipt ~~occupational license~~ to engage in business as a  
 4653 ballroom dance studio must exhibit an active registration  
 4654 certificate from the department before the local business tax  
 4655 receipt ~~occupational license~~ may be issued or reissued under  
 4656 chapter 205.

4657  
 4658 Reviser's note.--Amended to conform to the  
 4659 redesignation of occupational licenses as business tax  
 4660 receipts in chapter 205 by ch. 2006-152, Laws of  
 4661 Florida.

4662  
 4663 Section 126. Subsection (9) of section 501.160, Florida  
 4664 Statutes, is amended to read:

4665 501.160 Rental or sale of essential commodities during a  
 4666 declared state of emergency; prohibition against unconscionable  
 4667 prices.--

4668 (9) Upon a declaration of a state of emergency by the  
 4669 Governor, in order to protect the health, safety, and welfare of  
 4670 residents, any person who offers goods and services for sale to  
 4671 the public during the duration of the emergency and who does not  
 4672 possess a business tax receipt ~~an occupational license~~ under s.  
 4673 205.032 or s. 205.042 commits a misdemeanor of the second  
 4674 degree, punishable as provided in s. 775.082 or s. 775.083.  
 4675 During a declared emergency, this subsection does not apply to  
 4676 religious, charitable, fraternal, civic, educational, or social

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4677 organizations. During a declared emergency and when there is an  
4678 allegation of price gouging against the person, failure to  
4679 possess a license constitutes reasonable cause to detain the  
4680 person, provided that the detention shall only be made in a  
4681 reasonable manner and only for a reasonable period of time  
4682 sufficient for an inquiry into the circumstances surrounding the  
4683 failure to possess a license.

4684

4685 Reviser's note.--Amended to conform to the  
4686 redesignation of occupational licenses as business tax  
4687 receipts in chapter 205 by ch. 2006-152, Laws of  
4688 Florida.

4689

4690 Section 127. Paragraph (c) of subsection (4) of section  
4691 509.233, Florida Statutes, is amended to read:

4692 509.233 Public food service establishment requirements;  
4693 local exemption for dogs in designated outdoor portions; pilot  
4694 program.--

4695 (4) LIMITATIONS ON EXEMPTION; PERMIT REQUIREMENTS.--

4696 (c) In order to protect the health, safety, and general  
4697 welfare of the public, the local exemption ordinance shall  
4698 include such regulations and limitations as deemed necessary by  
4699 the participating local government and shall include, but not be  
4700 limited to, the following requirements:

4701 1. All public food service establishment employees shall  
4702 wash their hands promptly after touching, petting, or otherwise  
4703 handling dogs. Employees shall be prohibited from touching,  
4704 petting, or otherwise handling dogs while serving food or



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4705 beverages or handling tableware or before entering other parts  
4706 of the public food service establishment.

4707 2. Patrons in a designated outdoor area shall be advised  
4708 that they should wash their hands before eating. Waterless hand  
4709 sanitizer shall be provided at all tables in the designated  
4710 outdoor area.

4711 3. Employees and patrons shall be instructed that they  
4712 shall not allow dogs to come into contact with serving dishes,  
4713 utensils, tableware, linens, paper products, or any other items  
4714 involved in food service operations.

4715 4. Patrons shall keep their dogs on a leash at all times  
4716 and shall keep their dogs under reasonable control.

4717 5. Dogs shall not be allowed on chairs, tables, or other  
4718 furnishings.

4719 6. All table and chair surfaces shall be cleaned and  
4720 sanitized with an approved product between seating of patrons.  
4721 Spilled food and drink shall be removed from the floor or ground  
4722 between seating of patrons.

4723 7. Accidents involving dog waste shall be cleaned  
4724 immediately and the area sanitized with an approved product. A  
4725 kit with the appropriate materials for this purpose shall be  
4726 kept near the designated outdoor area.

4727 8. A sign or signs reminding employees of the applicable  
4728 rules shall be posted on premises in a manner and place as  
4729 determined by the local permitting authority.

4730 9. A sign or signs reminding patrons of the applicable  
4731 rules shall be posted on premises in a manner and place as  
4732 determined by the local permitting authority.

4733 10. A sign or signs shall be posted in a manner and place  
 4734 as determined by the local permitting authority that places the  
 4735 public on notice that the designated outdoor area is available  
 4736 for the use of patrons and patrons' dogs.

4737 11. Dogs shall not be permitted to travel through indoor  
 4738 or nondesignated outdoor portions of the public food service  
 4739 establishment, and ingress and egress to the designated outdoor  
 4740 portions of the public food service establishment must not  
 4741 require entrance into or passage through any indoor area of the  
 4742 food establishment.

4743  
 4744 Reviser's note.--Amended to improve clarity and  
 4745 facilitate correct interpretation.

4746  
 4747 Section 128. Subsection (9) of section 516.05, Florida  
 4748 Statutes, is amended to read:

4749 516.05 License.--

4750 (9) A licensee who ~~that~~ is the subject of a voluntary or  
 4751 involuntary bankruptcy filing must report such filing to the  
 4752 office within 7 business days after the filing date.

4753  
 4754 Reviser's note.--Amended to improve clarity and  
 4755 facilitate correct interpretation.

4756  
 4757 Section 129. Section 551.101, Florida Statutes, is amended  
 4758 to read:

4759 551.101 Slot machine gaming authorized.--Any licensed  
 4760 pari-mutuel facility located in Miami-Dade County or Broward

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4761 County existing at the time of adoption of s. 23, Art. X of the  
 4762 State Constitution that has conducted live racing or games  
 4763 during calendar years 2002 and 2003 may possess slot machines  
 4764 and conduct slot machine gaming at the location where the pari-  
 4765 mutuel permitholder is authorized to conduct pari-mutuel  
 4766 wagering activities pursuant to such permitholder's valid pari-  
 4767 mutuel permit provided that a majority of voters in a countywide  
 4768 referendum have approved slot machines at such facility in the  
 4769 respective county. Notwithstanding any other provision of law,  
 4770 it is not a crime for a person to participate in slot machine  
 4771 gaming at a pari-mutuel facility licensed to possess slot  
 4772 machines and conduct slot machine gaming or to participate in  
 4773 slot machine gaming described in this chapter.

4774  
 4775 Reviser's note.--Amended to improve clarity and  
 4776 facilitate correct interpretation.

4777  
 4778 Section 130. Section 559.939, Florida Statutes, is amended  
 4779 to read:

4780 559.939 State preemption.--No municipality or county or  
 4781 other political subdivision of this state shall have authority  
 4782 to levy or collect any registration fee or tax, as a regulatory  
 4783 measure, or to require the registration or bonding in any manner  
 4784 of any seller of travel who is registered or complies with all  
 4785 applicable provisions of this part, unless that authority is  
 4786 provided for by special or general act of the Legislature. Any  
 4787 ordinance, resolution, or regulation of any municipality or  
 4788 county or other political subdivision of this state which is in

4789 conflict with any provision of this part is preempted by this  
 4790 part. The provisions of this section do not apply to any local  
 4791 business ~~occupational~~ tax levied pursuant to chapter 205.

4792  
 4793 Reviser's note.--Amended to conform to the  
 4794 redesignation of local occupational taxes as local  
 4795 business taxes in chapter 205 by ch. 2006-152, Laws of  
 4796 Florida.

4797  
 4798 Section 131. Subsection (3) of section 607.0130, Florida  
 4799 Statutes, is amended to read:

4800 607.0130 Powers of Department of State.--

4801 (3) The Department of State may, based upon its findings  
 4802 hereunder or as provided in s. 213.053(15) ~~215.053(15)~~, bring an  
 4803 action in circuit court to collect any penalties, fees, or taxes  
 4804 determined to be due and owing the state and to compel any  
 4805 filing, qualification, or registration required by law. In  
 4806 connection with such proceeding the department may, without  
 4807 prior approval by the court, file a lis pendens against any  
 4808 property owned by the corporation and may further certify any  
 4809 findings to the Department of Legal Affairs for the initiation  
 4810 of any action permitted pursuant to s. 607.0505 which the  
 4811 Department of Legal Affairs may deem appropriate.

4812  
 4813 Reviser's note.--Amended to improve clarity and  
 4814 facilitate correct interpretation. Section 215.053(15)  
 4815 does not exist; section 213.053(15) provides for  
 4816 recovery of fees and penalties due and owing the

4817 state.

4818

4819 Section 132. Subsection (1) and paragraph (a) of  
 4820 subsection (2) of section 607.193, Florida Statutes, are amended  
 4821 to read:

4822 607.193 Supplemental corporate fee.--

4823 (1) In addition to any other taxes imposed by law, an  
 4824 annual supplemental corporate fee of \$88.75 is imposed on each  
 4825 business entity that is authorized to transact business in this  
 4826 state and is required to file an annual report with the  
 4827 Department of State under s. 607.1622, s. 608.4511 ~~608.452~~, or  
 4828 s. 620.1210.

4829 (2)(a) The business entity shall remit the supplemental  
 4830 corporate fee to the Department of State at the time it files  
 4831 the annual report required by s. 607.1622, s. 608.4511 ~~608.452~~,  
 4832 or s. 620.1210.

4833

4834 Reviser's note.--Amended to improve clarity and  
 4835 facilitate correct interpretation. Section 608.4511  
 4836 references the annual report for the Department of  
 4837 State, and s. 608.452 references fees.

4838

4839 Section 133. Subsection (5) of section 620.2113, Florida  
 4840 Statutes, is amended to read:

4841 620.2113 Appraisal rights; definitions.--The following  
 4842 definitions apply to this section and ss. 620.2114-620.2124:

4843 (5) "Interest" means interest from the effective date of  
 4844 the appraisal event to which the limited partner objects until

4845 the date of payment, at the rate of interest described in s.  
 4846 620.1107(2) ~~620.107(2)~~, determined as of the effective date of  
 4847 the appraisal event.

4848  
 4849 Reviser's note.--Amended to improve clarity and  
 4850 facilitate correct interpretation. Section 620.107 was  
 4851 repealed by s. 25, ch. 2005-267, Laws of Florida, and  
 4852 did not reference interest rates; s. 620.1107(2) does  
 4853 relate to interest rates.

4854  
 4855 Section 134. Paragraph (c) of subsection (2) of section  
 4856 620.2118, Florida Statutes, is amended to read:

4857 620.2118 Appraisal notice and form.--

4858 (2) The appraisal notice must be sent no earlier than the  
 4859 date the appraisal event became effective and no later than 10  
 4860 days after such date and must:

4861 (c) Be accompanied by:

4862 1. Financial statements of the limited partnership that  
 4863 issued the limited partner interests to be appraised, consisting  
 4864 of a balance sheet as of the end of the fiscal year ending not  
 4865 more than 15 months prior to the date of the limited  
 4866 partnership's appraisal notice, an income statement for that  
 4867 year, a cash flow statement for that year, and the latest  
 4868 available interim financial statements, if any.

4869 2. A copy of ss. 620.2113-620.2124 ~~620.2213-620.2224~~.

4870  
 4871 Reviser's note.--Amended to improve clarity and  
 4872 facilitate correct interpretation. Sections 620.2213-

4873 620.2224 do not exist. Limited partner appraisals are  
 4874 referenced in ss. 620.2113-620.2124.

4875  
 4876 Section 135. Subsection (3) of section 620.8911, Florida  
 4877 Statutes, is amended to read:

4878 620.8911 Definitions.--As used in this section and ss.  
 4879 620.8912-620.8923:

4880 (3) "Converted organization" means the organization into  
 4881 which a converting organization converts pursuant to ss.  
 4882 620.8912-620.8915 ~~620.8902-620.8905~~.

4883  
 4884 Reviser's note.--Amended to improve clarity and  
 4885 facilitate correct interpretation. Sections 620.8902-  
 4886 620.8905 were repealed by s. 25, ch. 2005-267, Laws of  
 4887 Florida. Sections 620.8912-620.8915 were created by s.  
 4888 22, ch. 2005-267, and cover conversion organizations.

4889  
 4890 Section 136. Paragraph (c) of subsection (1) of section  
 4891 624.5105, Florida Statutes, is amended to read:

4892 624.5105 Community contribution tax credit; authorization;  
 4893 limitations; eligibility and application requirements;  
 4894 administration; definitions; expiration.--

4895 (1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.--

4896 (c) The total amount of tax credit which may be granted  
 4897 for all programs approved under this section and ss.  
 4898 212.08(5)(p) ~~212.08(5)(q)~~ and 220.183 is \$10.5 million annually  
 4899 for projects that provide homeownership opportunities for low-  
 4900 income or very-low-income households as defined in s.

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4901 420.9071(19) and (28) and \$3.5 million annually for all other  
 4902 projects.

4903

4904 Reviser's note.--Amended to conform to the repeal of  
 4905 former s. 212.08(5)(p) by s. 2, ch. 2006-2, Laws of  
 4906 Florida, and the subsequent redesignation of  
 4907 paragraphs.

4908

4909 Section 137. Paragraph (a) of subsection (1) of section  
 4910 626.022, Florida Statutes, is amended to read:

4911 626.022 Scope of part.--

4912 (1) This part applies as to insurance agents, service  
 4913 representatives, adjusters, and insurance agencies; as to any  
 4914 and all kinds of insurance; and as to stock insurers, mutual  
 4915 insurers, reciprocal insurers, and all other types of insurers,  
 4916 except that:

4917 (a) It does not apply as to reinsurance, except that ss.  
 4918 626.011-626.022 ~~626.011-626.031~~, ss. 626.112-626.181 ~~626.102-~~  
 4919 ~~626.181~~, ss. 626.191-626.211, ss. 626.291-626.301, s. 626.331,  
 4920 ss. 626.342-626.521, ss. 626.541-626.591, and ss. 626.601-  
 4921 626.711 shall apply as to reinsurance intermediaries as defined  
 4922 in s. 626.7492.

4923

4924 Reviser's note.--Amended to conform to the repeal of  
 4925 ss. 626.031, 626.102, and others in the cited range of  
 4926 sections by s. 72, ch. 2002-206, Laws of Florida.

4927

4928 Section 138. Subsection (4) of section 626.171, Florida



4929 Statutes, is amended to read:

4930           626.171 Application for license as an agent, customer  
4931 representative, adjuster, service representative, managing  
4932 general agent, or reinsurance intermediary.--

4933           (4) An applicant for a license as an agent, customer  
4934 representative, adjuster, service representative, managing  
4935 general agent, or reinsurance intermediary must submit a set of  
4936 the individual applicant's fingerprints, or, if the applicant is  
4937 not an individual, ~~by~~ a set of the fingerprints of the sole  
4938 proprietor, majority owner, partners, officers, and directors,  
4939 to the department and must pay the fingerprint processing fee  
4940 set forth in s. 624.501. Fingerprints shall be used to  
4941 investigate the applicant's qualifications pursuant to s.  
4942 626.201. The fingerprints shall be taken by a law enforcement  
4943 agency, designated examination center, or other department-  
4944 approved entity. The department shall require all designated  
4945 examination centers to have fingerprinting equipment and to take  
4946 fingerprints from any applicant or prospective applicant who  
4947 pays the applicable fee. The department may not approve an  
4948 application for licensure as an agent, customer service  
4949 representative, adjuster, service representative, managing  
4950 general agent, or reinsurance intermediary if fingerprints have  
4951 not been submitted.

4952  
4953           Reviser's note.--Amended to confirm the editorial  
4954 deletion of the word "by" preceding the word "a" to  
4955 improve clarity and facilitate correct interpretation.

4956

4957 Section 139. Paragraph (j) of subsection (1) of section  
 4958 626.935, Florida Statutes, is amended to read:

4959 626.935 Suspension, revocation, or refusal of surplus  
 4960 lines agent's license.--

4961 (1) The department shall deny an application for, suspend,  
 4962 revoke, or refuse to renew the appointment of a surplus lines  
 4963 agent and all other licenses and appointments held by the  
 4964 licensee under this code, upon any of the following grounds:

4965 (j) For any other applicable cause for which the license  
 4966 of a general lines agent could be suspended, revoked, or refused  
 4967 under s. 626.611 or s. 626.621 ~~616.621~~.

4968  
 4969 Reviser's note.--Amended to improve clarity and  
 4970 facilitate correct interpretation. Section 616.621  
 4971 does not exist. Section 626.621 references grounds for  
 4972 discretionary refusal, suspension, or revocation of an  
 4973 agent's license.

4974  
 4975 Section 140. Paragraph (g) of subsection (3) of section  
 4976 626.9912, Florida Statutes, is amended to read:

4977 626.9912 Viatical settlement provider license required;  
 4978 application for license.--

4979 (3) In the application, the applicant must provide all of  
 4980 the following:

4981 (g) A general description of the method the viatical  
 4982 settlement provider will use in determining life expectancies,  
 4983 including a description of the applicant's intended receipt of  
 4984 life expectancies ~~the applicant's intended receipt of life~~

4985 ~~expectancies~~, the applicant's intended use of life expectancy  
 4986 providers, and the written plan or plans of policies and  
 4987 procedures used to determine life expectancies.

4988

4989 Reviser's note.--Amended to improve clarity and  
 4990 facilitate correct interpretation.

4991

4992 Section 141. Paragraph (b) of subsection (2) and  
 4993 paragraphs (c), (d), (n), and (v) of subsection (6) of section  
 4994 627.351, Florida Statutes, as amended by section 21 of chapter  
 4995 2007-1, Laws of Florida, are amended to read:

4996 627.351 Insurance risk apportionment plans.--

4997 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--

4998 (b) The department shall require all insurers holding a  
 4999 certificate of authority to transact property insurance on a  
 5000 direct basis in this state, other than joint underwriting  
 5001 associations and other entities formed pursuant to this section,  
 5002 to provide windstorm coverage to applicants from areas  
 5003 determined to be eligible pursuant to paragraph (c) who in good  
 5004 faith are entitled to, but are unable to procure, such coverage  
 5005 through ordinary means; or it shall adopt a reasonable plan or  
 5006 plans for the equitable apportionment or sharing among such  
 5007 insurers of windstorm coverage, which may include formation of  
 5008 an association for this purpose. As used in this subsection, the  
 5009 term "property insurance" means insurance on real or personal  
 5010 property, as defined in s. 624.604, including insurance for  
 5011 fire, industrial fire, allied lines, farmowners multiperil,  
 5012 homeowners' multiperil, commercial multiperil, and mobile homes,

5013 and including liability coverages on all such insurance, but  
 5014 excluding inland marine as defined in s. 624.607(3) and  
 5015 excluding vehicle insurance as defined in s. 624.605(1)(a) other  
 5016 than insurance on mobile homes used as permanent dwellings. The  
 5017 department shall adopt rules that provide a formula for the  
 5018 recovery and repayment of any deferred assessments.

