

By Senator King

8-04063-08

20081678\_\_

1                   A reviser's bill to be entitled  
2           An act relating to the Florida Statutes; amending ss.  
3           7.11, 7.13, 7.44, 11.904, 11.908, 15.0395, 20.23, 26.021,  
4           26.32, 30.071, 35.05, 39.0132, 92.05, 99.012, 106.023,  
5           106.0706, 112.324, 120.545, 121.051, 121.091, 121.121,  
6           121.4501, 124.01, 125.901, 159.804, 163.06, 163.3182,  
7           163.32465, 163.430, 166.271, 171.071, 171.205, 190.005,  
8           192.0105, 198.13, 200.001, 202.20, 212.08, 215.555,  
9           215.5586, 218.415, 222.25, 250.83, 253.033, 253.034,  
10          257.38, 258.001, 258.11, 258.12, 258.39, 258.397,  
11          286.0111, 288.0655, 288.1223, 288.1254, 288.8175,  
12          288.9015, 288.90151, 288.9551, 288.975, 316.003, 320.0805,  
13          322.34, 323.001, 328.07, 336.68, 337.0261, 338.231,  
14          339.175, 343.92, 348.243, 364.02, 367.171, 369.255,  
15          370.142, 370.172, 372.09, 373.026, 373.073, 373.1501,  
16          373.1502, 373.1961, 373.414, 373.4211, 373.4592, 373.4595,  
17          373.470, 373.472, 376.308, 377.42, 381.0273, 381.0404,  
18          381.92, 383.412, 390.012, 390.014, 390.018, 393.23,  
19          395.402, 400.063, 400.0712, 400.506, 400.995, 403.031,  
20          403.201, 403.707, 403.890, 403.8911, 403.973, 408.032,  
21          409.166, 409.1677, 409.25661, 413.271, 420.5095, 420.9076,  
22          429.35, 429.907, 440.3851, 445.004, 446.43, 468.832,  
23          468.8419, 468.842, 477.0135, 481.215, 481.313, 487.048,  
24          489.115, 489.127, 489.517, 489.531, 497.172, 497.271,  
25          497.466, 500.148, 501.022, 501.976, 553.73, 553.791,  
26          610.104, 617.0802, 624.316, 627.0628, 627.06292, 627.311,  
27          627.351, 627.3511, 627.4133, 627.701, 627.7261, 627.736,  
28          628.461, 628.4615, 633.01, 633.025, 660.417, 736.0802,  
29          741.3165, 744.1076, 812.1725, 817.625, 832.062, 921.0022,

8-04063-08

20081678\_\_

30 932.701, 940.05, 943.0314, 943.32, 943.35, 947.06,  
31 1001.11, 1001.215, 1001.395, 1002.35, 1002.39, 1002.72,  
32 1003.4156, 1003.428, 1004.43, 1004.4472, 1004.55, 1004.76,  
33 1005.38, 1008.25, 1008.345, 1009.01, 1009.24, 1009.98,  
34 1011.48, 1012.61, 1012.875, and 1013.73, F.S.; and  
35 reenacting ss. 215.559 and 338.165, F.S.; pursuant to s.  
36 11.242, F.S.; deleting provisions that have expired, have  
37 become 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 and confirming the restoration of provisions  
45 unintentionally omitted from republication in the acts of  
46 the Legislature during the amendatory process; providing  
47 an effective date.

48

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

50

51 Section 1. Section 7.11, Florida Statutes, is amended to  
52 read:

53 7.11 Collier County.--The boundary lines of Collier County  
54 are as follows: Beginning where the north line to township forty-  
55 eight south extended westerly intersects the western boundary of  
56 the State of Florida in the waters of the Gulf of Mexico; thence  
57 easterly on said township line to the northwest corner of section  
58 four of township forty-eight south of range twenty-five east;

