

ENROLLED
HB 7003

2007 Legislature

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,

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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 38 | purpose, or have been impliedly repealed or superseded;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:

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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

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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)

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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

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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

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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.

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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

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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.

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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:

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- 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.--

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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.

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- 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

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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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897
898 Reviser's note.--Amended to correct an erroneous
899 reference. Section 288.1097 relates to qualified
900 training organizations; s. 288.1171 relates to a
901 motorsport entertainment complex.

902
903 Section 24. Paragraph (a) of subsection (1) of section
904 220.181, Florida Statutes, is amended to read:

905 220.181 Enterprise zone jobs credit.--

906 (1)(a) There shall be allowed a credit against the tax
907 imposed by this chapter to any business located in an enterprise
908 zone which demonstrates to the department that, on the date of
909 application, the total number of full-time jobs is greater than
910 the total was 12 months prior to that date. The credit shall be
911 computed as 20 percent of the actual monthly wages paid in this
912 state to each new employee hired when a new job has been
913 created, as defined under s. 220.03(1)(ee) ~~220.03(1)(ff)~~, unless
914 the business is located in a rural enterprise zone, pursuant to
915 s. 290.004(6), in which case the credit shall be 30 percent of
916 the actual monthly wages paid. If no less than 20 percent of the
917 employees of the business are residents of an enterprise zone,
918 excluding temporary and part-time employees, the credit shall be
919 computed as 30 percent of the actual monthly wages paid in this
920 state to each new employee hired when a new job has been
921 created, unless the business is located in a rural enterprise
922 zone, in which case the credit shall be 45 percent of the actual
923 monthly wages paid, for a period of up to 24 consecutive months.
924 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

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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

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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

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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

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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

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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.

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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

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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,

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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

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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

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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

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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

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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

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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.

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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.

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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

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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.

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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

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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

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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

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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

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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.

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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.

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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

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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

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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

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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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3192

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:

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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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3333
3334 Reviser's note.--Amended to conform to the
3335 redesignation of s. 651.1185 as s. 408.0435 by s. 1,
3336 ch. 2006-161, Laws of Florida.

3337
3338 Section 89. Section 408.802, Florida Statutes, is amended
3339 to read:

3340 408.802 Applicability.--The provisions of this part apply
3341 to the provision of services that require licensure as defined
3342 in this part and to the following entities licensed, registered,
3343 or certified by the agency, as described in chapters 112, 383,
3344 390, 394, 395, 400, 429, 440, 483, and 765:

3345 (1) Laboratories authorized to perform testing under the
3346 Drug-Free Workplace Act, as provided under ss. 112.0455 and
3347 440.102.

3348 (2) Birth centers, as provided under chapter 383.

3349 (3) Abortion clinics, as provided under chapter 390.

3350 (4) Crisis stabilization units, as provided under parts I
3351 and IV of chapter 394.

3352 (5) Short-term residential treatment facilities, as
3353 provided under parts I and IV of chapter 394.

3354 (6) Residential treatment facilities, as provided under
3355 part IV of chapter 394.

3356 (7) Residential treatment centers for children and
3357 adolescents, as provided under part IV of chapter 394.

3358 (8) Hospitals, as provided under part I of chapter 395.

3359 (9) Ambulatory surgical centers, as provided under part I
3360 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.

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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,

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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

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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

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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

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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.

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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

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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

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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.

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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

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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

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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.--

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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.--

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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

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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.

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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

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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.

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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

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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

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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

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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-

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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

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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.

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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~~

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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,

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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

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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

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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

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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.

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- 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.

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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

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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.

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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

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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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6217
6218 Section 145. Paragraph (b) of subsection (3) of section
6219 679.707, Florida Statutes, is amended to read:

6220 679.707 Amendment or pre-effective date financing
6221 statement.--

6222 (3) Except as otherwise provided in subsection (4), if the
6223 law of this state governs perfection of a security interest, the
6224 information in a pre-effective date financing statement may be
6225 amended after this act takes effect only if:

6226 (b) An amendment is filed in the office specified in s.
6227 679.5011 concurrently with, or after the filing in that office
6228 of, an initial financing statement that satisfies s. 679.706(3)
6229 ~~671.706(3)~~; or

6230
6231 Reviser's note.--Amended to correct an erroneous
6232 reference. Section 671.706 does not exist; s.
6233 679.706(3) relates to initial financing statements.

6234
6235 Section 146. Paragraph (b) of subsection (6) of section
6236 727.109, Florida Statutes, is amended to read:

6237 727.109 Power of the court.--The court shall have power
6238 to:

6239 (6) Hear and determine any of the following actions
6240 brought by the assignee, which she or he is hereby empowered to
6241 maintain:

6242 (b) Determine the validity, priority, and extent of a lien
6243 or other interests in assets of the estate, or to subordinate or
6244 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).

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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

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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

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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.

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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
6590 (b) - (d) confidential crash reports.

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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			molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
6600	370.12 (1) (e) 6.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
6601	376.302 (5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
6602	400.903 (3)	3rd	Operating a clinic without a license or filing false license application or other required information.
6603	440.105 (3) (b)	3rd	Receipt of fee or consideration without approval by judge of compensation claims.
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	893.13 (1) (f) 2.	2nd	(2) (c) 9., (3), or (4) drugs within 1,000 feet of university.
6636	893.13 (6) (a)	3rd	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., (2) (c) 9., (3), or (4) drugs within 1,000 feet of public housing facility.
6637	893.13 (7) (a) 8.	3rd	Possession of any controlled substance other than felony possession of cannabis.
6638	893.13 (7) (a) 9.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
6639	893.13 (7) (a) 10.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
6640			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.
6644	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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			writing the prescription is a monetary benefit for the practitioner.
6645	918.13 (1) (a)	3rd	Alter, destroy, or conceal investigation evidence.
6646	944.47 (1) (a) 1.-2.	3rd	Introduce contraband to correctional facility.
6647	944.47 (1) (c)	2nd	Possess contraband while upon the grounds of a correctional institution.
6648	985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
6649			
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			
6654			Section 158. Subsection (2) of section 933.07, Florida
6655			Statutes, is amended to read:
6656			933.07 Issuance of search warrants.--
6657			(2) Notwithstanding any other provisions of this chapter,
6658			the Department of Agriculture and Consumer Services, based on

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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,

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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.

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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.

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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.

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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

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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

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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.

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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

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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

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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.