5019 1. For the purpose of this section, properties eligible  
 5020 for such windstorm coverage are defined as dwellings, buildings,  
 5021 and other structures, including mobile homes which are used as  
 5022 dwellings and which are tied down in compliance with mobile home  
 5023 tie-down requirements prescribed by the Department of Highway  
 5024 Safety and Motor Vehicles pursuant to s. 320.8325, and the  
 5025 contents of all such properties. An applicant or policyholder is  
 5026 eligible for coverage only if an offer of coverage cannot be  
 5027 obtained by or for the applicant or policyholder from an  
 5028 admitted insurer at approved rates.

5029 2.a.(I) All insurers required to be members of such  
 5030 association shall participate in its writings, expenses, and  
 5031 losses. Surplus of the association shall be retained for the  
 5032 payment of claims and shall not be distributed to the member  
 5033 insurers. Such participation by member insurers shall be in the  
 5034 proportion that the net direct premiums of each member insurer  
 5035 written for property insurance in this state during the  
 5036 preceding calendar year bear to the aggregate net direct  
 5037 premiums for property insurance of all member insurers, as  
 5038 reduced by any credits for voluntary writings, in this state  
 5039 during the preceding calendar year. For the purposes of this  
 5040 subsection, the term "net direct premiums" means direct written

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5041 premiums for property insurance, reduced by premium for  
5042 liability coverage and for the following if included in allied  
5043 lines: rain and hail on growing crops; livestock; association  
5044 direct premiums booked; National Flood Insurance Program direct  
5045 premiums; and similar deductions specifically authorized by the  
5046 plan of operation and approved by the department. A member's  
5047 participation shall begin on the first day of the calendar year  
5048 following the year in which it is issued a certificate of  
5049 authority to transact property insurance in the state and shall  
5050 terminate 1 year after the end of the calendar year during which  
5051 it no longer holds a certificate of authority to transact  
5052 property insurance in the state. The commissioner, after review  
5053 of annual statements, other reports, and any other statistics  
5054 that the commissioner deems necessary, shall certify to the  
5055 association the aggregate direct premiums written for property  
5056 insurance in this state by all member insurers.

5057 (II) Effective July 1, 2002, the association shall operate  
5058 subject to the supervision and approval of a board of governors  
5059 who are the same individuals that have been appointed by the  
5060 Treasurer to serve on the board of governors of the Citizens  
5061 Property Insurance Corporation.

5062 (III) The plan of operation shall provide a formula  
5063 whereby a company voluntarily providing windstorm coverage in  
5064 affected areas will be relieved wholly or partially from  
5065 apportionment of a regular assessment pursuant to sub-sub-  
5066 subparagraph d.(I) or sub-sub-subparagraph d.(II).

5067 (IV) A company which is a member of a group of companies  
5068 under common management may elect to have its credits applied on

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5069 a group basis, and any company or group may elect to have its  
5070 credits applied to any other company or group.

5071 (V) There shall be no credits or relief from apportionment  
5072 to a company for emergency assessments collected from its  
5073 policyholders under sub-sub-subparagraph d.(III).

5074 (VI) The plan of operation may also provide for the award  
5075 of credits, for a period not to exceed 3 years, from a regular  
5076 assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-  
5077 subparagraph d.(II) as an incentive for taking policies out of  
5078 the Residential Property and Casualty Joint Underwriting  
5079 Association. In order to qualify for the exemption under this  
5080 sub-sub-subparagraph, the take-out plan must provide that at  
5081 least 40 percent of the policies removed from the Residential  
5082 Property and Casualty Joint Underwriting Association cover risks  
5083 located in Dade, Broward, and Palm Beach Counties or at least 30  
5084 percent of the policies so removed cover risks located in Dade,  
5085 Broward, and Palm Beach Counties and an additional 50 percent of  
5086 the policies so removed cover risks located in other coastal  
5087 counties, and must also provide that no more than 15 percent of  
5088 the policies so removed may exclude windstorm coverage. With  
5089 the approval of the department, the association may waive these  
5090 geographic criteria for a take-out plan that removes at least  
5091 the lesser of 100,000 Residential Property and Casualty Joint  
5092 Underwriting Association policies or 15 percent of the total  
5093 number of Residential Property and Casualty Joint Underwriting  
5094 Association policies, provided the governing board of the  
5095 Residential Property and Casualty Joint Underwriting Association  
5096 certifies that the take-out plan will materially reduce the

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5097 Residential Property and Casualty Joint Underwriting  
5098 Association's 100-year probable maximum loss from hurricanes.  
5099 With the approval of the department, the board may extend such  
5100 credits for an additional year if the insurer guarantees an  
5101 additional year of renewability for all policies removed from  
5102 the Residential Property and Casualty Joint Underwriting  
5103 Association, or for 2 additional years if the insurer guarantees  
5104 2 additional years of renewability for all policies removed from  
5105 the Residential Property and Casualty Joint Underwriting  
5106 Association.

5107       b. Assessments to pay deficits in the association under  
5108 this subparagraph shall be included as an appropriate factor in  
5109 the making of rates as provided in s. 627.3512.

5110       c. The Legislature finds that the potential for unlimited  
5111 deficit assessments under this subparagraph may induce insurers  
5112 to attempt to reduce their writings in the voluntary market, and  
5113 that such actions would worsen the availability problems that  
5114 the association was created to remedy. It is the intent of the  
5115 Legislature that insurers remain fully responsible for paying  
5116 regular assessments and collecting emergency assessments for any  
5117 deficits of the association; however, it is also the intent of  
5118 the Legislature to provide a means by which assessment  
5119 liabilities may be amortized over a period of years.

5120       d.(I) When the deficit incurred in a particular calendar  
5121 year is 10 percent or less of the aggregate statewide direct  
5122 written premium for property insurance for the prior calendar  
5123 year for all member insurers, the association shall levy an  
5124 assessment on member insurers in an amount equal to the deficit.

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5125 (II) When the deficit incurred in a particular calendar  
5126 year exceeds 10 percent of the aggregate statewide direct  
5127 written premium for property insurance for the prior calendar  
5128 year for all member insurers, the association shall levy an  
5129 assessment on member insurers in an amount equal to the greater  
5130 of 10 percent of the deficit or 10 percent of the aggregate  
5131 statewide direct written premium for property insurance for the  
5132 prior calendar year for member insurers. Any remaining deficit  
5133 shall be recovered through emergency assessments under sub-sub-  
5134 subparagraph (III).

5135 (III) Upon a determination by the board of directors that  
5136 a deficit exceeds the amount that will be recovered through  
5137 regular assessments on member insurers, pursuant to sub-sub-  
5138 subparagraph (I) or sub-sub-subparagraph (II), the board shall  
5139 levy, after verification by the department, emergency  
5140 assessments to be collected by member insurers and by  
5141 underwriting associations created pursuant to this section which  
5142 write property insurance, upon issuance or renewal of property  
5143 insurance policies other than National Flood Insurance policies  
5144 in the year or years following levy of the regular assessments.  
5145 The amount of the emergency assessment collected in a particular  
5146 year shall be a uniform percentage of that year's direct written  
5147 premium for property insurance for all member insurers and  
5148 underwriting associations, excluding National Flood Insurance  
5149 policy premiums, as annually determined by the board and  
5150 verified by the department. The department shall verify the  
5151 arithmetic calculations involved in the board's determination  
5152 within 30 days after receipt of the information on which the



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5153 determination was based. Notwithstanding any other provision of  
5154 law, each member insurer and each underwriting association  
5155 created pursuant to this section shall collect emergency  
5156 assessments from its policyholders without such obligation being  
5157 affected by any credit, limitation, exemption, or deferment.  
5158 The emergency assessments so collected shall be transferred  
5159 directly to the association on a periodic basis as determined by  
5160 the association. The aggregate amount of emergency assessments  
5161 levied under this sub-sub-subparagraph in any calendar year may  
5162 not exceed the greater of 10 percent of the amount needed to  
5163 cover the original deficit, plus interest, fees, commissions,  
5164 required reserves, and other costs associated with financing of  
5165 the original deficit, or 10 percent of the aggregate statewide  
5166 direct written premium for property insurance written by member  
5167 insurers and underwriting associations for the prior year, plus  
5168 interest, fees, commissions, required reserves, and other costs  
5169 associated with financing the original deficit. The board may  
5170 pledge the proceeds of the emergency assessments under this sub-  
5171 sub-subparagraph as the source of revenue for bonds, to retire  
5172 any other debt incurred as a result of the deficit or events  
5173 giving rise to the deficit, or in any other way that the board  
5174 determines will efficiently recover the deficit. The emergency  
5175 assessments under this sub-sub-subparagraph shall continue as  
5176 long as any bonds issued or other indebtedness incurred with  
5177 respect to a deficit for which the assessment was imposed remain  
5178 outstanding, unless adequate provision has been made for the  
5179 payment of such bonds or other indebtedness pursuant to the  
5180 document governing such bonds or other indebtedness. Emergency

5181 assessments collected under this sub-sub-subparagraph are not  
 5182 part of an insurer's rates, are not premium, and are not subject  
 5183 to premium tax, fees, or commissions; however, failure to pay  
 5184 the emergency assessment shall be treated as failure to pay  
 5185 premium.

5186 (IV) Each member insurer's share of the total regular  
 5187 assessments under sub-sub-subparagraph (I) or sub-sub-  
 5188 subparagraph (II) shall be in the proportion that the insurer's  
 5189 net direct premium for property insurance in this state, for the  
 5190 year preceding the assessment bears to the aggregate statewide  
 5191 net direct premium for property insurance of all member  
 5192 insurers, as reduced by any credits for voluntary writings for  
 5193 that year.

5194 (V) If regular deficit assessments are made under sub-sub-  
 5195 subparagraph (I) or sub-sub-subparagraph (II), or by the  
 5196 Residential Property and Casualty Joint Underwriting Association  
 5197 under sub-subparagraph (6)(b)3.a. or sub-subparagraph  
 5198 (6)(b)3.b., the association shall levy upon the association's  
 5199 policyholders, as part of its next rate filing, or by a separate  
 5200 rate filing solely for this purpose, a market equalization  
 5201 surcharge in a percentage equal to the total amount of such  
 5202 regular assessments divided by the aggregate statewide direct  
 5203 written premium for property insurance for member insurers for  
 5204 the prior calendar year. Market equalization surcharges under  
 5205 this sub-sub-subparagraph are not considered premium and are not  
 5206 subject to commissions, fees, or premium taxes; however, failure  
 5207 to pay a market equalization surcharge shall be treated as  
 5208 failure to pay premium.

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5209 e. The governing body of any unit of local government, any  
5210 residents of which are insured under the plan, may issue bonds  
5211 as defined in s. 125.013 or s. 166.101 to fund an assistance  
5212 program, in conjunction with the association, for the purpose of  
5213 defraying deficits of the association. In order to avoid  
5214 needless and indiscriminate proliferation, duplication, and  
5215 fragmentation of such assistance programs, any unit of local  
5216 government, any residents of which are insured by the  
5217 association, may provide for the payment of losses, regardless  
5218 of whether or not the losses occurred within or outside of the  
5219 territorial jurisdiction of the local government. Revenue bonds  
5220 may not be issued until validated pursuant to chapter 75, unless  
5221 a state of emergency is declared by executive order or  
5222 proclamation of the Governor pursuant to s. 252.36 making such  
5223 findings as are necessary to determine that it is in the best  
5224 interests of, and necessary for, the protection of the public  
5225 health, safety, and general welfare of residents of this state  
5226 and the protection and preservation of the economic stability of  
5227 insurers operating in this state, and declaring it an essential  
5228 public purpose to permit certain municipalities or counties to  
5229 issue bonds as will provide relief to claimants and  
5230 policyholders of the association and insurers responsible for  
5231 apportionment of plan losses. Any such unit of local government  
5232 may enter into such contracts with the association and with any  
5233 other entity created pursuant to this subsection as are  
5234 necessary to carry out this paragraph. Any bonds issued under  
5235 this sub-subparagraph shall be payable from and secured by  
5236 moneys received by the association from assessments under this

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5237 subparagraph, and assigned and pledged to or on behalf of the  
5238 unit of local government for the benefit of the holders of such  
5239 bonds. The funds, credit, property, and taxing power of the  
5240 state or of the unit of local government shall not be pledged  
5241 for the payment of such bonds. If any of the bonds remain unsold  
5242 60 days after issuance, the department shall require all  
5243 insurers subject to assessment to purchase the bonds, which  
5244 shall be treated as admitted assets; each insurer shall be  
5245 required to purchase that percentage of the unsold portion of  
5246 the bond issue that equals the insurer's relative share of  
5247 assessment liability under this subsection. An insurer shall not  
5248 be required to purchase the bonds to the extent that the  
5249 department determines that the purchase would endanger or impair  
5250 the solvency of the insurer. The authority granted by this sub-  
5251 subparagraph is additional to any bonding authority granted by  
5252 subparagraph 6.

5253 3. The plan shall also provide that any member with a  
5254 surplus as to policyholders of \$20 million or less writing 25  
5255 percent or more of its total countrywide property insurance  
5256 premiums in this state may petition the department, within the  
5257 first 90 days of each calendar year, to qualify as a limited  
5258 apportionment company. The apportionment of such a member  
5259 company in any calendar year for which it is qualified shall not  
5260 exceed its gross participation, which shall not be affected by  
5261 the formula for voluntary writings. In no event shall a limited  
5262 apportionment company be required to participate in any  
5263 apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)  
5264 or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds

5265 \$50 million after payment of available plan funds in any  
 5266 calendar year. However, a limited apportionment company shall  
 5267 collect from its policyholders any emergency assessment imposed  
 5268 under sub-sub-subparagraph 2.d.(III). The plan shall provide  
 5269 that, if the department determines that any regular assessment  
 5270 will result in an impairment of the surplus of a limited  
 5271 apportionment company, the department may direct that all or  
 5272 part of such assessment be deferred. However, there shall be no  
 5273 limitation or deferment of an emergency assessment to be  
 5274 collected from policyholders under sub-sub-subparagraph  
 5275 2.d.(III).

5276 4. The plan shall provide for the deferment, in whole or  
 5277 in part, of a regular assessment of a member insurer under sub-  
 5278 sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but  
 5279 not for an emergency assessment collected from policyholders  
 5280 under sub-sub-subparagraph 2.d.(III), if, in the opinion of the  
 5281 commissioner, payment of such regular assessment would endanger  
 5282 or impair the solvency of the member insurer. In the event a  
 5283 regular assessment against a member insurer is deferred in whole  
 5284 or in part, the amount by which such assessment is deferred may  
 5285 be assessed against the other member insurers in a manner  
 5286 consistent with the basis for assessments set forth in sub-sub-  
 5287 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

5288 5.a. The plan of operation may include deductibles and  
 5289 rules for classification of risks and rate modifications  
 5290 consistent with the objective of providing and maintaining funds  
 5291 sufficient to pay catastrophe losses.

5292 b. The association may require arbitration of a rate

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5293 filing under s. 627.062(6). It is the intent of the Legislature  
5294 that the rates for coverage provided by the association be  
5295 actuarially sound and not competitive with approved rates  
5296 charged in the admitted voluntary market such that the  
5297 association functions as a residual market mechanism to provide  
5298 insurance only when the insurance cannot be procured in the  
5299 voluntary market. The plan of operation shall provide a  
5300 mechanism to assure that, beginning no later than January 1,  
5301 1999, the rates charged by the association for each line of  
5302 business are reflective of approved rates in the voluntary  
5303 market for hurricane coverage for each line of business in the  
5304 various areas eligible for association coverage.

5305 c. The association shall provide for windstorm coverage on  
5306 residential properties in limits up to \$10 million for  
5307 commercial lines residential risks and up to \$1 million for  
5308 personal lines residential risks. If coverage with the  
5309 association is sought for a residential risk valued in excess of  
5310 these limits, coverage shall be available to the risk up to the  
5311 replacement cost or actual cash value of the property, at the  
5312 option of the insured, if coverage for the risk cannot be  
5313 located in the authorized market. The association must accept a  
5314 commercial lines residential risk with limits above \$10 million  
5315 or a personal lines residential risk with limits above \$1  
5316 million if coverage is not available in the authorized market.  
5317 The association may write coverage above the limits specified in  
5318 this subparagraph with or without facultative or other  
5319 reinsurance coverage, as the association determines appropriate.

5320 d. The plan of operation must provide objective criteria

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5321 and procedures, approved by the department, to be uniformly  
5322 applied for all applicants in determining whether an individual  
5323 risk is so hazardous as to be uninsurable. In making this  
5324 determination and in establishing the criteria and procedures,  
5325 the following shall be considered:

5326 (I) Whether the likelihood of a loss for the individual  
5327 risk is substantially higher than for other risks of the same  
5328 class; and

5329 (II) Whether the uncertainty associated with the  
5330 individual risk is such that an appropriate premium cannot be  
5331 determined.

5332

5333 The acceptance or rejection of a risk by the association  
5334 pursuant to such criteria and procedures must be construed as  
5335 the private placement of insurance, and the provisions of  
5336 chapter 120 do not apply.

5337 e. If the risk accepts an offer of coverage through the  
5338 market assistance program or through a mechanism established by  
5339 the association, either before the policy is issued by the  
5340 association or during the first 30 days of coverage by the  
5341 association, and the producing agent who submitted the  
5342 application to the association is not currently appointed by  
5343 the insurer, the insurer shall:

5344 (I) Pay to the producing agent of record of the policy,  
5345 for the first year, an amount that is the greater of the  
5346 insurer's usual and customary commission for the type of policy  
5347 written or a fee equal to the usual and customary commission of  
5348 the association; or

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5349 (II) Offer to allow the producing agent of record of the  
5350 policy to continue servicing the policy for a period of not less  
5351 than 1 year and offer to pay the agent the greater of the  
5352 insurer's or the association's usual and customary commission  
5353 for the type of policy written.

5354

5355 If the producing agent is unwilling or unable to accept  
5356 appointment, the new insurer shall pay the agent in accordance  
5357 with sub-sub-subparagraph (I). Subject to the provisions of s.  
5358 627.3517, the policies issued by the association must provide  
5359 that if the association obtains an offer from an authorized  
5360 insurer to cover the risk at its approved rates under either a  
5361 standard policy including wind coverage or, if consistent with  
5362 the insurer's underwriting rules as filed with the department, a  
5363 basic policy including wind coverage, the risk is no longer  
5364 eligible for coverage through the association. Upon termination  
5365 of eligibility, the association shall provide written notice to  
5366 the policyholder and agent of record stating that the  
5367 association policy must be canceled as of 60 days after the date  
5368 of the notice because of the offer of coverage from an  
5369 authorized insurer. Other provisions of the insurance code  
5370 relating to cancellation and notice of cancellation do not apply  
5371 to actions under this sub-subparagraph.