8-04063-08

20081678\_\_

59 | thence south to the northwest corner of section nine of said  
60 | township and range; thence east to the eastern boundary line of  
61 | range twenty-six east; thence north on said range line to the  
62 | northwest corner of township forty-seven south of range twenty-  
63 | seven east; thence east on the north line of township forty-seven  
64 | south to the east line of range twenty-seven east; thence north  
65 | on said range line to the north line of township forty-six south;  
66 | thence east on the north line of township forty-six south to the  
67 | east line of range thirty east; thence south on said range line  
68 | to the north line of township forty-nine south; thence east on  
69 | the north line of said township forty-nine south to the east line  
70 | of range thirty-four east and the west boundary of Broward  
71 | County; thence south on said range line, concurrent with the west  
72 | boundary of Broward and Miami-Dade ~~Dade~~ Counties, to the point of  
73 | intersection with the south line of township fifty-three south;  
74 | thence west on the south line of said township fifty-three south  
75 | to where that line extended intersects the western boundary of  
76 | the State of Florida in the waters of the Gulf of Mexico; thence  
77 | northwesterly and along the waters of said Gulf of Mexico,  
78 | including the waters of said gulf within the jurisdiction of the  
79 | State of Florida, to the point of beginning.

80 |       Reviser's note.--Amended to conform to the redesignation of  
81 |       Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
82 |       Dade County Code.

83 |       Section 2. Section 7.13, Florida Statutes, is amended to  
84 | read:

85 |       7.13 Miami-Dade ~~Dade~~ County.--The boundary lines of Miami-  
86 | Dade ~~Dade~~ County are as follows: Beginning at the southwest  
87 | corner of township fifty-one south, range thirty-five east;

8-04063-08

20081678\_\_

88 | thence east following the south line of township fifty-one south,  
89 | across ranges thirty-five, thirty-six, thirty-seven, thirty-  
90 | eight, thirty-nine and forty east, to the southwest corner of  
91 | township fifty-one south, range forty-one east; thence north on  
92 | the range line dividing ranges forty and forty-one east to the  
93 | northwest corner of section thirty-one, township fifty-one south,  
94 | range forty-one east; thence east on the north boundary of said  
95 | section thirty-one and other sections to the waters of the  
96 | Atlantic Ocean; thence easterly to the eastern boundary of the  
97 | State of Florida; thence southward along the coast, including the  
98 | waters of the Atlantic Ocean and the gulf stream within the  
99 | jurisdiction of the State of Florida, to a point on the reefs of  
100 | Florida immediately opposite the mouth of Broad Creek (a stream  
101 | separating Cayo Lago from Old Rhodes Key); thence in a direct  
102 | line through the middle of said stream to a point east of Mud  
103 | Point, said point being located on the east line of the west one  
104 | half of section seven, township fifty-nine south, range forty  
105 | east, at a distance of two thousand three hundred feet, more or  
106 | less, south of the northeast corner of the west one half of said  
107 | section seven being a point on the existing Miami-Dade ~~Dade~~  
108 | County boundary line as established by s. 7.13; thence run  
109 | southerly along the east line of the west one half of said  
110 | section seven, township fifty-nine south, range forty east, to a  
111 | point two thousand feet, more or less, north of the south line of  
112 | said section seven; thence run westerly along a line parallel to  
113 | the south line of said section seven, through the open water  
114 | midway between two islands lying in the west one half of said  
115 | section seven to a point on the west line of section seven,  
116 | township fifty-nine south, range forty east; thence run southerly