5372 f. When the association enters into a contractual  
5373 agreement for a take-out plan, the producing agent of record of  
5374 the association policy is entitled to retain any unearned  
5375 commission on the policy, and the insurer shall:

5376 (I) Pay to the producing agent of record of the



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5377 association policy, for the first year, an amount that is the  
 5378 greater of the insurer's usual and customary commission for the  
 5379 type of policy written or a fee equal to the usual and  
 5380 customary commission of the association; or

5381 (II) Offer to allow the producing agent of record of the  
 5382 association policy to continue servicing the policy for a period  
 5383 of not less than 1 year and offer to pay the agent the greater  
 5384 of the insurer's or the association's usual and customary  
 5385 commission for the type of policy written.

5386  
 5387 If the producing agent is unwilling or unable to accept  
 5388 appointment, the new insurer shall pay the agent in accordance  
 5389 with sub-sub-subparagraph (I).

5390 6.a. The plan of operation may authorize the formation of  
 5391 a private nonprofit corporation, a private nonprofit  
 5392 unincorporated association, a partnership, a trust, a limited  
 5393 liability company, or a nonprofit mutual company which may be  
 5394 empowered, among other things, to borrow money by issuing bonds  
 5395 or by incurring other indebtedness and to accumulate reserves or  
 5396 funds to be used for the payment of insured catastrophe losses.  
 5397 The plan may authorize all actions necessary to facilitate the  
 5398 issuance of bonds, including the pledging of assessments or  
 5399 other revenues.

5400 b. Any entity created under this subsection, or any entity  
 5401 formed for the purposes of this subsection, may sue and be sued,  
 5402 may borrow money; issue bonds, notes, or debt instruments;  
 5403 pledge or sell assessments, market equalization surcharges and  
 5404 other surcharges, rights, premiums, contractual rights,

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5405 | projected recoveries from the Florida Hurricane Catastrophe  
5406 | Fund, other reinsurance recoverables, and other assets as  
5407 | security for such bonds, notes, or debt instruments; enter into  
5408 | any contracts or agreements necessary or proper to accomplish  
5409 | such borrowings; and take other actions necessary to carry out  
5410 | the purposes of this subsection. The association may issue bonds  
5411 | or incur other indebtedness, or have bonds issued on its behalf  
5412 | by a unit of local government pursuant to subparagraph (6)(p)2.  
5413 | ~~(6)(g)2.~~, in the absence of a hurricane or other weather-related  
5414 | event, upon a determination by the association subject to  
5415 | approval by the department that such action would enable it to  
5416 | efficiently meet the financial obligations of the association  
5417 | and that such financings are reasonably necessary to effectuate  
5418 | the requirements of this subsection. Any such entity may  
5419 | accumulate reserves and retain surpluses as of the end of any  
5420 | association year to provide for the payment of losses incurred  
5421 | by the association during that year or any future year. The  
5422 | association shall incorporate and continue the plan of operation  
5423 | and articles of agreement in effect on the effective date of  
5424 | chapter 76-96, Laws of Florida, to the extent that it is not  
5425 | inconsistent with chapter 76-96, and as subsequently modified  
5426 | consistent with chapter 76-96. The board of directors and  
5427 | officers currently serving shall continue to serve until their  
5428 | successors are duly qualified as provided under the plan. The  
5429 | assets and obligations of the plan in effect immediately prior  
5430 | to the effective date of chapter 76-96 shall be construed to be  
5431 | the assets and obligations of the successor plan created herein.  
5432 | c. In recognition of s. 10, Art. I of the State

5433 Constitution, prohibiting the impairment of obligations of  
 5434 contracts, it is the intent of the Legislature that no action be  
 5435 taken whose purpose is to impair any bond indenture or financing  
 5436 agreement or any revenue source committed by contract to such  
 5437 bond or other indebtedness issued or incurred by the association  
 5438 or any other entity created under this subsection.

5439         7. On such coverage, an agent's remuneration shall be that  
 5440 amount of money payable to the agent by the terms of his or her  
 5441 contract with the company with which the business is placed.  
 5442 However, no commission will be paid on that portion of the  
 5443 premium which is in excess of the standard premium of that  
 5444 company.

5445         8. Subject to approval by the department, the association  
 5446 may establish different eligibility requirements and operational  
 5447 procedures for any line or type of coverage for any specified  
 5448 eligible area or portion of an eligible area if the board  
 5449 determines that such changes to the eligibility requirements and  
 5450 operational procedures are justified due to the voluntary market  
 5451 being sufficiently stable and competitive in such area or for  
 5452 such line or type of coverage and that consumers who, in good  
 5453 faith, are unable to obtain insurance through the voluntary  
 5454 market through ordinary methods would continue to have access to  
 5455 coverage from the association. When coverage is sought in  
 5456 connection with a real property transfer, such requirements and  
 5457 procedures shall not provide for an effective date of coverage  
 5458 later than the date of the closing of the transfer as  
 5459 established by the transferor, the transferee, and, if  
 5460 applicable, the lender.

- 5461           9. Notwithstanding any other provision of law:
- 5462           a. The pledge or sale of, the lien upon, and the security
- 5463 interest in any rights, revenues, or other assets of the
- 5464 association created or purported to be created pursuant to any
- 5465 financing documents to secure any bonds or other indebtedness of
- 5466 the association shall be and remain valid and enforceable,
- 5467 notwithstanding the commencement of and during the continuation
- 5468 of, and after, any rehabilitation, insolvency, liquidation,
- 5469 bankruptcy, receivership, conservatorship, reorganization, or
- 5470 similar proceeding against the association under the laws of
- 5471 this state or any other applicable laws.
- 5472           b. No such proceeding shall relieve the association of its
- 5473 obligation, or otherwise affect its ability to perform its
- 5474 obligation, to continue to collect, or levy and collect,
- 5475 assessments, market equalization or other surcharges, projected
- 5476 recoveries from the Florida Hurricane Catastrophe Fund,
- 5477 reinsurance recoverables, or any other rights, revenues, or
- 5478 other assets of the association pledged.
- 5479           c. Each such pledge or sale of, lien upon, and security
- 5480 interest in, including the priority of such pledge, lien, or
- 5481 security interest, any such assessments, emergency assessments,
- 5482 market equalization or renewal surcharges, projected recoveries
- 5483 from the Florida Hurricane Catastrophe Fund, reinsurance
- 5484 recoverables, or other rights, revenues, or other assets which
- 5485 are collected, or levied and collected, after the commencement
- 5486 of and during the pendency of or after any such proceeding shall
- 5487 continue unaffected by such proceeding.
- 5488           d. As used in this subsection, the term "financing

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5489 documents" means any agreement, instrument, or other document  
5490 now existing or hereafter created evidencing any bonds or other  
5491 indebtedness of the association or pursuant to which any such  
5492 bonds or other indebtedness has been or may be issued and  
5493 pursuant to which any rights, revenues, or other assets of the  
5494 association are pledged or sold to secure the repayment of such  
5495 bonds or indebtedness, together with the payment of interest on  
5496 such bonds or such indebtedness, or the payment of any other  
5497 obligation of the association related to such bonds or  
5498 indebtedness.

5499 e. Any such pledge or sale of assessments, revenues,  
5500 contract rights or other rights or assets of the association  
5501 shall constitute a lien and security interest, or sale, as the  
5502 case may be, that is immediately effective and attaches to such  
5503 assessments, revenues, contract, or other rights or assets,  
5504 whether or not imposed or collected at the time the pledge or  
5505 sale is made. Any such pledge or sale is effective, valid,  
5506 binding, and enforceable against the association or other entity  
5507 making such pledge or sale, and valid and binding against and  
5508 superior to any competing claims or obligations owed to any  
5509 other person or entity, including policyholders in this state,  
5510 asserting rights in any such assessments, revenues, contract, or  
5511 other rights or assets to the extent set forth in and in  
5512 accordance with the terms of the pledge or sale contained in the  
5513 applicable financing documents, whether or not any such person  
5514 or entity has notice of such pledge or sale and without the need  
5515 for any physical delivery, recordation, filing, or other action.

5516 f. There shall be no liability on the part of, and no

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5517 cause of action of any nature shall arise against, any member  
5518 insurer or its agents or employees, agents or employees of the  
5519 association, members of the board of directors of the  
5520 association, or the department or its representatives, for any  
5521 action taken by them in the performance of their duties or  
5522 responsibilities under this subsection. Such immunity does not  
5523 apply to actions for breach of any contract or agreement  
5524 pertaining to insurance, or any willful tort.

5525 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

5526 (c) The plan of operation of the corporation:

5527 1. Must provide for adoption of residential property and  
5528 casualty insurance policy forms and commercial residential and  
5529 nonresidential property insurance forms, which forms must be  
5530 approved by the office prior to use. The corporation shall adopt  
5531 the following policy forms:

5532 a. Standard personal lines policy forms that are  
5533 comprehensive multiperil policies providing full coverage of a  
5534 residential property equivalent to the coverage provided in the  
5535 private insurance market under an HO-3, HO-4, or HO-6 policy.

5536 b. Basic personal lines policy forms that are policies  
5537 similar to an HO-8 policy or a dwelling fire policy that provide  
5538 coverage meeting the requirements of the secondary mortgage  
5539 market, but which coverage is more limited than the coverage  
5540 under a standard policy.

5541 c. Commercial lines residential and nonresidential policy  
5542 forms that are generally similar to the basic perils of full  
5543 coverage obtainable for commercial residential structures and  
5544 commercial nonresidential structures in the admitted voluntary

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5545 market.

5546 d. Personal lines and commercial lines residential  
5547 property insurance forms that cover the peril of wind only. The  
5548 forms are applicable only to residential properties located in  
5549 areas eligible for coverage under the high-risk account referred  
5550 to in sub-subparagraph (b)2.a.

5551 e. Commercial lines nonresidential property insurance  
5552 forms that cover the peril of wind only. The forms are  
5553 applicable only to nonresidential properties located in areas  
5554 eligible for coverage under the high-risk account referred to in  
5555 sub-subparagraph (b)2.a.

5556 f. The corporation may adopt variations of the policy  
5557 forms listed in sub-subparagraphs a.-e. that contain more  
5558 restrictive coverage.

5559 2.a. Must provide that the corporation adopt a program in  
5560 which the corporation and authorized insurers enter into quota  
5561 share primary insurance agreements for hurricane coverage, as  
5562 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
5563 property insurance forms for eligible risks which cover the  
5564 peril of wind only. As used in this subsection, the term:

5565 (I) "Quota share primary insurance" means an arrangement  
5566 in which the primary hurricane coverage of an eligible risk is  
5567 provided in specified percentages by the corporation and an  
5568 authorized insurer. The corporation and authorized insurer are  
5569 each solely responsible for a specified percentage of hurricane  
5570 coverage of an eligible risk as set forth in a quota share  
5571 primary insurance agreement between the corporation and an  
5572 authorized insurer and the insurance contract. The

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5573 responsibility of the corporation or authorized insurer to pay  
5574 its specified percentage of hurricane losses of an eligible  
5575 risk, as set forth in the quota share primary insurance  
5576 agreement, may not be altered by the inability of the other  
5577 party to the agreement to pay its specified percentage of  
5578 hurricane losses. Eligible risks that are provided hurricane  
5579 coverage through a quota share primary insurance arrangement  
5580 must be provided policy forms that set forth the obligations of  
5581 the corporation and authorized insurer under the arrangement,  
5582 clearly specify the percentages of quota share primary insurance  
5583 provided by the corporation and authorized insurer, and  
5584 conspicuously and clearly state that neither the authorized  
5585 insurer nor the corporation may be held responsible beyond its  
5586 specified percentage of coverage of hurricane losses.

5587 (II) "Eligible risks" means personal lines residential and  
5588 commercial lines residential risks that meet the underwriting  
5589 criteria of the corporation and are located in areas that were  
5590 eligible for coverage by the Florida Windstorm Underwriting  
5591 Association on January 1, 2002.

5592 b. The corporation may enter into quota share primary  
5593 insurance agreements with authorized insurers at corporation  
5594 coverage levels of 90 percent and 50 percent.

5595 c. If the corporation determines that additional coverage  
5596 levels are necessary to maximize participation in quota share  
5597 primary insurance agreements by authorized insurers, the  
5598 corporation may establish additional coverage levels. However,  
5599 the corporation's quota share primary insurance coverage level  
5600 may not exceed 90 percent.



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5601 d. Any quota share primary insurance agreement entered  
5602 into between an authorized insurer and the corporation must  
5603 provide for a uniform specified percentage of coverage of  
5604 hurricane losses, by county or territory as set forth by the  
5605 corporation board, for all eligible risks of the authorized  
5606 insurer covered under the quota share primary insurance  
5607 agreement.

5608 e. Any quota share primary insurance agreement entered  
5609 into between an authorized insurer and the corporation is  
5610 subject to review and approval by the office. However, such  
5611 agreement shall be authorized only as to insurance contracts  
5612 entered into between an authorized insurer and an insured who is  
5613 already insured by the corporation for wind coverage.

5614 f. For all eligible risks covered under quota share  
5615 primary insurance agreements, the exposure and coverage levels  
5616 for both the corporation and authorized insurers shall be  
5617 reported by the corporation to the Florida Hurricane Catastrophe  
5618 Fund. For all policies of eligible risks covered under quota  
5619 share primary insurance agreements, the corporation and the  
5620 authorized insurer shall maintain complete and accurate records  
5621 for the purpose of exposure and loss reimbursement audits as  
5622 required by Florida Hurricane Catastrophe Fund rules. The  
5623 corporation and the authorized insurer shall each maintain  
5624 duplicate copies of policy declaration pages and supporting  
5625 claims documents.

5626 g. The corporation board shall establish in its plan of  
5627 operation standards for quota share agreements which ensure that  
5628 there is no discriminatory application among insurers as to the

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5629 terms of quota share agreements, pricing of quota share  
5630 agreements, incentive provisions if any, and consideration paid  
5631 for servicing policies or adjusting claims.

5632 h. The quota share primary insurance agreement between the  
5633 corporation and an authorized insurer must set forth the  
5634 specific terms under which coverage is provided, including, but  
5635 not limited to, the sale and servicing of policies issued under  
5636 the agreement by the insurance agent of the authorized insurer  
5637 producing the business, the reporting of information concerning  
5638 eligible risks, the payment of premium to the corporation, and  
5639 arrangements for the adjustment and payment of hurricane claims  
5640 incurred on eligible risks by the claims adjuster and personnel  
5641 of the authorized insurer. Entering into a quota sharing  
5642 insurance agreement between the corporation and an authorized  
5643 insurer shall be voluntary and at the discretion of the  
5644 authorized insurer.

5645 3. May provide that the corporation may employ or  
5646 otherwise contract with individuals or other entities to provide  
5647 administrative or professional services that may be appropriate  
5648 to effectuate the plan. The corporation shall have the power to  
5649 borrow funds, by issuing bonds or by incurring other  
5650 indebtedness, and shall have other powers reasonably necessary  
5651 to effectuate the requirements of this subsection, including,  
5652 without limitation, the power to issue bonds and incur other  
5653 indebtedness in order to refinance outstanding bonds or other  
5654 indebtedness. The corporation may, but is not required to, seek  
5655 judicial validation of its bonds or other indebtedness under  
5656 chapter 75. The corporation may issue bonds or incur other

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5657 indebtedness, or have bonds issued on its behalf by a unit of  
5658 local government pursuant to subparagraph (p)2. ~~(g)2.~~, in the  
5659 absence of a hurricane or other weather-related event, upon a  
5660 determination by the corporation, subject to approval by the  
5661 office, that such action would enable it to efficiently meet the  
5662 financial obligations of the corporation and that such  
5663 financings are reasonably necessary to effectuate the  
5664 requirements of this subsection. The corporation is authorized  
5665 to take all actions needed to facilitate tax-free status for any  
5666 such bonds or indebtedness, including formation of trusts or  
5667 other affiliated entities. The corporation shall have the  
5668 authority to pledge assessments, projected recoveries from the  
5669 Florida Hurricane Catastrophe Fund, other reinsurance  
5670 recoverables, market equalization and other surcharges, and  
5671 other funds available to the corporation as security for bonds  
5672 or other indebtedness. In recognition of s. 10, Art. I of the  
5673 State Constitution, prohibiting the impairment of obligations of  
5674 contracts, it is the intent of the Legislature that no action be  
5675 taken whose purpose is to impair any bond indenture or financing  
5676 agreement or any revenue source committed by contract to such  
5677 bond or other indebtedness.

5678 4.a. Must require that the corporation operate subject to  
5679 the supervision and approval of a board of governors consisting  
5680 of eight individuals who are residents of this state, from  
5681 different geographical areas of this state. The Governor, the  
5682 Chief Financial Officer, the President of the Senate, and the  
5683 Speaker of the House of Representatives shall each appoint two  
5684 members of the board. At least one of the two members appointed

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5685 by each appointing officer must have demonstrated expertise in  
5686 insurance. The Chief Financial Officer shall designate one of  
5687 the appointees as chair. All board members serve at the pleasure  
5688 of the appointing officer. All members of the board of governors  
5689 are subject to removal at will by the officers who appointed  
5690 them. All board members, including the chair, must be appointed  
5691 to serve for 3-year terms beginning annually on a date  
5692 designated by the plan. Any board vacancy shall be filled for  
5693 the unexpired term by the appointing officer. The Chief  
5694 Financial Officer shall appoint a technical advisory group to  
5695 provide information and advice to the board of governors in  
5696 connection with the board's duties under this subsection. The  
5697 executive director and senior managers of the corporation shall  
5698 be engaged by the board and serve at the pleasure of the board.  
5699 Any executive director appointed on or after July 1, 2006, is  
5700 subject to confirmation by the Senate. The executive director is  
5701 responsible for employing other staff as the corporation may  
5702 require, subject to review and concurrence by the board.

5703       b. The board shall create a Market Accountability Advisory  
5704 Committee to assist the corporation in developing awareness of  
5705 its rates and its customer and agent service levels in  
5706 relationship to the voluntary market insurers writing similar  
5707 coverage. The members of the advisory committee shall consist of  
5708 the following 11 persons, one of whom must be elected chair by  
5709 the members of the committee: four representatives, one  
5710 appointed by the Florida Association of Insurance Agents, one by  
5711 the Florida Association of Insurance and Financial Advisors, one  
5712 by the Professional Insurance Agents of Florida, and one by the

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5713 Latin American Association of Insurance Agencies; three  
5714 representatives appointed by the insurers with the three highest  
5715 voluntary market share of residential property insurance  
5716 business in the state; one representative from the Office of  
5717 Insurance Regulation; one consumer appointed by the board who is  
5718 insured by the corporation at the time of appointment to the  
5719 committee; one representative appointed by the Florida  
5720 Association of Realtors; and one representative appointed by the  
5721 Florida Bankers Association. All members must serve for 3-year  
5722 terms and may serve for consecutive terms. The committee shall  
5723 report to the corporation at each board meeting on insurance  
5724 market issues which may include rates and rate competition with  
5725 the voluntary market; service, including policy issuance, claims  
5726 processing, and general responsiveness to policyholders,  
5727 applicants, and agents; and matters relating to depopulation.