8-04063-08

20081678\_\_

117 | for a distance of two thousand feet, more or less, to the  
118 | southwest corner of said section seven; thence run southerly  
119 | along the west line of section eighteen, township fifty-nine  
120 | south, range forty east, to the southwest corner of said section  
121 | eighteen; thence run in a southwesterly direction along a  
122 | straight line to the southwest corner of section twenty-four,  
123 | township fifty-nine south, range thirty-nine east; thence run  
124 | southerly along the east line of section twenty-six, township  
125 | fifty-nine south, range thirty-nine east, to the southeast corner  
126 | of said section twenty-six; thence run southerly along the east  
127 | line of section thirty-five, township fifty-nine south, range  
128 | thirty-nine east, to a point of intersection with a line drawn  
129 | parallel with the north line of said section thirty-five and  
130 | through the open water midway between Main and Short Key; thence  
131 | run westerly along a line parallel to the north line of said  
132 | section thirty-five, through the open water midway between Main  
133 | and Short Key to a point on the west line of section thirty-five  
134 | and a point on the east line of section thirty-four, township  
135 | fifty-nine south, range thirty-nine east; thence run  
136 | southwesterly in a straight line to the southwest corner of the  
137 | southeast quarter of said section thirty-four and the northeast  
138 | corner of the northwest quarter of section three, township sixty  
139 | south, range thirty-nine east; thence run southerly along the  
140 | east line of the northwest quarter of said section three to the  
141 | southeast corner of the northwest quarter of said section three;  
142 | thence run westerly along the south line of the northwest quarter  
143 | of said section three to the southwest corner of the northwest  
144 | quarter of said section three; thence run westerly to a point on  
145 | the northerly bank of Manatee Creek at the easterly mouth of said

8-04063-08

20081678\_\_

146 Manatee Creek; thence run westerly meandering the northerly bank  
147 of Manatee Creek to the intersection thereof with the west right-  
148 of-way line of United States Highway No. 1, said right-of-way  
149 line being the east boundary of the Everglades National Park and  
150 said north bank of Manatee Creek being the southerly line of the  
151 mainland of the State of Florida and the existing boundary line  
152 between Miami-Dade ~~Dade~~ County and Monroe County; thence along  
153 the mainland to the range line between ranges thirty-four and  
154 thirty-five east, thence due north on said range line to place of  
155 beginning. However, the boundary lines of Miami-Dade ~~Dade~~ County  
156 shall not include the following: Begin at the northwest corner of  
157 section thirty-five, township fifty-one south, range forty-two  
158 east, Miami-Dade ~~Dade~~ County, Florida; thence, southerly  
159 following the west line of section thirty-five, township fifty-  
160 one south, range forty-two east to the intersection with a line  
161 which is two hundred and thirty feet south of and parallel to the  
162 north line of section thirty-five, township fifty-one south,  
163 range forty-two east; thence, easterly following the line which  
164 is two hundred and thirty feet south of and parallel to the north  
165 line of section thirty-five, township fifty-one south, range  
166 forty-two east, to the intersection with the west boundary line  
167 of the Town of Golden Beach; thence, northerly following the west  
168 boundary line of the Town of Golden Beach to the intersection  
169 with the north line of section thirty-five, township fifty-one  
170 south, range forty-two east; thence, westerly following the north  
171 line of section thirty-five, township fifty-one south, range  
172 forty-two east to the point of beginning.

8-04063-08

20081678\_\_

173 Reviser's note.--Amended to conform to the redesignation of  
174 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
175 Dade County Code.

176 Section 3. Section 7.44, Florida Statutes, is amended to  
177 read:

178 7.44 Monroe County.--So much of the State of Florida as is  
179 situated south of the County of Collier and west or south of the  
180 County of Miami-Dade ~~Dade~~, constitutes the County of Monroe.

181 Reviser's note.--Amended to conform to the redesignation of  
182 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
183 Dade County Code.

184 Section 4. Section 11.904, Florida Statutes, is amended to  
185 read:

186 11.904 Staff.--The Senate and the House of Representatives  
187 may each employ staff to work for the joint committee on matters  
188 related to joint committee activities. The Office of Program  
189 Policy Analysis and Government Accountability shall provide  
190 primary research services as directed by the committee and the  
191 joint committee and assist the committee in conducting the  
192 reviews under s. 11.907 ~~11.910~~. Upon request, the Auditor General  
193 shall assist the committees and the joint committee.

194 Reviser's note.--Amended to improve clarity and facilitate  
195 correct interpretation. Section 11.907 references the  
196 legislative reviews, and s. 11.910 references information  
197 for the reviews.