5728         5. Must provide a procedure for determining the  
5729 eligibility of a risk for coverage, as follows:

5730         a. Subject to the provisions of s. 627.3517, with respect  
5731 to personal lines residential risks, if the risk is offered  
5732 coverage from an authorized insurer at the insurer's approved  
5733 rate under either a standard policy including wind coverage or,  
5734 if consistent with the insurer's underwriting rules as filed  
5735 with the office, a basic policy including wind coverage, for a  
5736 new application to the corporation for coverage, the risk is not  
5737 eligible for any policy issued by the corporation unless the  
5738 premium for coverage from the authorized insurer is more than 25  
5739 percent greater than the premium for comparable coverage from  
5740 the corporation. If the risk is not able to obtain any such

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5741 offer, the risk is eligible for either a standard policy  
5742 including wind coverage or a basic policy including wind  
5743 coverage issued by the corporation; however, if the risk could  
5744 not be insured under a standard policy including wind coverage  
5745 regardless of market conditions, the risk shall be eligible for  
5746 a basic policy including wind coverage unless rejected under  
5747 subparagraph 9. ~~8.~~ However, with regard to a policyholder of the  
5748 corporation, the policyholder remains eligible for coverage from  
5749 the corporation regardless of any offer of coverage from an  
5750 authorized insurer or surplus lines insurer. The corporation  
5751 shall determine the type of policy to be provided on the basis  
5752 of objective standards specified in the underwriting manual and  
5753 based on generally accepted underwriting practices.

5754 (I) If the risk accepts an offer of coverage through the  
5755 market assistance plan or an offer of coverage through a  
5756 mechanism established by the corporation before a policy is  
5757 issued to the risk by the corporation or during the first 30  
5758 days of coverage by the corporation, and the producing agent who  
5759 submitted the application to the plan or to the corporation is  
5760 not currently appointed by the insurer, the insurer shall:

5761 (A) Pay to the producing agent of record of the policy,  
5762 for the first year, an amount that is the greater of the  
5763 insurer's usual and customary commission for the type of policy  
5764 written or a fee equal to the usual and customary commission of  
5765 the corporation; or

5766 (B) Offer to allow the producing agent of record of the  
5767 policy to continue servicing the policy for a period of not less  
5768 than 1 year and offer to pay the agent the greater of the

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5769 insurer's or the corporation's usual and customary commission  
 5770 for the type of policy written.

5771

5772 If the producing agent is unwilling or unable to accept  
 5773 appointment, the new insurer shall pay the agent in accordance  
 5774 with sub-sub-sub-subparagraph (A).

5775 (II) When the corporation enters into a contractual  
 5776 agreement for a take-out plan, the producing agent of record of  
 5777 the corporation policy is entitled to retain any unearned  
 5778 commission on the policy, and the insurer shall:

5779 (A) Pay to the producing agent of record of the  
 5780 corporation policy, for the first year, an amount that is the  
 5781 greater of the insurer's usual and customary commission for the  
 5782 type of policy written or a fee equal to the usual and customary  
 5783 commission of the corporation; or

5784 (B) Offer to allow the producing agent of record of the  
 5785 corporation policy to continue servicing the policy for a period  
 5786 of not less than 1 year and offer to pay the agent the greater  
 5787 of the insurer's or the corporation's usual and customary  
 5788 commission for the type of policy written.

5789

5790 If the producing agent is unwilling or unable to accept  
 5791 appointment, the new insurer shall pay the agent in accordance  
 5792 with sub-sub-sub-subparagraph (A).

5793 b. With respect to commercial lines residential risks, for  
 5794 a new application to the corporation for coverage, if the risk  
 5795 is offered coverage under a policy including wind coverage from  
 5796 an authorized insurer at its approved rate, the risk is not

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5797 eligible for any policy issued by the corporation unless the  
5798 premium for coverage from the authorized insurer is more than 25  
5799 percent greater than the premium for comparable coverage from  
5800 the corporation. If the risk is not able to obtain any such  
5801 offer, the risk is eligible for a policy including wind coverage  
5802 issued by the corporation. However, with regard to a  
5803 policyholder of the corporation, the policyholder remains  
5804 eligible for coverage from the corporation regardless of any  
5805 offer of coverage from an authorized insurer or surplus lines  
5806 insurer.

5807 (I) If the risk accepts an offer of coverage through the  
5808 market assistance plan or an offer of coverage through a  
5809 mechanism established by the corporation before a policy is  
5810 issued to the risk by the corporation or during the first 30  
5811 days of coverage by the corporation, and the producing agent who  
5812 submitted the application to the plan or the corporation is not  
5813 currently appointed by the insurer, the insurer shall:

5814 (A) Pay to the producing agent of record of the policy,  
5815 for the first year, an amount that is the greater of the  
5816 insurer's usual and customary commission for the type of policy  
5817 written or a fee equal to the usual and customary commission of  
5818 the corporation; or

5819 (B) Offer to allow the producing agent of record of the  
5820 policy to continue servicing the policy for a period of not less  
5821 than 1 year and offer to pay the agent the greater of the  
5822 insurer's or the corporation's usual and customary commission  
5823 for the type of policy written.

5824



5825 If the producing agent is unwilling or unable to accept  
 5826 appointment, the new insurer shall pay the agent in accordance  
 5827 with sub-sub-sub-subparagraph (A).

5828 (II) When the corporation enters into a contractual  
 5829 agreement for a take-out plan, the producing agent of record of  
 5830 the corporation policy is entitled to retain any unearned  
 5831 commission on the policy, and the insurer shall:

5832 (A) Pay to the producing agent of record of the  
 5833 corporation policy, for the first year, an amount that is the  
 5834 greater of the insurer's usual and customary commission for the  
 5835 type of policy written or a fee equal to the usual and customary  
 5836 commission of the corporation; or

5837 (B) Offer to allow the producing agent of record of the  
 5838 corporation policy to continue servicing the policy for a period  
 5839 of not less than 1 year and offer to pay the agent the greater  
 5840 of the insurer's or the corporation's usual and customary  
 5841 commission for the type of policy written.

5842  
 5843 If the producing agent is unwilling or unable to accept  
 5844 appointment, the new insurer shall pay the agent in accordance  
 5845 with sub-sub-sub-subparagraph (A).

5846 6. Must provide by July 1, 2007, that an application for  
 5847 coverage for a new policy is subject to a waiting period of 10  
 5848 days before coverage is effective, during which time the  
 5849 corporation shall make such application available for review by  
 5850 general lines agents and authorized property and casualty  
 5851 insurers. The board shall approve an exception that allows for  
 5852 coverage to be effective before the end of the 10-day waiting

5853 | period, for coverage issued in conjunction with a real estate  
 5854 | closing. The board may approve such other exceptions as the  
 5855 | board determines are necessary to prevent lapses in coverage.

5856 |         7. Must include rules for classifications of risks and  
 5857 | rates therefor.

5858 |         8. Must provide that if premium and investment income for  
 5859 | an account attributable to a particular calendar year are in  
 5860 | excess of projected losses and expenses for the account  
 5861 | attributable to that year, such excess shall be held in surplus  
 5862 | in the account. Such surplus shall be available to defray  
 5863 | deficits in that account as to future years and shall be used  
 5864 | for that purpose prior to assessing assessable insurers and  
 5865 | assessable insureds as to any calendar year.

5866 |         9. Must provide objective criteria and procedures to be  
 5867 | uniformly applied for all applicants in determining whether an  
 5868 | individual risk is so hazardous as to be uninsurable. In making  
 5869 | this determination and in establishing the criteria and  
 5870 | procedures, the following shall be considered:

5871 |             a. Whether the likelihood of a loss for the individual  
 5872 | risk is substantially higher than for other risks of the same  
 5873 | class; and

5874 |             b. Whether the uncertainty associated with the individual  
 5875 | risk is such that an appropriate premium cannot be determined.

5876 |  
 5877 | The acceptance or rejection of a risk by the corporation shall  
 5878 | be construed as the private placement of insurance, and the  
 5879 | provisions of chapter 120 shall not apply.

5880 |         10. Must provide that the corporation shall make its best

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5881 efforts to procure catastrophe reinsurance at reasonable rates,  
5882 to cover its projected 100-year probable maximum loss as  
5883 determined by the board of governors.

5884 11. Must provide that in the event of regular deficit  
5885 assessments under sub-subparagraph (b)3.a. or sub-subparagraph  
5886 (b)3.b., in the personal lines account, the commercial lines  
5887 residential account, or the high-risk account, the corporation  
5888 shall levy upon corporation policyholders in its next rate  
5889 filing, or by a separate rate filing solely for this purpose, a  
5890 Citizens policyholder surcharge arising from a regular  
5891 assessment in such account in a percentage equal to the total  
5892 amount of such regular assessments divided by the aggregate  
5893 statewide direct written premium for subject lines of business  
5894 for the prior calendar year. For purposes of calculating the  
5895 Citizens policyholder surcharge to be levied under this  
5896 subparagraph, the total amount of the regular assessment to  
5897 which this surcharge is related shall be determined as set forth  
5898 in subparagraph (b)3., without deducting the estimated Citizens  
5899 policyholder surcharge. Citizens policyholder surcharges under  
5900 this subparagraph are not considered premium and are not subject  
5901 to commissions, fees, or premium taxes; however, failure to pay  
5902 a market equalization surcharge shall be treated as failure to  
5903 pay premium.

5904 12. The policies issued by the corporation must provide  
5905 that, if the corporation or the market assistance plan obtains  
5906 an offer from an authorized insurer to cover the risk at its  
5907 approved rates, the risk is no longer eligible for renewal  
5908 through the corporation, except as otherwise provided in this

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5909 subsection.

5910           13. Corporation policies and applications must include a  
5911 notice that the corporation policy could, under this section, be  
5912 replaced with a policy issued by an authorized insurer that does  
5913 not provide coverage identical to the coverage provided by the  
5914 corporation. The notice shall also specify that acceptance of  
5915 corporation coverage creates a conclusive presumption that the  
5916 applicant or policyholder is aware of this potential.

5917           14. May establish, subject to approval by the office,  
5918 different eligibility requirements and operational procedures  
5919 for any line or type of coverage for any specified county or  
5920 area if the board determines that such changes to the  
5921 eligibility requirements and operational procedures are  
5922 justified due to the voluntary market being sufficiently stable  
5923 and competitive in such area or for such line or type of  
5924 coverage and that consumers who, in good faith, are unable to  
5925 obtain insurance through the voluntary market through ordinary  
5926 methods would continue to have access to coverage from the  
5927 corporation. When coverage is sought in connection with a real  
5928 property transfer, such requirements and procedures shall not  
5929 provide for an effective date of coverage later than the date of  
5930 the closing of the transfer as established by the transferor,  
5931 the transferee, and, if applicable, the lender.

5932           15. Must provide that, with respect to the high-risk  
5933 account, any assessable insurer with a surplus as to  
5934 policyholders of \$25 million or less writing 25 percent or more  
5935 of its total countrywide property insurance premiums in this  
5936 state may petition the office, within the first 90 days of each

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5937 calendar year, to qualify as a limited apportionment company. A  
5938 regular assessment levied by the corporation on a limited  
5939 apportionment company for a deficit incurred by the corporation  
5940 for the high-risk account in 2006 or thereafter may be paid to  
5941 the corporation on a monthly basis as the assessments are  
5942 collected by the limited apportionment company from its insureds  
5943 pursuant to s. 627.3512, but the regular assessment must be paid  
5944 in full within 12 months after being levied by the corporation.  
5945 A limited apportionment company shall collect from its  
5946 policyholders any emergency assessment imposed under sub-  
5947 subparagraph (b)3.d. The plan shall provide that, if the office  
5948 determines that any regular assessment will result in an  
5949 impairment of the surplus of a limited apportionment company,  
5950 the office may direct that all or part of such assessment be  
5951 deferred as provided in subparagraph (p)4. ~~(g)4.~~ However, there  
5952 shall be no limitation or deferment of an emergency assessment  
5953 to be collected from policyholders under sub-subparagraph  
5954 (b)3.d.

5955 16. Must provide that the corporation appoint as its  
5956 licensed agents only those agents who also hold an appointment  
5957 as defined in s. 626.015(3) with an insurer who at the time of  
5958 the agent's initial appointment by the corporation is authorized  
5959 to write and is actually writing personal lines residential  
5960 property coverage, commercial residential property coverage, or  
5961 commercial nonresidential property coverage within the state.

5962 17. Must provide, by July 1, 2007, a premium payment plan  
5963 option to its policyholders which allows for quarterly and  
5964 semiannual payment of premiums.

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5965           18. Must provide, effective June 1, 2007, that the  
5966 corporation contract with each insurer providing the non-wind  
5967 coverage for risks insured by the corporation in the high-risk  
5968 account, requiring that the insurer provide claims adjusting  
5969 services for the wind coverage provided by the corporation for  
5970 such risks. An insurer is required to enter into this contract  
5971 as a condition of providing non-wind coverage for a risk that is  
5972 insured by the corporation in the high-risk account unless the  
5973 board finds, after a hearing, that the insurer is not capable of  
5974 providing adjusting services at an acceptable level of quality  
5975 to corporation policyholders. The terms and conditions of such  
5976 contracts must be substantially the same as the contracts that  
5977 the corporation executed with insurers under the "adjust-your-  
5978 own" program in 2006, except as may be mutually agreed to by the  
5979 parties and except for such changes that the board determines  
5980 are necessary to ensure that claims are adjusted appropriately.  
5981 The corporation shall provide a process for neutral arbitration  
5982 of any dispute between the corporation and the insurer regarding  
5983 the terms of the contract. The corporation shall review and  
5984 monitor the performance of insurers under these contracts.

5985           19. Must limit coverage on mobile homes or manufactured  
5986 homes built prior to 1994 to actual cash value of the dwelling  
5987 rather than replacement costs of the dwelling.

5988           20. May provide such limits of coverage as the board  
5989 determines, consistent with the requirements of this subsection.

5990           21. May require commercial property to meet specified  
5991 hurricane mitigation construction features as a condition of  
5992 eligibility for coverage.

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5993 (d)1. All prospective employees for senior management  
5994 positions, as defined by the plan of operation, are subject to  
5995 background checks as a prerequisite for employment. The office  
5996 shall conduct background checks on such prospective employees  
5997 pursuant to ss. 624.34, 624.404(3), and 628.261.

5998 2. On or before July 1 of each year, employees of the  
5999 corporation are required to sign and submit a statement  
6000 attesting that they do not have a conflict of interest, as  
6001 defined in part III of chapter 112. As a condition of  
6002 employment, all prospective employees are required to sign and  
6003 submit to the corporation a conflict-of-interest statement.

6004 3. Senior managers and members of the board of governors  
6005 are subject to the provisions of part III of chapter 112,  
6006 including, but not limited to, the code of ethics and public  
6007 disclosure and reporting of financial interests, pursuant to s.  
6008 112.3145. Senior managers and board members are also required to  
6009 file such disclosures with the Office of Insurance Regulation.  
6010 The executive director of the corporation or his or her designee  
6011 shall notify each newly appointed and existing appointed member  
6012 of the board of governors and senior managers of their duty to  
6013 comply with the reporting requirements of part III of chapter  
6014 112. At least quarterly, the executive director or his or her  
6015 designee shall submit to the Commission on Ethics a list of  
6016 names of the senior managers and members of the board of  
6017 governors who ~~that~~ are subject to the public disclosure  
6018 requirements under s. 112.3145.

6019 4. Notwithstanding s. 112.3148 or s. 112.3149, or any  
6020 other provision of law, an employee or board member may not

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6021 knowingly accept, directly or indirectly, any gift or  
6022 expenditure from a person or entity, or an employee or  
6023 representative of such person or entity, that has a contractual  
6024 relationship with the corporation or who is under consideration  
6025 for a contract. An employee or board member who ~~that~~ fails to  
6026 comply with this subparagraph is subject to penalties provided  
6027 under ss. 112.317 and 112.3173.

6028         5. Any senior manager of the corporation who is employed  
6029 on or after January 1, 2007, regardless of the date of hire, who  
6030 subsequently retires or terminates employment is prohibited from  
6031 representing another person or entity before the corporation for  
6032 2 years after retirement or termination of employment from the  
6033 corporation.

6034         6. Any employee of the corporation who is employed on or  
6035 after January 1, 2007, regardless of the date of hire, who  
6036 subsequently retires or terminates employment is prohibited from  
6037 having any employment or contractual relationship for 2 years  
6038 with an insurer that has received a take-out bonus from the  
6039 corporation.

6040         (n) If coverage in an account is deactivated pursuant to  
6041 paragraph (o) ~~(f)~~, coverage through the corporation shall be  
6042 reactivated by order of the office only under one of the  
6043 following circumstances:

6044         1. If the market assistance plan receives a minimum of 100  
6045 applications for coverage within a 3-month period, or 200  
6046 applications for coverage within a 1-year period or less for  
6047 residential coverage, unless the market assistance plan provides  
6048 a quotation from admitted carriers at their filed rates for at



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6049 | least 90 percent of such applicants. Any market assistance plan  
6050 | application that is rejected because an individual risk is so  
6051 | hazardous as to be uninsurable using the criteria specified in  
6052 | subparagraph (c)9. ~~(e)8.~~ shall not be included in the minimum  
6053 | percentage calculation provided herein. In the event that there  
6054 | is a legal or administrative challenge to a determination by the  
6055 | office that the conditions of this subparagraph have been met  
6056 | for eligibility for coverage in the corporation, any eligible  
6057 | risk may obtain coverage during the pendency of such challenge.

6058 |         2. In response to a state of emergency declared by the  
6059 | Governor under s. 252.36, the office may activate coverage by  
6060 | order for the period of the emergency upon a finding by the  
6061 | office that the emergency significantly affects the availability  
6062 | of residential property insurance.

6063 |         (v) Notwithstanding any other provision of law:

6064 |             1. The pledge or sale of, the lien upon, and the security  
6065 | interest in any rights, revenues, or other assets of the  
6066 | corporation created or purported to be created pursuant to any  
6067 | financing documents to secure any bonds or other indebtedness of  
6068 | the corporation shall be and remain valid and enforceable,  
6069 | notwithstanding the commencement of and during the continuation  
6070 | of, and after, any rehabilitation, insolvency, liquidation,  
6071 | bankruptcy, receivership, conservatorship, reorganization, or  
6072 | similar proceeding against the corporation under the laws of  
6073 | this state.

6074 |             2. No such proceeding shall relieve the corporation of its  
6075 | obligation, or otherwise affect its ability to perform its  
6076 | obligation, to continue to collect, or levy and collect,

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6077 assessments, market equalization or other surcharges under  
6078 subparagraph (c)11. ~~(e)10.~~, or any other rights, revenues, or  
6079 other assets of the corporation pledged pursuant to any  
6080 financing documents.