198 Section 5. Subsection (4) of section 11.908, Florida  
199 Statutes, is amended to read:

8-04063-08

20081678\_\_

200 11.908 Committee duties.--No later than March 1 of the year  
201 in which a state agency or its advisory committees are scheduled  
202 to be reviewed, the committee shall and the joint committee may:

203 (4) Present to the President of the Senate and the Speaker  
204 of the House of Representatives a report on the agencies and  
205 advisory committees scheduled to be reviewed that year by the  
206 Legislature. In the report, the committee shall include its  
207 specific findings and recommendations regarding the information  
208 considered pursuant to s. 11.910, make recommendations as  
209 described in s. 11.911, and propose legislation as it considers  
210 necessary. In the joint committee report, the joint committee  
211 shall include its specific findings and recommendations regarding  
212 the information considered pursuant to s. 11.910 ~~11.90~~ and make  
213 recommendations as described in s. 11.911.

214 Reviser's note.--Amended to confirm substitution by the  
215 editors of a reference to s. 11.910 for a reference to s.  
216 11.90 to conform to context. Section 11.90 relates to the  
217 Legislative Budget Commission; s. 11.910 relates to  
218 information relevant in determining whether a public need  
219 exists for continuation of a state agency.

220 Section 6. Section 15.0395, Florida Statutes, is amended to  
221 read:

222 15.0395 Official festival.--The festival "Calle Ocho-Open  
223 House 8," a Florida historical festival presented annually by the  
224 Kiwanis Club of Little Havana and the Hispanic citizens of Miami-  
225 Dade ~~Dade~~ County, is hereby recognized as a festival of Florida.

226 Reviser's note.--Amended to conform to the redesignation of  
227 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
228 Dade County Code.



8-04063-08

20081678\_\_

229 Section 7. Paragraph (a) of subsection (4) of section  
230 20.23, Florida Statutes, is amended to read:

231 20.23 Department of Transportation.--There is created a  
232 Department of Transportation which shall be a decentralized  
233 agency.

234 (4) (a) The operations of the department shall be organized  
235 into seven districts, each headed by a district secretary and a  
236 turnpike enterprise, headed by an executive director. The  
237 district secretaries and the turnpike executive director shall be  
238 registered professional engineers in accordance with the  
239 provisions of chapter 471 or, in lieu of professional engineer  
240 registration, a district secretary or turnpike executive director  
241 may hold an advanced degree in an appropriate related discipline,  
242 such as a Master of Business Administration. The headquarters of  
243 the districts shall be located in Polk, Columbia, Washington,  
244 Broward, Volusia, Miami-Dade ~~Dade~~, and Hillsborough Counties. The  
245 headquarters of the turnpike enterprise shall be located in  
246 Orange County. In order to provide for efficient operations and  
247 to expedite the decisionmaking process, the department shall  
248 provide for maximum decentralization to the districts.

249 Reviser's note.--Amended to conform to the redesignation of  
250 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
251 Dade County Code.

252 Section 8. Subsection (11) of section 26.021, Florida  
253 Statutes, is amended to read:

254 26.021 Judicial circuits; judges.--

255 (11) The eleventh circuit is composed of Miami-Dade ~~Dade~~  
256 County.

257

8-04063-08

20081678\_\_

258 The judicial nominating commission of each circuit, in submitting  
259 nominations for any vacancy in a judgeship, and the Governor, in  
260 filling any vacancy for a judgeship, shall consider whether the  
261 existing judges within the circuit, together with potential  
262 nominees or appointees, reflect the geographic distribution of  
263 the population within the circuit, the geographic distribution of  
264 the caseload within the circuit, the racial and ethnic diversity  
265 of the population within the circuit, and the geographic  
266 distribution of the racial and ethnic minority population within  
267 the circuit.

268 Reviser's note.--Amended to conform to the redesignation of  
269 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
270 Dade County Code.

271 Section 9. Section 26.32, Florida Statutes, is amended to  
272 read:

273 26.32 Eleventh Judicial Circuit.--

274

275 SPRING TERM.

276

277 Miami-Dade ~~Dade~~ County, second Tuesday in May.

278

279 FALL TERM.

280

281 Miami-Dade ~~Dade~~ County, second Tuesday in November.

282 Reviser's note.--Amended to conform to the redesignation of  
283 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
284 Dade County Code.