6081 3. Each such pledge or sale of, lien upon, and security  
6082 interest in, including the priority of such pledge, lien, or  
6083 security interest, any such assessments, market equalization or  
6084 other surcharges, or other rights, revenues, or other assets  
6085 which are collected, or levied and collected, after the  
6086 commencement of and during the pendency of, or after, any such  
6087 proceeding shall continue unaffected by such proceeding. As  
6088 used in this subsection, the term "financing documents" means  
6089 any agreement or agreements, instrument or instruments, or other  
6090 document or documents now existing or hereafter created  
6091 evidencing any bonds or other indebtedness of the corporation or  
6092 pursuant to which any such bonds or other indebtedness has been  
6093 or may be issued and pursuant to which any rights, revenues, or  
6094 other assets of the corporation are pledged or sold to secure  
6095 the repayment of such bonds or indebtedness, together with the  
6096 payment of interest on such bonds or such indebtedness, or the  
6097 payment of any other obligation or financial product, as defined  
6098 in the plan of operation of the corporation related to such  
6099 bonds or indebtedness.

6100 4. Any such pledge or sale of assessments, revenues,  
6101 contract rights, or other rights or assets of the corporation  
6102 shall constitute a lien and security interest, or sale, as the  
6103 case may be, that is immediately effective and attaches to such  
6104 assessments, revenues, or contract rights or other rights or

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6105 assets, whether or not imposed or collected at the time the  
6106 pledge or sale is made. Any such pledge or sale is effective,  
6107 valid, binding, and enforceable against the corporation or other  
6108 entity making such pledge or sale, and valid and binding against  
6109 and superior to any competing claims or obligations owed to any  
6110 other person or entity, including policyholders in this state,  
6111 asserting rights in any such assessments, revenues, or contract  
6112 rights or other rights or assets to the extent set forth in and  
6113 in accordance with the terms of the pledge or sale contained in  
6114 the applicable financing documents, whether or not any such  
6115 person or entity has notice of such pledge or sale and without  
6116 the need for any physical delivery, recordation, filing, or  
6117 other action.

6118 5. As long as the corporation has any bonds outstanding,  
6119 the corporation may not file a voluntary petition under chapter  
6120 9 of the federal Bankruptcy Code or such corresponding chapter  
6121 or sections as may be in effect, from time to time, and a public  
6122 officer or any organization, entity, or other person may not  
6123 authorize the corporation to be or become a debtor under chapter  
6124 9 of the federal Bankruptcy Code or such corresponding chapter  
6125 or sections as may be in effect, from time to time, during any  
6126 such period.

6127 6. If ordered by a court of competent jurisdiction, the  
6128 corporation may assume policies or otherwise provide coverage  
6129 for policyholders of an insurer placed in liquidation under  
6130 chapter 631, under such forms, rates, terms, and conditions as  
6131 the corporation deems appropriate, subject to approval by the  
6132 office.

6133  
6134 Reviser's note.--Amended to improve clarity and  
6135 facilitate correct interpretation. Section 15, ch.  
6136 2006-12, Laws of Florida, redesignated subunits within  
6137 s. 627.351(6). Subparagraph (6)(g)2. was redesignated  
6138 as subparagraph (6)(p)2. Subparagraph (6)(g)4. was  
6139 redesignated as subparagraph (6)(p)4. Subparagraph  
6140 (6)(c)8. was redesignated as subparagraph (6)(c)9.  
6141 Subparagraph (6)(c)10. was redesignated as  
6142 subparagraph (6)(c)11. Paragraph (6)(f) was  
6143 redesignated as paragraph (6)(o). Paragraph (6)(d) is  
6144 also amended to confirm the editorial substitution of  
6145 the word "who" for the word "that" to conform to  
6146 context.

6147  
6148 Section 142. Subsection (1) of section 627.6617, Florida  
6149 Statutes, is amended to read:

6150 627.6617 Coverage for home health care services.--

6151 (1) Any group health insurance policy providing coverage  
6152 on an expense-incurred basis shall provide coverage for home  
6153 health care by a home health care agency licensed pursuant to  
6154 part III ~~IV~~ of chapter 400. Such coverage may be limited to home  
6155 health care under a plan of treatment prescribed by a licensed  
6156 physician. Services may be performed by a registered graduate  
6157 nurse, a licensed practical nurse, a physical therapist, a  
6158 speech therapist, an occupational therapist, or a home health  
6159 aide. Provisions for utilization review may be imposed, provided  
6160 that similar provisions apply to all other types of health care

6161 services.

6162

6163 Reviser's note.--Amended to conform to the  
 6164 redesignation of former part III of chapter 400 as  
 6165 part I of chapter 429 by s. 2, ch. 2006-197, Laws of  
 6166 Florida, and the redesignation of part IV of chapter  
 6167 400 as part III of chapter 400 to conform.

6168

6169 Section 143. Subsections (2) and (10) of section 633.0245,  
 6170 Florida Statutes, are amended to read:

6171 633.0245 State Fire Marshal Nursing Home Fire Protection  
 6172 Loan Guarantee Program.--

6173 (2) The State Fire Marshal may enter into limited loan  
 6174 guarantee agreements with one or more financial institutions  
 6175 qualified as public depositories in this state. Such agreements  
 6176 shall provide a limited guarantee by the State of Florida  
 6177 covering no more than 50 percent of the principal sum loaned by  
 6178 such financial institution to an eligible nursing home, as  
 6179 defined in subsection (10), for the sole purpose of the initial  
 6180 installation at such nursing home of a fire protection system,  
 6181 as defined in s. 633.021(9) ~~633.021(8)~~, approved by the State  
 6182 Fire Marshal as being in compliance with the provisions of s.  
 6183 633.022 and rules adopted thereunder.

6184 (10) For purposes of this section, "eligible nursing home"  
 6185 means a nursing home facility that provides nursing services as  
 6186 defined in chapter 464, is licensed under part II of chapter  
 6187 400, and is certified by the Agency for Health Care  
 6188 Administration to lack an installed fire protection system as

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6189 defined in s. 633.021(9) ~~633.021(8)~~.

6190

6191 Reviser's note.--Amended to conform to the addition of  
6192 a new s. 633.021(8) and the redesignation of following  
6193 subunits by s. 8, ch. 2006-65, Laws of Florida.

6194

6195 Section 144. Paragraph (d) of subsection (2) and  
6196 subsection (3) of section 679.4031, Florida Statutes, are  
6197 amended to read:

6198 679.4031 Agreement not to assert defenses against  
6199 assignee.--

6200 (2) Except as otherwise provided in this section, an  
6201 agreement between an account debtor and an assignor not to  
6202 assert against an assignee any claim or defense that the account  
6203 debtor may have against the assignor is enforceable by an  
6204 assignee that takes an assignment:

6205 (d) Without notice of a defense or claim in recoupment of  
6206 the type that may be asserted against a person entitled to  
6207 enforce a negotiable instrument under s. 673.3051(1)  
6208 ~~673.3031(1)~~.

6209 (3) Subsection (2) does not apply to defenses of a type  
6210 that may be asserted against a holder in due course of a  
6211 negotiable instrument under s. 673.3051(2) ~~673.3031(2)~~.

6212

6213 Reviser's note.--Amended to conform to context.  
6214 Section 673.3031 relates to value and consideration;  
6215 s. 673.3051 relates to defenses and claims in  
6216 recoupment.

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Section 145. Paragraph (b) of subsection (3) of section 679.707, Florida Statutes, is amended to read:

679.707 Amendment or pre-effective date financing statement.--

(3) Except as otherwise provided in subsection (4), if the law of this state governs perfection of a security interest, the information in a pre-effective date financing statement may be amended after this act takes effect only if:

(b) An amendment is filed in the office specified in s. 679.5011 concurrently with, or after the filing in that office of, an initial financing statement that satisfies s. 679.706(3) ~~671.706(3)~~; or

Reviser's note.--Amended to correct an erroneous reference. Section 671.706 does not exist; s. 679.706(3) relates to initial financing statements.

Section 146. Paragraph (b) of subsection (6) of section 727.109, Florida Statutes, is amended to read:

727.109 Power of the court.--The court shall have power to:

(6) Hear and determine any of the following actions brought by the assignee, which she or he is hereby empowered to maintain:

(b) Determine the validity, priority, and extent of a lien or other interests in assets of the estate, or to subordinate or avoid an unperfected security interest pursuant to the

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6245 assignee's rights as a lien creditor under s. 679.3171 ~~679.301~~;

6246

6247 Reviser's note.--Amended to conform to the repeal of

6248 s. 679.301 and the enactment of similar provisions in

6249 s. 679.3171 by s. 3, ch. 2001-198, Laws of Florida.

6250

6251 Section 147. Effective July 1, 2007, paragraph (g) of  
6252 subsection (2) of section 736.1001, Florida Statutes, is amended  
6253 to read:

6254 736.1001 Remedies for breach of trust.--

6255 (2) To remedy a breach of trust that has occurred or may  
6256 occur, the court may:

6257 (g) Remove the trustee as provided in s. 736.0706 ~~736.706~~;

6258

6259 Reviser's note.--Amended to correct an erroneous  
6260 reference. Section 736.706 does not exist; s. 736.0706  
6261 relates to removal of the trustee.

6262

6263 Section 148. Effective July 1, 2007, section 736.1209,  
6264 Florida Statutes, is amended to read:

6265 736.1209 Election to come under this part.--With the  
6266 consent of that organization or organizations, a trustee of a  
6267 trust for the benefit of a public charitable organization or  
6268 organizations may come under s. 736.1208(5) ~~736.0838(5)~~ by  
6269 filing with the state attorney an election, accompanied by the  
6270 proof of required consent. Thereafter the trust shall be subject  
6271 to s. 736.1208(5).

6272



6273 Reviser's note.--Amended to correct an erroneous  
 6274 reference. Section 736.0838 does not exist; s.  
 6275 736.1208(5) relates to release of a power to specify a  
 6276 specific donee by specifying a public charitable  
 6277 organization or organizations.

6278  
 6279 Section 149. Subsection (3) of section 743.09, Florida  
 6280 Statutes, is amended to read:

6281 743.09 Removal of disabilities of minors; artistic or  
 6282 creative services; professional sports contracts; procedure for  
 6283 court approval; appointment of a guardian ad litem.--

6284 (3) At any time after the filing of the petition, the  
 6285 court, if it deems it advisable, may appoint a guardian ad  
 6286 litem, pursuant to s. 744.3025 ~~744.301~~, to represent the  
 6287 interests of the minor. The court shall appoint a guardian ad  
 6288 litem as to any contract where the parent or guardian will  
 6289 receive remuneration or financial gain from the performance of  
 6290 the contract or has any other conflict of interest with the  
 6291 minor as defined by s. 744.446. The court, in determining  
 6292 whether a guardian ad litem should be appointed, may consider  
 6293 the following criteria:

6294 (a) The length of time the exclusive services of the minor  
 6295 are required.

6296 (b) Whether the gross earnings of the minor under the  
 6297 contract are either contingent or unknown.

6298 (c) Whether the gross earnings of the minor under the  
 6299 contract are in excess of \$15,000.

6300

6301 Reviser's note.--Amended to correct an erroneous  
 6302 reference. Section 744.301(4), relating to appointment  
 6303 of guardians ad litem, was repealed by s. 3, ch. 2006-  
 6304 178, Laws of Florida, and s. 4 of that law created s.  
 6305 744.3025, providing for appointment of guardians ad  
 6306 litem.

6307  
 6308 Section 150. Paragraph (a) of subsection (4) and paragraph  
 6309 (b) of subsection (10) of section 775.21, Florida Statutes, are  
 6310 amended to read:

6311 775.21 The Florida Sexual Predators Act.--

6312 (4) SEXUAL PREDATOR CRITERIA.--

6313 (a) For a current offense committed on or after October 1,  
 6314 1993, upon conviction, an offender shall be designated as a  
 6315 "sexual predator" under subsection (5), and subject to  
 6316 registration under subsection (6) and community and public  
 6317 notification under subsection (7) if:

6318 1. The felony is:

6319 a. A capital, life, or first-degree felony violation, or  
 6320 any attempt thereof, of s. 787.01 or s. 787.02, where the victim  
 6321 is a minor and the defendant is not the victim's parent, or of  
 6322 chapter 794, s. 800.04, or s. 847.0145, or a violation of a  
 6323 similar law of another jurisdiction; or

6324 b. Any felony violation, or any attempt thereof, of s.  
 6325 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a  
 6326 minor and the defendant is not the victim's parent; chapter 794,  
 6327 excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 796.035;  
 6328 s. 800.04; s. 825.1025(2)(b); s. 827.071; s. 847.0145; or s.

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6329 985.701(1) ~~985.4045(1)~~; or a violation of a similar law of  
6330 another jurisdiction, and the offender has previously been  
6331 convicted of or found to have committed, or has pled nolo  
6332 contendere or guilty to, regardless of adjudication, any  
6333 violation of s. 787.01, s. 787.02, or s. 787.025(2)(c), where  
6334 the victim is a minor and the defendant is not the victim's  
6335 parent; s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s.  
6336 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s.  
6337 847.0133; s. 847.0135; s. 847.0145; or s. 985.701(1)  
6338 ~~985.4045(1)~~; or a violation of a similar law of another  
6339 jurisdiction;

6340 2. The offender has not received a pardon for any felony  
6341 or similar law of another jurisdiction that is necessary for the  
6342 operation of this paragraph; and

6343 3. A conviction of a felony or similar law of another  
6344 jurisdiction necessary to the operation of this paragraph has  
6345 not been set aside in any postconviction proceeding.

6346 (10) PENALTIES.--

6347 (b) A sexual predator who has been convicted of or found  
6348 to have committed, or has pled nolo contendere or guilty to,  
6349 regardless of adjudication, any violation, or attempted  
6350 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where  
6351 the victim is a minor and the defendant is not the victim's  
6352 parent; s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s.  
6353 796.03; s. 796.035; s. 800.04; s. 827.071; s. 847.0133; s.  
6354 847.0145; or s. 985.701(1) ~~985.4045(1)~~; or a violation of a  
6355 similar law of another jurisdiction when the victim of the  
6356 offense was a minor, and who works, whether for compensation or

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6357 as a volunteer, at any business, school, day care center, park,  
 6358 playground, or other place where children regularly congregate,  
 6359 commits a felony of the third degree, punishable as provided in  
 6360 s. 775.082, s. 775.083, or s. 775.084.

6361  
 6362 Reviser's note.--Amended to conform to the  
 6363 redesignation of s. 985.4045 as s. 985.701 by s. 98,  
 6364 ch. 2006-120, Laws of Florida; the references to s.  
 6365 985.4045(1) were added to s. 775.21 by s. 1, ch. 2006-  
 6366 200, Laws of Florida.

6367  
 6368 Section 151. Subsection (1) of section 794.056, Florida  
 6369 Statutes, is amended to read:

6370 794.056 Rape Crisis Program Trust Fund.--

6371 (1) The Rape Crisis Program Trust Fund is created within  
 6372 the Department of Health for the purpose of providing funds for  
 6373 rape crisis centers in this state. Trust fund moneys shall be  
 6374 used exclusively for the purpose of providing services for  
 6375 victims of sexual assault. Funds credited to the trust fund  
 6376 consist of those funds collected as an additional court  
 6377 assessment in each case in which a defendant pleads guilty or  
 6378 nolo contendere to, or is found guilty of, regardless of  
 6379 adjudication, an offense defined in s. 784.011, s. 784.021, s.  
 6380 784.03, s. 784.041, s. 784.045, s. 784.048, s. 784.07, s.  
 6381 784.08, s. 784.081, s. 784.082, s. 784.083, s. 784.085 ~~785.085~~,  
 6382 or s. 794.011. Funds credited to the trust fund also shall  
 6383 include revenues provided by law, moneys appropriated by the  
 6384 Legislature, and grants from public or private entities.

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Reviser's note.--Amended to correct an erroneous reference. Section 785.085 does not exist; s. 784.085 provides for the offense of battery of a child by throwing, tossing, projecting, or expelling certain fluids or materials.

Section 152. Section 817.36, Florida Statutes, is amended to read:

817.36 Resale of tickets.--Whoever shall offer for resale or resell any ticket may only charge \$1 above the admission price charged therefor by ~~of~~ the original ticket seller of said ticket for the following transactions:

(1) Passage or accommodations on any common carrier in this state; however, the provisions of this subsection shall not apply to travel agencies that have an established place of business in this state, which place of business is required to pay state, county, and city occupational license taxes.

(2) Multiday or multievent tickets to a park or entertainment complex or to a concert, entertainment event, permanent exhibition, or recreational activity within such a park or complex, including an entertainment/resort complex as defined in s. 561.01(18).

(3) Any tickets, other than the tickets in subsections (1) and (2), that are resold or offered through an Internet website, unless such website is authorized by the original ticket seller or makes and posts the following guarantees and disclosures through Internet web pages on which are visibly posted, or links

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6413 to web pages on which are posted, text to which a prospective  
6414 purchaser is directed before completion of the resale  
6415 transaction:

6416 (a) The website operator guarantees a full refund of the  
6417 amount paid for the ticket including any servicing, handling, or  
6418 processing fees, if such fees are not disclosed, when:

6419 1. The ticketed event is canceled;

6420 2. The purchaser is denied admission to the ticketed  
6421 event, unless such denial is due to the action or omission of  
6422 the purchaser;

6423 3. The ticket is not delivered to the purchaser in the  
6424 manner requested and pursuant to any delivery guarantees made by  
6425 the reseller and such failure results in the purchaser's  
6426 inability to attend the ticketed event.

6427 (b) The website operator discloses that it is not the  
6428 issuer, original seller, or reseller of the ticket or items and  
6429 does not control the pricing of the ticket or items, which may  
6430 be resold for more than their original value.

6431 (4) Nothing in this section authorizes any individual or  
6432 entity to sell or purchase tickets at any price on property  
6433 where an event is being held without the prior express written  
6434 consent of the owner of the property.

6435 (5) Any sales tax due for resales under this section shall  
6436 be remitted to the Department of Revenue in accordance with s.  
6437 212.04.

6438

6439 Reviser's note.--Amended to confirm the editorial  
6440 substitution of the word "by" for the word "of" to

6441 improve clarity.

6442

6443 Section 153. Subsection (6) of section 827.06, Florida  
6444 Statutes, is amended to read:

6445 827.06 Nonsupport of dependents.--

6446 (6) It is the intent of the Legislature for the state  
6447 attorneys, the Florida Prosecuting Attorneys Association, and  
6448 the Department of Revenue to work collaboratively to identify  
6449 strategies that allow the criminal penalties provided for in  
6450 this section to be pursued in all appropriate cases, including,  
6451 but not limited to, strategies that would assist the state  
6452 attorneys in obtaining additional resources from available  
6453 federal Title IV-D funds to initiate prosecution pursuant to  
6454 this section. ~~The Florida Prosecuting Attorneys Association and~~  
6455 ~~the Department of Revenue shall submit a joint report to the~~  
6456 ~~Governor, the President of the Senate, and the Speaker of the~~  
6457 ~~House of Representatives by December 31, 2005, that includes~~  
6458 ~~identified strategies and recommendations for implementing such~~  
6459 ~~strategies.~~

6460

6461 Reviser's note.--Amended to delete a provision that  
6462 has served its purpose.

6463

6464 Section 154. Paragraph (d) of subsection (2) of section  
6465 847.001, Florida Statutes, is amended to read:

6466 847.001 Definitions.--As used in this chapter, the term:

6467 (2) "Adult entertainment establishment" means the  
6468 following terms as defined:

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6469 (d) "Unlicensed massage establishment" means any business  
 6470 or enterprise that offers, sells, or provides, or that holds  
 6471 itself out as offering, selling, or providing, massages that  
 6472 include bathing, physical massage, rubbing, kneading, anointing,  
 6473 stroking, manipulating, or other tactile stimulation of the  
 6474 human body by either male or female employees or attendants, by  
 6475 hand or by any electrical or mechanical device, on or off the  
 6476 premises. The term "unlicensed massage establishment" does not  
 6477 include an establishment licensed under s. 480.043 ~~480.43~~ which  
 6478 routinely provides medical services by state-licensed health  
 6479 care practitioners and massage therapists licensed under s.  
 6480 480.041.

6481  
 6482 Reviser's note.--Amended to correct an erroneous  
 6483 reference. Section 480.43 does not exist; s. 480.043  
 6484 relates to licensure of massage establishments.

6485  
 6486 Section 155. Subsection (1) of section 849.09, Florida  
 6487 Statutes, is amended to read:

6488 849.09 Lottery prohibited; exceptions.--

6489 (1) It is unlawful for any person in this state to:

6490 (a) Set up, promote, or conduct any lottery for money or  
 6491 for anything of value;

6492 (b) Dispose of any money or other property of any kind  
 6493 whatsoever by means of any lottery;

6494 (c) Conduct any lottery drawing for the distribution of a  
 6495 prize or prizes by lot or chance, or advertise any such lottery  
 6496 scheme or device in any newspaper or by circulars, posters,



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6497 pamphlets, radio, telegraph, telephone, or otherwise;

6498 (d) Aid or assist in the setting up, promoting, or  
 6499 conducting of any lottery or lottery drawing, whether by  
 6500 writing, printing, or in any other manner whatsoever, or be  
 6501 interested in or connected in any way with any lottery or  
 6502 lottery drawing;

6503 (e) Attempt to operate, conduct, or advertise any lottery  
 6504 scheme or device;

6505 (f) Have in her or his possession any lottery wheel,  
 6506 implement, or device whatsoever for conducting any lottery or  
 6507 scheme for the disposal by lot or chance of anything of value;

6508 (g) Sell, offer for sale, or transmit, in person or by  
 6509 mail or in any other manner whatsoever, any lottery ticket,  
 6510 coupon, or share, or any share in or fractional part of any  
 6511 lottery ticket, coupon, or share, whether such ticket, coupon,  
 6512 or share represents an interest in a live lottery not yet played  
 6513 or whether it represents, or has represented, an interest in a  
 6514 lottery that has already been played;

6515 (h) Have in her or his possession any lottery ticket, or  
 6516 any evidence of any share or right in any lottery ticket, or in  
 6517 any lottery scheme or device, whether such ticket or evidence of  
 6518 share or right represents an interest in a live lottery not yet  
 6519 played or whether it represents, or has represented, an interest  
 6520 in a lottery that has already been played;

6521 (i) Aid or assist in the sale, disposal, or procurement of  
 6522 any lottery ticket, coupon, or share, or any right to any  
 6523 drawing in a lottery; ~~or~~

6524 (j) Have in her or his possession any lottery

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6525 advertisement, circular, poster, or pamphlet, or any list or  
 6526 schedule of any lottery prizes, gifts, or drawings; or-

6527 (k) Have in her or his possession any so-called "run down  
 6528 sheets," tally sheets, or other papers, records, instruments, or  
 6529 paraphernalia designed for use, either directly or indirectly,  
 6530 in, or in connection with, the violation of the laws of this  
 6531 state prohibiting lotteries and gambling.

6532

6533 Provided, that nothing in this section shall prohibit  
 6534 participation in any nationally advertised contest, drawing,  
 6535 game or puzzle of skill or chance for a prize or prizes unless  
 6536 it can be construed as a lottery under this section; and,  
 6537 provided further, that this exemption for national contests  
 6538 shall not apply to any such contest based upon the outcome or  
 6539 results of any horserace, harness race, dograce, or jai alai  
 6540 game.

6541

6542 Reviser's note.--Amended to conform to standard style  
 6543 relating to listing of elements in a series.

6544

6545 Section 156. Subsection (2) of section 849.15, Florida  
 6546 Statutes, is amended to read:

6547 849.15 Manufacture, sale, possession, etc., of coin-  
 6548 operated devices prohibited.--

6549 (2) Pursuant to section 2 of that chapter of the Congress  
 6550 of the United States entitled "An act to prohibit transportation  
 6551 of gaming devices in interstate and foreign commerce," approved  
 6552 January 2, 1951, being ch. 1194, 64 Stat. 1134, and also

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6553 designated as 15 U.S.C. ss. 1171-1177, the State of Florida,  
6554 acting by and through the duly elected and qualified members of  
6555 its Legislature, does hereby in this section, and in accordance  
6556 with and in compliance with the provisions of section 2 of such  
6557 chapter of Congress, declare and proclaim that any county of the  
6558 State of Florida within which slot machine gaming is authorized  
6559 pursuant to chapter 551 is exempt from the provisions of section  
6560 2 of that chapter of the Congress of the United States entitled  
6561 "An act to prohibit transportation of gaming devices in  
6562 interstate and foreign commerce," designated as 15 U.S.C. ss.  
6563 1171-1177, approved January 2, 1951. All shipments of gaming  
6564 devices, including slot machines, into any county of this state  
6565 within which slot machine gaming is authorized pursuant to  
6566 chapter 551 and the registering, recording, and labeling of  
6567 which have been duly performed by the manufacturer or  
6568 distributor thereof in accordance with sections 3 and 4 of that  
6569 chapter of the Congress of the United States entitled "An act to  
6570 prohibit transportation of gaming devices in interstate and  
6571 foreign commerce," approved January 2, 1951, being ch. 1194, 64  
6572 Stat. 1134, and also designated as 15 U.S.C. ss. 1171-1177,  
6573 shall be deemed legal shipments thereof into any such county  
6574 provided the destination of such shipments is an eligible  
6575 facility as defined in s. 551.102.

6576

6577 Reviser's note.--Amended to confirm the editorial  
6578 insertion of the word "in" following the word  
6579 "defined" to improve clarity.

6580

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6581 Section 157. Paragraph (c) of subsection (3) of section  
 6582 921.0022, Florida Statutes, is amended to read:

6583 921.0022 Criminal Punishment Code; offense severity  
 6584 ranking chart.--

6585 (3) OFFENSE SEVERITY RANKING CHART

Florida Felony

6586 Statute Degree Description  
 6587

6588 (c) LEVEL 3

119.10(2)(b) 3rd Unlawful use of confidential  
 information from police  
 reports.

6589 316.066(6) 3rd Unlawfully obtaining or using  
 (b) - (d) confidential crash reports.

6590 316.193(2)(b) 3rd Felony DUI, 3rd conviction.

6591 316.1935(2) 3rd Fleeing or attempting to elude  
 law enforcement officer in  
 patrol vehicle with siren and  
 lights activated.

6592 319.30(4) 3rd Possession by junkyard of motor  
 vehicle with identification  
 number plate removed.

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6593	319.33 (1) (a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
6594	319.33 (1) (c)	3rd	Procure or pass title on stolen vehicle.
6595	319.33 (4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
6596	327.35 (2) (b)	3rd	Felony BUI.
6597	328.05 (2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
6598	328.07 (4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
6599	370.12 (1) (e) 5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell,

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6600	370.12 (1) (e) 6.	3rd	molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
6601	370.12 (1) (e) 6.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
6602	376.302 (5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
6603	400.903 (3)	3rd	Operating a clinic without a license or filing false license application or other required information.
6604	<del>440.105 (3) (b)</del>	3rd	<del>Receipt of fee or consideration without approval by judge of compensation claims.</del>
6604	440.1051 (3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.

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6605	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
6606	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
6607	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
6608	626.902 (1) (a) & (b)	3rd	Representing an unauthorized insurer.
6609	697.08	3rd	Equity skimming.
6610	790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.
6611	796.05 (1)	3rd	Live on earnings of a prostitute.
6612	806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or

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6613			equipment used in firefighting.
	806.10 (2)	3rd	Interferes with or assaults firefighter in performance of duty.
6614			
	810.09 (2) (c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
6615			
	812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
6616			
	812.0145 (2) (c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
6617			
	815.04 (4) (b)	2nd	Computer offense devised to defraud or obtain property.
6618			
	817.034 (4) (a) 3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
6619			
	817.233	3rd	Burning to defraud insurer.
6620			



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6621	817.234 (8) (b) - (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
6622	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
6623	817.236	3rd	Filing a false motor vehicle insurance application.
6624	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
6625	817.413 (2)	3rd	Sale of used goods as new.
6626	817.505 (4)	3rd	Patient brokering.
6627	828.12 (2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
	831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.

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6628	831.29	2nd	Possession of instruments for counterfeiting drivers' licenses or identification cards.
6629	838.021 (3) (b)	3rd	Threatens unlawful harm to public servant.
6630	843.19	3rd	Injure, disable, or kill police dog or horse.
6631	860.15 (3)	3rd	Overcharging for repairs and parts.
6632	870.01 (2)	3rd	Riot; inciting or encouraging.
6633	893.13 (1) (a) 2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs).
6634	893.13 (1) (d) 2.	2nd	Sell, manufacture, or deliver s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8.,

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6635			(2)(c)9., (3), or (4) drugs within 1,000 feet of university.
6636	893.13 (1) (f) 2.	2nd	Sell, manufacture, or deliver s.
6637			893.03 (1) (c), (2) (c)1., (2) (c)2., (2) (c)3., (2) (c)5., (2) (c)6., (2) (c)7., (2) (c)8., (2) (c)9., (3), or (4) drugs within 1,000 feet of public housing facility.
6638	893.13 (6) (a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
6639	893.13 (7) (a) 8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
6640	893.13 (7) (a) 9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
6641	893.13 (7) (a) 10.	3rd	Affix false or forged label to package of controlled substance.

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6641	893.13 (7) (a) 11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
6642	893.13 (8) (a) 1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
6643	893.13 (8) (a) 2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
6644	893.13 (8) (a) 3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
	893.13 (8) (a) 4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of

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6645	918.13 (1) (a)	3rd	writing the prescription is a monetary benefit for the practitioner.
6646	944.47 (1) (a) 1.-2.	3rd	Alter, destroy, or conceal investigation evidence.
6647	944.47 (1) (c)	2nd	Introduce contraband to correctional facility.
6648	985.721	3rd	Possess contraband while upon the grounds of a correctional institution.
6649	Escapes from a juvenile facility (secure detention or residential commitment facility).		
6650	Reviser's note.--Amended to delete a reference to a		
6651	nonfelony violation. Offenses under s. 440.105(3) are		
6652	first degree misdemeanors, not felonies.		
6653	Section 158. Subsection (2) of section 933.07, Florida		
6654	Statutes, is amended to read:		
6655	933.07 Issuance of search warrants.--		
6656	(2) Notwithstanding any other provisions of this chapter,		
6657	the Department of Agriculture and Consumer Services, based on		
6658			

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6659 grounds specified in s. 933.02(4)(d) ~~933.02(4)(d) or (e)~~, may  
 6660 obtain a search warrant authorized by this chapter for an area  
 6661 in size up to and including the full extent of the county in  
 6662 which the search warrant is issued. The judge issuing such  
 6663 search warrant shall conduct a court proceeding prior to the  
 6664 issuance of such search warrant upon reasonable notice and shall  
 6665 receive, hear, and determine any objections by property owners  
 6666 to the issuance of such search warrant. Such search warrant may  
 6667 be served by employees or authorized contractors of the  
 6668 Department of Agriculture and Consumer Services. Such search  
 6669 warrant may be made returnable at any time up to 6 months from  
 6670 the date of issuance.

6671  
 6672 Reviser's note.--Amended to conform to the repeal of  
 6673 s. 933.02(4)(e) by s. 7, ch. 2006-45, Laws of Florida.

6674  
 6675 Section 159. Paragraph (a) of subsection (1) of section  
 6676 943.0435, Florida Statutes, is amended to read:

6677 943.0435 Sexual offenders required to register with the  
 6678 department; penalty.--

6679 (1) As used in this section, the term:

6680 (a) "Sexual offender" means a person who meets the  
 6681 criteria in subparagraph 1., subparagraph 2., or subparagraph  
 6682 3., as follows:

6683 1.a. Has been convicted of committing, or attempting,  
 6684 soliciting, or conspiring to commit, any of the criminal  
 6685 offenses proscribed in the following statutes in this state or  
 6686 similar offenses in another jurisdiction: s. 787.01, s. 787.02,

6687 or s. 787.025(2)(c), where the victim is a minor and the  
 6688 defendant is not the victim's parent; chapter 794, excluding ss.  
 6689 794.011(10) and 794.0235; s. 796.03; s. 796.035; s. 800.04; s.  
 6690 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s.  
 6691 847.0138; s. 847.0145; or s. 985.701(1) ~~985.4045(1)~~; or any  
 6692 similar offense committed in this state which has been  
 6693 redesignated from a former statute number to one of those listed  
 6694 in this sub-subparagraph; and

6695       b. Has been released on or after October 1, 1997, from the  
 6696 sanction imposed for any conviction of an offense described in  
 6697 sub-subparagraph a. For purposes of sub-subparagraph a., a  
 6698 sanction imposed in this state or in any other jurisdiction  
 6699 includes, but is not limited to, a fine, probation, community  
 6700 control, parole, conditional release, control release, or  
 6701 incarceration in a state prison, federal prison, private  
 6702 correctional facility, or local detention facility;

6703       2. Establishes or maintains a residence in this state and  
 6704 who has not been designated as a sexual predator by a court of  
 6705 this state but who has been designated as a sexual predator, as  
 6706 a sexually violent predator, or by another sexual offender  
 6707 designation in another state or jurisdiction and was, as a  
 6708 result of such designation, subjected to registration or  
 6709 community or public notification, or both, or would be if the  
 6710 person were a resident of that state or jurisdiction, without  
 6711 regard to whether the person otherwise meets the criteria for  
 6712 registration as a sexual offender; or

6713       3. Establishes or maintains a residence in this state who  
 6714 is in the custody or control of, or under the supervision of,

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6715 any other state or jurisdiction as a result of a conviction for  
6716 committing, or attempting, soliciting, or conspiring to commit,  
6717 any of the criminal offenses proscribed in the following  
6718 statutes or similar offense in another jurisdiction: s. 787.01,  
6719 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and  
6720 the defendant is not the victim's parent; chapter 794, excluding  
6721 ss. 794.011(10) and 794.0235; s. 796.03; s. 796.035; s. 800.04;  
6722 s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0137;  
6723 s. 847.0138; s. 847.0145; or s. 985.701(1) ~~985.4045(1)~~; or any  
6724 similar offense committed in this state which has been  
6725 redesignated from a former statute number to one of those listed  
6726 in this subparagraph.

6727  
6728 Reviser's note.--Amended to confirm the editorial  
6729 substitution of a reference to s. 985.701(1) for a  
6730 reference to s. 985.4045(1) to conform to the  
6731 redesignation of s. 985.4045 as s. 985.701 by s. 98,  
6732 ch. 2006-120, Laws of Florida.

6733  
6734 Section 160. Paragraph (a) of subsection (1) of section  
6735 943.325, Florida Statutes, is amended to read:  
6736 943.325 Blood or other biological specimen testing for DNA  
6737 analysis.--  
6738 (1)(a) Any person who is convicted or was previously  
6739 convicted in this state for any offense or attempted offense  
6740 enumerated in paragraph (b), and any person who is transferred  
6741 to this state under Article VII of the Interstate Compact on  
6742 Juveniles, part XIII √ of chapter 985, who has committed or



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6743 attempted to commit an offense similarly defined by the  
 6744 transferring state, who is either:  
 6745 1. Still incarcerated, or  
 6746 2. No longer incarcerated, or has never been incarcerated,  
 6747 yet is within the confines of the legal state boundaries and is  
 6748 on probation, community control, parole, conditional release,  
 6749 control release, or any other type of court-ordered supervision,  
 6750  
 6751 shall be required to submit two specimens of blood or other  
 6752 biological specimens approved by the Department of Law  
 6753 Enforcement to a Department of Law Enforcement designated  
 6754 testing facility as directed by the department.

6755  
 6756 Reviser's note.--Amended to conform to the  
 6757 redesignation of part V of chapter 985 as part XIII of  
 6758 that chapter by s. 1, ch. 2006-120, Laws of Florida.

6759  
 6760 Section 161. Paragraph (b) of subsection (1) of section  
 6761 944.606, Florida Statutes, is amended to read:  
 6762 944.606 Sexual offenders; notification upon release.--  
 6763 (1) As used in this section:  
 6764 (b) "Sexual offender" means a person who has been  
 6765 convicted of committing, or attempting, soliciting, or  
 6766 conspiring to commit, any of the criminal offenses proscribed in  
 6767 the following statutes in this state or similar offenses in  
 6768 another jurisdiction: s. 787.01, s. 787.02, or s.  
 6769 787.025(2)(c), where the victim is a minor and the defendant is  
 6770 not the victim's parent; chapter 794, excluding ss. 794.011(10)

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6771 and 794.0235; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s.  
 6772 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s.  
 6773 847.0145; or s. 985.701(1) ~~985.4045(1)~~; or any similar offense  
 6774 committed in this state which has been redesignated from a  
 6775 former statute number to one of those listed in this subsection,  
 6776 when the department has received verified information regarding  
 6777 such conviction; an offender's computerized criminal history  
 6778 record is not, in and of itself, verified information.

6779

6780 Reviser's note.--Amended to confirm the editorial  
 6781 substitution of a reference to s. 985.701(1) for a  
 6782 reference to s. 985.4045(1) to conform to the  
 6783 redesignation of s. 985.4045 as s. 985.701 by s. 98,  
 6784 ch. 2006-120, Laws of Florida.