285 Section 10. Paragraph (b) of subsection (1) of section  
286 30.071, Florida Statutes, is amended to read:

8-04063-08

20081678\_\_

287 30.071 Applicability and scope of act.--

288 (1) This act applies to all deputy sheriffs, with the  
289 following exceptions:

290 (b) Deputy sheriffs in a county that, by special act of the  
291 Legislature, local charter, ordinance, or otherwise, has  
292 established a civil or career service system which grants  
293 collective bargaining rights for deputy sheriffs, including, but  
294 not limited to, deputy sheriffs in the following counties:  
295 Broward, Miami-Dade ~~Dade~~, Duval, Escambia, and Volusia.

296 Reviser's note.--Amended to conform to the redesignation of  
297 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
298 Dade County Code.

299 Section 11. Subsection (1) of section 35.05, Florida  
300 Statutes, is amended to read:

301 35.05 Headquarters.--

302 (1) The headquarters of the First Appellate District shall  
303 be in the Second Judicial Circuit, Tallahassee, Leon County; of  
304 the Second Appellate District in the Tenth Judicial Circuit,  
305 Lakeland, Polk County; of the Third Appellate District in the  
306 Eleventh Judicial Circuit, Miami-Dade ~~Dade~~ County; of the Fourth  
307 Appellate District in the Fifteenth Judicial Circuit, Palm Beach  
308 County; and the Fifth Appellate District in the Seventh Judicial  
309 Circuit, Daytona Beach, Volusia County.

310 Reviser's note.--Amended to conform to the redesignation of  
311 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
312 Dade County Code.

313 Section 12. Paragraph (a) of subsection (4) of section  
314 39.0132, Florida Statutes, is amended to read:

315 39.0132 Oaths, records, and confidential information.--

8-04063-08

20081678\_\_

316 (4) (a)1. All information obtained pursuant to this part in  
317 the discharge of official duty by any judge, employee of the  
318 court, authorized agent of the department, correctional probation  
319 officer, or law enforcement agent is confidential and exempt from  
320 s. 119.07(1) and may not be disclosed to anyone other than the  
321 authorized personnel of the court, the department and its  
322 designees, correctional probation officers, law enforcement  
323 agents, guardian ad litem, and others entitled under this chapter  
324 to receive that information, except upon order of the court.

325 2. Any information related to the best interests of a  
326 child, as determined by a guardian ad litem, which is held by a  
327 guardian ad litem, including but not limited to medical, mental  
328 health, substance abuse, child care, education, law enforcement,  
329 court, social services, and financial records; and any other  
330 information maintained by a guardian ad litem which is identified  
331 as confidential information under this chapter; is confidential  
332 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
333 Constitution. Such confidential and exempt information may not be  
334 disclosed to anyone other than the authorized personnel of the  
335 court, the department and its designees, correctional probation  
336 officers, law enforcement agents, guardians ad litem, and others  
337 entitled under this chapter to receive that information, except  
338 upon order of the court. This subparagraph is subject to the Open  
339 Government Sunset Review Act ~~of 1995~~ in accordance with s.  
340 119.15, and shall stand repealed on October 2, 2010, unless  
341 reviewed and saved from repeal through reenactment by the  
342 Legislature.

343 Reviser's note.--Amended to conform to the renaming of the  
344 "Open Government Sunset Review Act of 1995" as the "Open

8-04063-08

20081678\_\_

345 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws  
346 of Florida.

347 Section 13. Section 92.05, Florida Statutes, is amended to  
348 read:

349 92.05 Final judgments and decrees of courts of record.--All  
350 final judgments and decrees heretofore or hereafter rendered and  
351 entered in courts of record of this state, and certified copies  
352 thereof, shall be admissible as prima facie evidence in the  
353 several courts of this state of the entry and validity of such  
354 judgments and decrees. For the purposes of this section, a court  
355 of record shall be taken and construed to mean any court other  
356 than a municipal court or the Metropolitan Court of Miami-Dade  
357 ~~Dade~~ County.