6785

6786 Section 162. Paragraph (a) of subsection (1) of section  
 6787 944.607, Florida Statutes, is amended to read:

6788 944.607 Notification to Department of Law Enforcement of  
 6789 information on sexual offenders.--

6790 (1) As used in this section, the term:

6791 (a) "Sexual offender" means a person who is in the custody  
 6792 or control of, or under the supervision of, the department or is  
 6793 in the custody of a private correctional facility:

6794 1. On or after October 1, 1997, as a result of a  
 6795 conviction for committing, or attempting, soliciting, or  
 6796 conspiring to commit, any of the criminal offenses proscribed in  
 6797 the following statutes in this state or similar offenses in  
 6798 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c),

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6799 | where the victim is a minor and the defendant is not the  
 6800 | victim's parent; chapter 794, excluding ss. 794.011(10) and  
 6801 | 794.0235; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s.  
 6802 | 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s.  
 6803 | 847.0145; or s. 985.701(1) ~~985.4045(1)~~; or any similar offense  
 6804 | committed in this state which has been redesignated from a  
 6805 | former statute number to one of those listed in this paragraph;  
 6806 | or

6807 |         2. Who establishes or maintains a residence in this state  
 6808 | and who has not been designated as a sexual predator by a court  
 6809 | of this state but who has been designated as a sexual predator,  
 6810 | as a sexually violent predator, or by another sexual offender  
 6811 | designation in another state or jurisdiction and was, as a  
 6812 | result of such designation, subjected to registration or  
 6813 | community or public notification, or both, or would be if the  
 6814 | person were a resident of that state or jurisdiction, without  
 6815 | regard as to whether the person otherwise meets the criteria for  
 6816 | registration as a sexual offender.

6817 |  
 6818 |         Reviser's note.--Amended to confirm the editorial  
 6819 | substitution of a reference to s. 985.701(1) for a  
 6820 | reference to s. 985.4045(1) to conform to the  
 6821 | redesignation of s. 985.4045 as s. 985.701 by s. 98,  
 6822 | ch. 2006-120, Laws of Florida.

6823 |  
 6824 |         Section 163. Section 947.022, Florida Statutes, is  
 6825 | repealed.

6826 |

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6827 Reviser's note.--The referenced section, which  
6828 provided transition provisions for staggered terms for  
6829 the Parole Commission, has served its purpose.

6830

6831 Section 164. Subsection (12) of section 984.19, Florida  
6832 Statutes, is amended to read:

6833 984.19 Medical screening and treatment of child;  
6834 examination of parent, guardian, or person requesting custody.--

6835 (12) Nothing in this section alters the authority of the  
6836 department to consent to medical treatment for a child who has  
6837 been committed to the department pursuant to s. 984.22(3)  
6838 ~~984.22(3) and (4)~~ and of whom the department has become the  
6839 legal custodian.

6840

6841 Reviser's note.--Amended to conform to the deletion  
6842 from s. 984.22(4) of material relating to placement of  
6843 children in foster care by the Department of Children  
6844 and Family Services by s. 71, ch. 2006-227, Laws of  
6845 Florida.

6846

6847 Section 165. Paragraph (k) of subsection (11) of section  
6848 985.483, Florida Statutes, is amended to read:

6849 985.483 Intensive residential treatment program for  
6850 offenders less than 13 years of age.--

6851 (11) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.--

6852 (k) Assessment and treatment records are confidential as  
6853 described in this paragraph and exempt from s. 119.07(1) and s.  
6854 24(a), Art. I of the State Constitution.

6855 | 1. The department shall have full access to the assessment  
 6856 | and treatment records to ensure coordination of services to the  
 6857 | child.

6858 | 2. The principles of confidentiality of records as  
 6859 | provided in s. 985.04 ~~985.045~~ shall apply to the assessment and  
 6860 | treatment records of children who are eligible for an intensive  
 6861 | residential treatment program for offenders less than 13 years  
 6862 | of age.

6863 |  
 6864 | Reviser's note.--Amended to confirm the editorial  
 6865 | substitution of a reference to s. 985.04 for a  
 6866 | reference to s. 985.045 to correct an apparent error.  
 6867 | Section 985.045 relates to court records; s. 985.04  
 6868 | relates to confidentiality of records.

6869 |  
 6870 | Section 166. Paragraph (c) of subsection (4) of section  
 6871 | 985.565, Florida Statutes, is amended to read:

6872 | 985.565 Sentencing powers; procedures; alternatives for  
 6873 | juveniles prosecuted as adults.--

6874 | (4) SENTENCING ALTERNATIVES.--

6875 | (c) Adult sanctions upon failure of juvenile  
 6876 | sanctions.--If a child proves not to be suitable to a commitment  
 6877 | program, ~~in a~~ juvenile probation program, or treatment program  
 6878 | under paragraph (b), the department shall provide the sentencing  
 6879 | court with a written report outlining the basis for its  
 6880 | objections to the juvenile sanction and shall simultaneously  
 6881 | provide a copy of the report to the state attorney and the  
 6882 | defense counsel. The department shall schedule a hearing within

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6883 30 days. Upon hearing, the court may revoke the previous  
6884 adjudication, impose an adjudication of guilt, and impose any  
6885 sentence which it may lawfully impose, giving credit for all  
6886 time spent by the child in the department. The court may also  
6887 classify the child as a youthful offender under s. 958.04, if  
6888 appropriate. For purposes of this paragraph, a child may be  
6889 found not suitable to a commitment program, community control  
6890 program, or treatment program under paragraph (b) if the child  
6891 commits a new violation of law while under juvenile sanctions,  
6892 if the child commits any other violation of the conditions of  
6893 juvenile sanctions, or if the child's actions are otherwise  
6894 determined by the court to demonstrate a failure of juvenile  
6895 sanctions.

6896  
6897 It is the intent of the Legislature that the criteria and  
6898 guidelines in this subsection are mandatory and that a  
6899 determination of disposition under this subsection is subject to  
6900 the right of the child to appellate review under s. 985.534.

6901  
6902 Reviser's note.--Amended to confirm the editorial  
6903 deletion of the words "in a" preceding the word  
6904 "juvenile" to provide clarity.

6905  
6906 Section 167. Paragraph (b) of subsection (2) of section  
6907 1001.25, Florida Statutes, is amended to read:

6908 1001.25 Educational television.--

6909 (2) POWERS OF DEPARTMENT.--

6910 (b) The department shall provide through educational

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6911 television and other electronic media a means of extending  
 6912 educational services to all the state system of public  
 6913 education, except the state universities, which provision by the  
 6914 department is limited by paragraph (c) and by s. 1001.26(1)  
 6915 ~~1006.26(1)~~. The department shall recommend to the State Board of  
 6916 Education rules necessary to provide such services.

6917  
 6918 Reviser's note.--Amended to correct an erroneous  
 6919 reference. Section 1006.26 does not exist; s.  
 6920 1001.26(1) creates a public broadcasting system for  
 6921 the state.

6922  
 6923 Section 168. Subsection (4) of section 1001.73, Florida  
 6924 Statutes, is amended to read:  
 6925 1001.73 University board empowered to act as trustee.--  
 6926 (4) Nothing herein shall be construed to authorize a  
 6927 university board of trustees to contract a debt on behalf of, or  
 6928 in any way to obligate, the state; and the satisfaction of any  
 6929 debt or obligation incurred by the university board as trustee  
 6930 under the provisions of this section shall be exclusively from  
 6931 the trust property, mortgaged or encumbered; and nothing herein  
 6932 shall in any manner affect or relate to the provisions of former  
 6933 ss. 1010.61-1010.619 or s. 1013.78.

6934  
 6935 Reviser's note.--Amended to conform to the repeal of  
 6936 ss. 1010.61-1010.619 by s. 15, ch. 2006-27, Laws of  
 6937 Florida.

6938

6939 Section 169. Subsection (1) of section 1002.01, Florida  
 6940 Statutes, is amended to read:

6941 1002.01 Definitions.--

6942 (1) A "home education program" means the sequentially  
 6943 progressive instruction of a student directed by his or her  
 6944 parent in order to satisfy the attendance requirements of ss.  
 6945 1002.41, 1003.01(13) ~~1003.01(4)~~, and 1003.21(1).

6946

6947 Reviser's note.--Amended to correct an erroneous  
 6948 reference. Section 1003.01(4) defines "career  
 6949 education"; s. 1003.01(13) defines "regular school  
 6950 attendance."

6951

6952 Section 170. Paragraph (b) of subsection (4) of section  
 6953 1002.20, Florida Statutes, is amended to read:

6954 1002.20 K-12 student and parent rights.--Parents of public  
 6955 school students must receive accurate and timely information  
 6956 regarding their child's academic progress and must be informed  
 6957 of ways they can help their child to succeed in school. K-12  
 6958 students and their parents are afforded numerous statutory  
 6959 rights including, but not limited to, the following:

6960 (4) DISCIPLINE.--

6961 (b) Expulsion.--Public school students and their parents  
 6962 have the right to written notice of a recommendation of  
 6963 expulsion, including the charges against the student and a  
 6964 statement of the right of the student to due process, in  
 6965 accordance with the provisions of s. 1006.08(1) ~~1001.51(8)~~.

6966



6967 Reviser's note.--Amended to correct an erroneous  
 6968 reference. Section 1001.51(8) relates to instructional  
 6969 materials; s. 1006.08(1) contains material relating to  
 6970 a recommendation of expulsion and the student's right  
 6971 to due process.

6972  
 6973 Section 171. Paragraph (b) of subsection (4) of section  
 6974 1002.335, Florida Statutes, is amended to read:

6975 1002.335 Florida Schools of Excellence Commission.--

6976 (4) POWERS AND DUTIES.--

6977 (b) The commission shall have the following duties:

6978 1. Review charter school applications and assist in the  
 6979 establishment of Florida Schools of Excellence (FSE) charter  
 6980 schools throughout the state. An FSE charter school shall exist  
 6981 as a public school within the state as a component of the  
 6982 delivery of public education within Florida's K-20 education  
 6983 system.

6984 2. Develop, promote, and disseminate best practices for  
 6985 charter schools and charter school sponsors in order to ensure  
 6986 that high-quality charter schools are developed and  
 6987 incentivized. At a minimum, the best practices shall encourage  
 6988 the development and replication of academically and financially  
 6989 proven charter school programs.

6990 3. Develop, promote, and require high standards of  
 6991 accountability for any school that applies for and is granted a  
 6992 charter under this section.

6993 4. Monitor and annually review the performance of  
 6994 cosponsors approved pursuant to this section and hold the

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6995 cosponsors accountable for their performance pursuant to the  
 6996 provisions of paragraph (6)(c). The commission shall annually  
 6997 review and evaluate the performance of each cosponsor based upon  
 6998 the financial and administrative support provided to the  
 6999 cosponsor's charter schools and the quality of charter schools  
 7000 approved by the cosponsor, including the academic performance of  
 7001 the students who ~~that~~ attend those schools.

7002         5. Monitor and annually review and evaluate the academic  
 7003 and financial performance of the charter schools it sponsors and  
 7004 hold the schools accountable for their performance pursuant to  
 7005 the provisions of chapter 1008.

7006         6. Report the student enrollment in each of its sponsored  
 7007 charter schools to the district school board of the county in  
 7008 which the school is located.

7009         7. Work with its cosponsors to monitor the financial  
 7010 management of each FSE charter school.

7011         8. Direct charter schools and persons seeking to establish  
 7012 charter schools to sources of private funding and support.

7013         9. Actively seek, with the assistance of the department,  
 7014 supplemental revenue from federal grant funds, institutional  
 7015 grant funds, and philanthropic organizations. The commission  
 7016 may, through the department's Grants and Donations Trust Fund,  
 7017 receive and expend gifts, grants, and donations of any kind from  
 7018 any public or private entity to carry out the purposes of this  
 7019 section.

7020         10. Review and recommend to the Legislature any necessary  
 7021 revisions to statutory requirements regarding the qualification  
 7022 and approval of municipalities, state universities, community

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7023 colleges, and regional educational consortia as cosponsors for  
7024 FSE charter schools.

7025 11. Review and recommend to the Legislature any necessary  
7026 revisions to statutory requirements regarding the standards for  
7027 accountability and criteria for revocation of approval of  
7028 cosponsors of FSE charter schools.

7029 12. Act as liaison for cosponsors and FSE charter schools  
7030 in cooperating with district school boards that may choose to  
7031 allow charter schools to utilize excess space within district  
7032 public school facilities.

7033 13. Collaborate with municipalities, state universities,  
7034 community colleges, and regional educational consortia as  
7035 cosponsors for FSE charter schools for the purpose of providing  
7036 the highest level of public education to low-income, low-  
7037 performing, gifted, or underserved student populations. Such  
7038 collaborations shall:

7039 a. Allow state universities and community colleges that  
7040 cosponsor FSE charter schools to enable students attending a  
7041 charter school to take college courses and receive high school  
7042 and college credit for such courses.

7043 b. Be used to determine the feasibility of opening charter  
7044 schools for students with disabilities, including, but not  
7045 limited to, charter schools for children with autism that work  
7046 with and utilize the specialized expertise of the Centers for  
7047 Autism and Related Disabilities established and operated  
7048 pursuant to s. 1004.55.

7049 14. Support municipalities when the mayor or chief  
7050 executive, through resolution passed by the governing body of

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7051 the municipality, expresses an intent to cosponsor and establish  
 7052 charter schools within the municipal boundaries.

7053 15. Meet the needs of charter schools and school districts  
 7054 by uniformly administering high-quality charter schools, thereby  
 7055 removing administrative burdens from the school districts.

7056 16. Assist FSE charter schools in negotiating and  
 7057 contracting with district school boards that choose to provide  
 7058 certain administrative or transportation services to the charter  
 7059 schools on a contractual basis.

7060 17. Provide training for members of FSE charter school  
 7061 governing bodies within 90 days after approval of the charter  
 7062 school. The training shall include, but not be limited to, best  
 7063 practices on charter school governance, the constitutional and  
 7064 statutory requirements relating to public records and meetings,  
 7065 and the requirements of applicable statutes and State Board of  
 7066 Education rules.

7067 18. Perform all of the duties of sponsors set forth in s.  
 7068 1002.33(5)(b) and (20).

7069  
 7070 Reviser's note.--Amended to confirm the editorial  
 7071 substitution of the word "who" for the word "that" to  
 7072 conform to context.

7073  
 7074 Section 172. Paragraph (g) of subsection (2) of section  
 7075 1003.51, Florida Statutes, is amended to read:

7076 1003.51 Other public educational services.--

7077 (2) The State Board of Education shall adopt and maintain  
 7078 an administrative rule articulating expectations for effective

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7079 education programs for youth in Department of Juvenile Justice  
 7080 programs, including, but not limited to, education programs in  
 7081 juvenile justice commitment and detention facilities. The rule  
 7082 shall articulate policies and standards for education programs  
 7083 for youth in Department of Juvenile Justice programs and shall  
 7084 include the following:

7085 (g) Funding requirements, which shall include the  
 7086 requirement that at least 90 percent of the FEFP funds generated  
 7087 by students in Department of Juvenile Justice programs or in an  
 7088 education program for juveniles under s. 985.19 ~~985.223~~ be spent  
 7089 on instructional costs for those students. One hundred percent  
 7090 of the formula-based categorical funds generated by students in  
 7091 Department of Juvenile Justice programs must be spent on  
 7092 appropriate categoricals such as instructional materials and  
 7093 public school technology for those students.

7094  
 7095 Reviser's note.--Amended to conform to the  
 7096 redesignation of s. 985.223 as s. 985.19 by s. 30, ch.  
 7097 2006-120, Laws of Florida.

7098  
 7099 Section 173. Subsection (6) of section 1004.28, Florida  
 7100 Statutes, is amended to read:

7101 1004.28 Direct-support organizations; use of property;  
 7102 board of directors; activities; audit; facilities.--

7103 (6) FACILITIES.--In addition to issuance of indebtedness  
 7104 pursuant to former s. 1010.60(2), each direct-support  
 7105 organization is authorized to enter into agreements to finance,  
 7106 design and construct, lease, lease-purchase, purchase, or

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7107 operate facilities necessary and desirable to serve the needs  
 7108 and purposes of the university, as determined by the systemwide  
 7109 strategic plan adopted by the State Board of Education. Such  
 7110 agreements are subject to the provisions of s. 1013.171.

7111

7112 Reviser's note.--Amended to conform to the repeal of  
 7113 s. 1010.60 by s. 15, ch. 2006-27, Laws of Florida.

7114

7115 Section 174. Subsection (3) of section 1008.22, Florida  
 7116 Statutes, is reenacted to read:

7117 1008.22 Student assessment program for public schools.--

7118 (3) STATEWIDE ASSESSMENT PROGRAM.--The commissioner shall  
 7119 design and implement a statewide program of educational  
 7120 assessment that provides information for the improvement of the  
 7121 operation and management of the public schools, including  
 7122 schools operating for the purpose of providing educational  
 7123 services to youth in Department of Juvenile Justice programs.  
 7124 The commissioner may enter into contracts for the continued  
 7125 administration of the assessment, testing, and evaluation  
 7126 programs authorized and funded by the Legislature. Contracts may  
 7127 be initiated in 1 fiscal year and continue into the next and may  
 7128 be paid from the appropriations of either or both fiscal years.  
 7129 The commissioner is authorized to negotiate for the sale or  
 7130 lease of tests, scoring protocols, test scoring services, and  
 7131 related materials developed pursuant to law. Pursuant to the  
 7132 statewide assessment program, the commissioner shall:

7133 (a) Submit to the State Board of Education a list that  
 7134 specifies student skills and competencies to which the goals for

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7135 education specified in the state plan apply, including, but not  
7136 limited to, reading, writing, science, and mathematics. The  
7137 skills and competencies must include problem-solving and higher-  
7138 order skills as appropriate and shall be known as the Sunshine  
7139 State Standards as defined in s. 1000.21. The commissioner shall  
7140 select such skills and competencies after receiving  
7141 recommendations from educators, citizens, and members of the  
7142 business community. The commissioner shall submit to the State  
7143 Board of Education revisions to the list of student skills and  
7144 competencies in order to maintain continuous progress toward  
7145 improvements in student proficiency.

7146 (b) Develop and implement a uniform system of indicators  
7147 to describe the performance of public school students and the  
7148 characteristics of the public school districts and the public  
7149 schools. These indicators must include, without limitation,  
7150 information gathered by the comprehensive management information  
7151 system created pursuant to s. 1008.385 and student achievement  
7152 information obtained pursuant to this section.

7153 (c) Develop and implement a student achievement testing  
7154 program known as the Florida Comprehensive Assessment Test  
7155 (FCAT) as part of the statewide assessment program to measure  
7156 reading, writing, science, and mathematics. Other content areas  
7157 may be included as directed by the commissioner. The assessment  
7158 of reading and mathematics shall be administered annually in  
7159 grades 3 through 10. The assessment of writing and science shall  
7160 be administered at least once at the elementary, middle, and  
7161 high school levels. The commissioner must document the  
7162 procedures used to ensure that the versions of the FCAT which

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7163 are taken by students retaking the grade 10 FCAT are equally as  
7164 challenging and difficult as the tests taken by students in  
7165 grade 10 which contain performance tasks. The testing program  
7166 must be designed so that:

7167 1. The tests measure student skills and competencies  
7168 adopted by the State Board of Education as specified in  
7169 paragraph (a). The tests must measure and report student  
7170 proficiency levels of all students assessed in reading, writing,  
7171 mathematics, and science. The commissioner shall provide for the  
7172 tests to be developed or obtained, as appropriate, through  
7173 contracts and project agreements with private vendors, public  
7174 vendors, public agencies, postsecondary educational  
7175 institutions, or school districts. The commissioner shall obtain  
7176 input with respect to the design and implementation of the  
7177 testing program from state educators, assistive technology  
7178 experts, and the public.