358 Reviser's note.--Amended to conform to the redesignation of  
359 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
360 Dade County Code.

361 Section 14. Subsection (7) of section 99.012, Florida  
362 Statutes, is amended to read:

363 99.012 Restrictions on individuals qualifying for public  
364 office.--

365 (7) Nothing contained in subsection (3) ~~subsections (3) and~~  
366 ~~(4)~~ relates to persons holding any federal office.

367 Reviser's note.--Amended to conform to the repeal of the  
368 referenced s. 99.012(4) by s. 14, ch. 2007-30, Laws of  
369 Florida.

370 Section 15. Subsection (2) of section 106.023, Florida  
371 Statutes, is amended to read:

372 106.023 Statement of candidate.--

8-04063-08

20081678\_\_

373 (2) The execution and filing of the statement of candidate  
374 does not in and of itself create a presumption that any violation  
375 of this chapter or chapter 104 is a willful violation ~~as defined~~  
376 ~~in s. 106.37.~~

377 Reviser's note.--Amended to conform to the repeal of s.  
378 106.37 by s. 51, ch. 2007-30, Laws of Florida.

379 Section 16. Section 106.0706, Florida Statutes, is amended  
380 to read:

381 106.0706 Electronic filing of campaign finance reports;  
382 confidentiality of information and draft reports.--All user  
383 identifications and passwords held by the Department of State  
384 pursuant to s. 106.0705 are confidential and exempt from s.  
385 119.07(1) and s. 24(a), Art. I of the State Constitution. All  
386 records, reports, and files stored in the electronic filing  
387 system pursuant to s. 106.0705 are exempt from s. 119.07(1) and  
388 s. 24(a), Art. I of the State Constitution until such time as the  
389 report has been submitted as a filed report. This section is  
390 subject to the Open Government Sunset Review Act ~~of 1995~~ in  
391 accordance with s. 119.15 and shall stand repealed on October 2,  
392 2009, unless reviewed and saved from repeal through reenactment  
393 by the Legislature.

394 Reviser's note.--Amended to conform to the renaming of the  
395 "Open Government Sunset Review Act of 1995" as the "Open  
396 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws  
397 of Florida.

398 Section 17. Paragraph (b) of subsection (2) of section  
399 112.324, Florida Statutes, is amended to read:

400 112.324 Procedures on complaints of violations; public  
401 records and meeting exemptions.--

8-04063-08

20081678\_\_

402 (2)

403 (b) Paragraph (a) is subject to the Open Government Sunset  
404 Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand  
405 repealed on October 2, 2010, unless reviewed and saved from  
406 repeal through reenactment by the Legislature.

407 Reviser's note.--Amended to conform to the renaming of the  
408 "Open Government Sunset Review Act of 1995" as the "Open  
409 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws  
410 of Florida.

411 Section 18. Subsection (9) of section 120.545, Florida  
412 Statutes, is amended to read:

413 120.545 Committee review of agency rules.--

414 (9) If the committee objects to a proposed or existing rule  
415 and the agency refuses to modify, amend, withdraw, or repeal the  
416 rule, the committee shall file with the Department of State a  
417 notice of the objection, detailing with particularity its  
418 objection to the rule. The Department of State shall publish this  
419 notice in the Florida Administrative Weekly and shall publish, as  
420 a history note to the rule in the Florida Administrative Code, a  
421 reference to the committee's objection and to the issue of the  
422 Florida Administrative Weekly in which the full text thereof  
423 appears.

424 Reviser's note.--Amended to confirm the insertion of the  
425 words "Florida Administrative" by the editors to reference  
426 the complete name of the publication.