7179 2. The testing program will include a combination of norm-  
7180 referenced and criterion-referenced tests and include, to the  
7181 extent determined by the commissioner, questions that require  
7182 the student to produce information or perform tasks in such a  
7183 way that the skills and competencies he or she uses can be  
7184 measured.

7185 3. Each testing program, whether at the elementary,  
7186 middle, or high school level, includes a test of writing in  
7187 which students are required to produce writings that are then  
7188 scored by appropriate and timely methods.

7189 4. A score is designated for each subject area tested,  
7190 below which score a student's performance is deemed inadequate.



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7191 The school districts shall provide appropriate remedial  
7192 instruction to students who score below these levels.

7193 5. Except as provided in s. 1003.428(8)(b) or s.  
7194 1003.43(11)(b), students must earn a passing score on the grade  
7195 10 assessment test described in this paragraph or attain  
7196 concordant scores as described in subsection (9) in reading,  
7197 writing, and mathematics to qualify for a standard high school  
7198 diploma. The State Board of Education shall designate a passing  
7199 score for each part of the grade 10 assessment test. In  
7200 establishing passing scores, the state board shall consider any  
7201 possible negative impact of the test on minority students. The  
7202 State Board of Education shall adopt rules which specify the  
7203 passing scores for the grade 10 FCAT. Any such rules, which have  
7204 the effect of raising the required passing scores, shall only  
7205 apply to students taking the grade 10 FCAT for the first time  
7206 after such rules are adopted by the State Board of Education.

7207 6. Participation in the testing program is mandatory for  
7208 all students attending public school, including students served  
7209 in Department of Juvenile Justice programs, except as otherwise  
7210 prescribed by the commissioner. If a student does not  
7211 participate in the statewide assessment, the district must  
7212 notify the student's parent and provide the parent with  
7213 information regarding the implications of such nonparticipation.  
7214 A parent must provide signed consent for a student to receive  
7215 classroom instructional accommodations that would not be  
7216 available or permitted on the statewide assessments and must  
7217 acknowledge in writing that he or she understands the  
7218 implications of such instructional accommodations. The State

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7219 Board of Education shall adopt rules, based upon recommendations  
7220 of the commissioner, for the provision of test accommodations  
7221 for students in exceptional education programs and for students  
7222 who have limited English proficiency. Accommodations that negate  
7223 the validity of a statewide assessment are not allowable in the  
7224 administration of the FCAT. However, instructional  
7225 accommodations are allowable in the classroom if included in a  
7226 student's individual education plan. Students using  
7227 instructional accommodations in the classroom that are not  
7228 allowable as accommodations on the FCAT may have the FCAT  
7229 requirement waived pursuant to the requirements of s.  
7230 1003.428(8)(b) or s. 1003.43(11)(b).

7231 7. A student seeking an adult high school diploma must  
7232 meet the same testing requirements that a regular high school  
7233 student must meet.

7234 8. District school boards must provide instruction to  
7235 prepare students to demonstrate proficiency in the skills and  
7236 competencies necessary for successful grade-to-grade progression  
7237 and high school graduation. If a student is provided with  
7238 instructional accommodations in the classroom that are not  
7239 allowable as accommodations in the statewide assessment program,  
7240 as described in the test manuals, the district must inform the  
7241 parent in writing and must provide the parent with information  
7242 regarding the impact on the student's ability to meet expected  
7243 proficiency levels in reading, writing, and math. The  
7244 commissioner shall conduct studies as necessary to verify that  
7245 the required skills and competencies are part of the district  
7246 instructional programs.

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7247 9. District school boards must provide opportunities for  
7248 students to demonstrate an acceptable level of performance on an  
7249 alternative standardized assessment approved by the State Board  
7250 of Education following enrollment in summer academies.

7251 10. The Department of Education must develop, or select,  
7252 and implement a common battery of assessment tools that will be  
7253 used in all juvenile justice programs in the state. These tools  
7254 must accurately measure the skills and competencies established  
7255 in the Sunshine State Standards.

7256 11. For students seeking a special diploma pursuant to s.  
7257 1003.438, the Department of Education must develop or select and  
7258 implement an alternate assessment tool that accurately measures  
7259 the skills and competencies established in the Sunshine State  
7260 Standards for students with disabilities under s. 1003.438.

7261  
7262 The commissioner may, based on collaboration and input from  
7263 school districts, design and implement student testing programs,  
7264 for any grade level and subject area, necessary to effectively  
7265 monitor educational achievement in the state, including the  
7266 measurement of educational achievement of the Sunshine State  
7267 Standards for students with disabilities. Development and  
7268 refinement of assessments shall include universal design  
7269 principles and accessibility standards that will prevent any  
7270 unintended obstacles for students with disabilities while  
7271 ensuring the validity and reliability of the test. These  
7272 principles should be applicable to all technology platforms and  
7273 assistive devices available for the assessments. The field  
7274 testing process and psychometric analyses for the statewide

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7275 assessment program must include an appropriate percentage of  
7276 students with disabilities and an evaluation or determination of  
7277 the effect of test items on such students.

7278 (d) Conduct ongoing research to develop improved methods  
7279 of assessing student performance, including, without limitation,  
7280 the use of technology to administer tests, score, or report the  
7281 results of, the use of electronic transfer of data, the  
7282 development of work-product assessments, and the development of  
7283 process assessments.

7284 (e) Conduct ongoing research and analysis of student  
7285 achievement data, including, without limitation, monitoring  
7286 trends in student achievement by grade level and overall student  
7287 achievement, identifying school programs that are successful,  
7288 and analyzing correlates of school achievement.

7289 (f) Provide technical assistance to school districts in  
7290 the implementation of state and district testing programs and  
7291 the use of the data produced pursuant to such programs.

7292 (g) Study the cost and student achievement impact of  
7293 secondary end-of-course assessments, including web-based and  
7294 performance formats, and report to the Legislature prior to  
7295 implementation.

7296

7297 Reviser's note.--Section 40, ch. 2006-74, Laws of  
7298 Florida, amended paragraphs (3)(c), (e), and (f) and  
7299 also added a new paragraph (3)(f) but failed to  
7300 publish existing paragraph (3)(f). Absent affirmative  
7301 evidence of legislative intent to repeal existing  
7302 paragraph (3)(f), it is reenacted here to confirm that

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7303 the omission was not intended.

7304

7305 Section 175. Subsection (4) of section 1008.33, Florida  
7306 Statutes, is amended to read:

7307 1008.33 Authority to enforce public school  
7308 improvement.--It is the intent of the Legislature that all  
7309 public schools be held accountable for students performing at  
7310 acceptable levels. A system of school improvement and  
7311 accountability that assesses student performance by school,  
7312 identifies schools in which students are not making adequate  
7313 progress toward state standards, institutes appropriate measures  
7314 for enforcing improvement, and provides rewards and sanctions  
7315 based on performance shall be the responsibility of the State  
7316 Board of Education.

7317 (4) The State Board of Education may require the  
7318 Department of Education or Chief Financial Officer to withhold  
7319 any transfer of state funds to the school district if, within  
7320 the timeframe specified in state board action, the school  
7321 district has failed to comply with the action ordered to improve  
7322 the district's low-performing schools. Withholding the transfer  
7323 of funds shall occur only after all other recommended actions  
7324 for school improvement have failed to improve performance. The  
7325 State Board of Education may impose the same penalty on any  
7326 district school board that fails to develop and implement a plan  
7327 for assistance and intervention for low-performing schools as  
7328 specified in s. 1001.42(16)(c) ~~1001.42(16)(d)~~.

7329

7330 Reviser's note.--Amended to correct an erroneous

7331 reference. The initial version of House Bill 7087,  
 7332 2006 Regular Session, added a new s. 1001.42(16)(b)  
 7333 and redesignated the remaining paragraphs, as well as  
 7334 updating references to those paragraphs. The final  
 7335 version of the bill as passed, which became ch. 2006-  
 7336 74, Laws of Florida, did not include the new paragraph  
 7337 (16)(b), but the revised reference in the bill at s.  
 7338 1008.33(4) was not adjusted to conform to that  
 7339 deletion.

7340  
 7341 Section 176. Subsection (5) of section 1008.345, Florida  
 7342 Statutes, is amended to read:

7343 1008.345 Implementation of state system of school  
 7344 improvement and education accountability.--

7345 (5) The commissioner shall report to the Legislature and  
 7346 recommend changes in state policy necessary to foster school  
 7347 improvement and education accountability. Included in the report  
 7348 shall be a list of the schools, including schools operating for  
 7349 the purpose of providing educational services to youth in  
 7350 Department of Juvenile Justice programs, for which district  
 7351 school boards have developed assistance and intervention plans  
 7352 and an analysis of the various strategies used by the school  
 7353 boards. School reports shall be distributed pursuant to this  
 7354 subsection and s. 1006.42(16)(e) ~~1001.42(16)(f)~~ and according to  
 7355 rules adopted by the State Board of Education.

7356  
 7357 Reviser's note.--Amended to correct an erroneous  
 7358 reference. The initial version of House Bill 7087,

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7359 2006 Regular Session, added a new s. 1001.42(16)(b)  
7360 and redesignated the remaining paragraphs, as well as  
7361 updating references to those paragraphs. The final  
7362 version of the bill as passed, which became ch. 2006-  
7363 74, Laws of Florida, did not include the new paragraph  
7364 (16)(b), but the revised reference in the bill at s.  
7365 1008.345(5) was not adjusted to conform to that  
7366 deletion.

7367

7368 Section 177. Paragraph (f) of subsection (1) of section  
7369 1011.62, Florida Statutes, is amended to read:

7370 1011.62 Funds for operation of schools.--If the annual  
7371 allocation from the Florida Education Finance Program to each  
7372 district for operation of schools is not determined in the  
7373 annual appropriations act or the substantive bill implementing  
7374 the annual appropriations act, it shall be determined as  
7375 follows:

7376 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR  
7377 OPERATION.--The following procedure shall be followed in  
7378 determining the annual allocation to each district for  
7379 operation:

7380 (f) Supplemental academic instruction; categorical fund.--

7381 1. There is created a categorical fund to provide  
7382 supplemental academic instruction to students in kindergarten  
7383 through grade 12. This paragraph may be cited as the  
7384 "Supplemental Academic Instruction Categorical Fund."

7385 2. Categorical funds for supplemental academic instruction  
7386 shall be allocated annually to each school district in the

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7387 amount provided in the General Appropriations Act. These funds  
7388 shall be in addition to the funds appropriated on the basis of  
7389 FTE student membership in the Florida Education Finance Program  
7390 and shall be included in the total potential funds of each  
7391 district. These funds shall be used to provide supplemental  
7392 academic instruction to students enrolled in the K-12 program.  
7393 Supplemental instruction strategies may include, but are not  
7394 limited to: modified curriculum, reading instruction, after-  
7395 school instruction, tutoring, mentoring, class size reduction,  
7396 extended school year, intensive skills development in summer  
7397 school, and other methods for improving student achievement.  
7398 Supplemental instruction may be provided to a student in any  
7399 manner and at any time during or beyond the regular 180-day term  
7400 identified by the school as being the most effective and  
7401 efficient way to best help that student progress from grade to  
7402 grade and to graduate.

7403 3. Effective with the 1999-2000 fiscal year, funding on  
7404 the basis of FTE membership beyond the 180-day regular term  
7405 shall be provided in the FEFP only for students enrolled in  
7406 juvenile justice education programs or in education programs for  
7407 juveniles placed in secure facilities or programs under s.  
7408 985.19 ~~985.223~~. Funding for instruction beyond the regular 180-  
7409 day school year for all other K-12 students shall be provided  
7410 through the supplemental academic instruction categorical fund  
7411 and other state, federal, and local fund sources with ample  
7412 flexibility for schools to provide supplemental instruction to  
7413 assist students in progressing from grade to grade and  
7414 graduating.



7415           4. The Florida State University School, as a lab school,  
 7416 is authorized to expend from its FEFP or Lottery Enhancement  
 7417 Trust Fund allocation the cost to the student of remediation in  
 7418 reading, writing, or mathematics for any graduate who requires  
 7419 remediation at a postsecondary educational institution.

7420           5. Beginning in the 1999-2000 school year, dropout  
 7421 prevention programs as defined in ss. 1003.52, 1003.53(1)(a),  
 7422 (b), and (c), and 1003.54 shall be included in group 1 programs  
 7423 under subparagraph (d)3.

7424  
 7425           Reviser's note.--Amended to confirm the editorial  
 7426 substitution of a reference to s. 985.19 for a  
 7427 reference to s. 985.223 to conform to the  
 7428 redesignation of the section by s. 30, ch. 2006-120,  
 7429 Laws of Florida.

7430  
 7431           Section 178. Subsection (1) of section 1011.71, Florida  
 7432 Statutes, is amended to read:

7433           1011.71 District school tax.--

7434           (1) If the district school tax is not provided in the  
 7435 General Appropriations Act or the substantive bill implementing  
 7436 the General Appropriations Act, each district school board  
 7437 desiring to participate in the state allocation of funds for  
 7438 current operation as prescribed by s. 1011.62(11) ~~1011.62(10)~~  
 7439 shall levy on the taxable value for school purposes of the  
 7440 district, exclusive of millage voted under the provisions of s.  
 7441 9(b) or s. 12, Art. VII of the State Constitution, a millage  
 7442 rate not to exceed the amount certified by the commissioner as

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7443 the minimum millage rate necessary to provide the district  
7444 required local effort for the current year, pursuant to s.  
7445 1011.62(4)(a)1. In addition to the required local effort millage  
7446 levy, each district school board may levy a nonvoted current  
7447 operating discretionary millage. The Legislature shall prescribe  
7448 annually in the appropriations act the maximum amount of millage  
7449 a district may levy.

7450

7451 Reviser's note.--Amended to correct an erroneous  
7452 reference. Section 1011.62(10) relates to quality  
7453 assurance guarantee; s. 1011.62(11) relates to total  
7454 allocation of state funds to each district for current  
7455 operation.

7456

7457 Section 179. Subsection (6) of section 1012.21, Florida  
7458 Statutes, is amended to read:

7459 1012.21 Department of Education duties; K-12 personnel.--

7460 (6) REPORTING.--The Department of Education shall annually  
7461 post online links to each school district's collective  
7462 bargaining contracts and the salary and benefits of the  
7463 personnel or officers of any educator association which were  
7464 paid by the school district pursuant to s. 1012.22. ~~The~~  
7465 ~~department shall prescribe the computer format for district~~  
7466 ~~school boards to use in providing the information.~~

7467

7468 Reviser's note.--Amended to delete language that has  
7469 served its purpose and was included in House Bill  
7470 7087, 2006 Regular Session, in error. The language

7471 related to past procedure when the Department of  
 7472 Education was to post the information, not the links  
 7473 to the information as currently referenced.

7474  
 7475 Section 180. Paragraph (i) of subsection (1) and  
 7476 subsection (3) of section 1012.22, Florida Statutes, are amended  
 7477 to read:

7478 1012.22 Public school personnel; powers and duties of the  
 7479 district school board.--The district school board shall:

7480 (1) Designate positions to be filled, prescribe  
 7481 qualifications for those positions, and provide for the  
 7482 appointment, compensation, promotion, suspension, and dismissal  
 7483 of employees as follows, subject to the requirements of this  
 7484 chapter:

7485 (i) Comprehensive program of staff development.--The  
 7486 district school board shall establish a comprehensive program of  
 7487 staff development that incorporates school improvement plans  
 7488 pursuant to s. 1001.42 and is aligned with principal leadership  
 7489 training pursuant to s. 1012.986 ~~1012.985~~ as a part of the plan.

7490 ~~(3) Annually provide to the Department of Education the~~  
 7491 ~~negotiated collective bargaining contract for the school~~  
 7492 ~~district and the salary and benefits for the personnel or~~  
 7493 ~~officers of any educator association which are paid by the~~  
 7494 ~~school district. The district school board shall report using~~  
 7495 ~~the computer format prescribed by the department pursuant to s.~~  
 7496 ~~1012.21.~~

7497  
 7498 Reviser's note.--Paragraph (1)(i) is amended to

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7499 correct an erroneous reference. Section 1012.985  
7500 relates to a statewide system for inservice  
7501 professional development; s. 1012.986 provides for a  
7502 leadership professional development program for  
7503 principals. Subsection (3) is deleted to correct an  
7504 error in House Bill 7087, 2006 Regular Session.  
7505 Subsection (3) relates to past procedure when the  
7506 Department of Education was to post the information,  
7507 not the links to the information as currently  
7508 referenced.

7509

7510 Section 181. Section 1013.11, Florida Statutes, is amended  
7511 to read:

7512 1013.11 Postsecondary institutions assessment of physical  
7513 plant safety.--The president of each postsecondary institution  
7514 shall conduct or cause to be conducted an annual assessment of  
7515 physical plant safety. An annual report shall incorporate the  
7516 findings obtained through such assessment and recommendations  
7517 for the improvement of safety on each campus. The annual report  
7518 shall be submitted to the respective governing or licensing  
7519 board of jurisdiction no later than January 1 of each year. Each  
7520 board shall compile the individual institutional reports and  
7521 convey the aggregate institutional reports to the Commissioner  
7522 of Education. The Commissioner of Education shall convey these  
7523 reports and the reports required in s. 1006.67 ~~1008.48~~ to the  
7524 President of the Senate and the Speaker of the House of  
7525 Representatives no later than March 1 of each year.

7526

7527 Reviser's note.--Amended to correct an erroneous  
 7528 reference. Section 1008.48 never has existed. Prior to  
 7529 the School Code rewrite in 2002, material now in s.  
 7530 1013.11 was at s. 240.2684. Section 240.2684  
 7531 referenced reports required in s. 240.2683 regarding  
 7532 campus crime statistics; that material is now located  
 7533 in s. 1006.67.

7534  
 7535 Section 182. Subsection (1) of section 1013.721, Florida  
 7536 Statutes, is amended to read:

7537 1013.721 A Business-Community (ABC) School Program.--

7538 (1) In order to increase business partnerships in  
 7539 education, to reduce school and classroom overcrowding  
 7540 throughout the state, ~~and~~ to offset the high costs of  
 7541 educational facilities construction, and to use due diligence  
 7542 and sound business practices in using available educational  
 7543 space, the Legislature intends to encourage the formation of  
 7544 partnerships between business and education by creating A  
 7545 Business-Community (ABC) School Program.

7546  
 7547 Reviser's note.--Amended to confirm the editorial  
 7548 deletion of the word "and" preceding the word "to" to  
 7549 conform to a standard style relating to listing of  
 7550 elements in a series.

7551  
 7552 Section 183. This act shall take effect on the 60th day  
 7553 after adjournment sine die of the session of the Legislature in  
 7554 which enacted.