427 Section 19. Paragraph (c) of subsection (2) of section  
428 121.051, Florida Statutes, is amended to read:

429 121.051 Participation in the system.--

430 (2) OPTIONAL PARTICIPATION.--

8-04063-08

20081678\_\_

431 (c) Employees of public community colleges or charter  
432 technical career centers sponsored by public community colleges,  
433 as designated in s. 1000.21(3), who are members of the Regular  
434 Class of the Florida Retirement System and who comply with the  
435 criteria set forth in this paragraph and in s. 1012.875 may  
436 elect, in lieu of participating in the Florida Retirement System,  
437 to withdraw from the Florida Retirement System altogether and  
438 participate in an optional retirement program provided by the  
439 employing agency under s. 1012.875, to be known as the State  
440 Community College System Optional Retirement Program. Pursuant  
441 thereto:

442 1. Through June 30, 2001, the cost to the employer for such  
443 annuity shall equal the normal cost portion of the employer  
444 retirement contribution which would be required if the employee  
445 were a member of the Regular Class defined benefit program, plus  
446 the portion of the contribution rate required by s. 112.364(8)  
447 that would otherwise be assigned to the Retiree Health Insurance  
448 Subsidy Trust Fund. Effective July 1, 2001, each employer shall  
449 contribute on behalf of each participant in the optional program  
450 an amount equal to 10.43 percent of the participant's gross  
451 monthly compensation. The employer shall deduct an amount to  
452 provide for the administration of the optional retirement  
453 program. The employer providing the optional program shall  
454 contribute an additional amount to the Florida Retirement System  
455 Trust Fund equal to the unfunded actuarial accrued liability  
456 portion of the Regular Class contribution rate.

457 2. The decision to participate in such an optional  
458 retirement program shall be irrevocable for as long as the  
459 employee holds a position eligible for participation, except as



8-04063-08

20081678\_\_

460 provided in subparagraph 3. Any service creditable under the  
461 Florida Retirement System shall be retained after the member  
462 withdraws from the Florida Retirement System; however, additional  
463 service credit in the Florida Retirement System shall not be  
464 earned while a member of the optional retirement program.

465 3. An employee who has elected to participate in the  
466 optional retirement program shall have one opportunity, at the  
467 employee's discretion, to choose to transfer from the optional  
468 retirement program to the defined benefit program of the Florida  
469 Retirement System or to the Public Employee Optional Retirement  
470 Program, subject to the terms of the applicable optional  
471 retirement program contracts.

472 a. If the employee chooses to move to the Public Employee  
473 Optional Retirement Program, any contributions, interest, and  
474 earnings creditable to the employee under the State Community  
475 College System Optional Retirement Program shall be retained by  
476 the employee in the State Community College System Optional  
477 Retirement Program, and the applicable provisions of s.  
478 121.4501(4) shall govern the election.

479 b. If the employee chooses to move to the defined benefit  
480 program of the Florida Retirement System, the employee shall  
481 receive service credit equal to his or her years of service under  
482 the State Community College System Optional Retirement Program.

483 (I) The cost for such credit shall be an amount  
484 representing the present value of that employee's accumulated  
485 benefit obligation for the affected period of service. The cost  
486 shall be calculated as if the benefit commencement occurs on the  
487 first date the employee would become eligible for unreduced  
488 benefits, using the discount rate and other relevant actuarial

8-04063-08

20081678\_\_

489 assumptions that were used to value the Florida Retirement System  
490 defined benefit plan liabilities in the most recent actuarial  
491 valuation. The calculation shall include any service already  
492 maintained under the defined benefit plan in addition to the  
493 years under the State Community College System Optional  
494 Retirement Program. The present value of any service already  
495 maintained under the defined benefit plan shall be applied as a  
496 credit to total cost resulting from the calculation. The division  
497 shall ensure that the transfer sum is prepared using a formula  
498 and methodology certified by an enrolled actuary.

499 (II) The employee must transfer from his or her State  
500 Community College System Optional Retirement Program account and  
501 from other employee moneys as necessary, a sum representing the  
502 present value of that employee's accumulated benefit obligation  
503 immediately following the time of such movement, determined  
504 assuming that attained service equals the sum of service in the  
505 defined benefit program and service in the State Community  
506 College System Optional Retirement Program.

507 4. Participation in the optional retirement program shall  
508 be limited to those employees who satisfy the following  
509 eligibility criteria:

510 a. The employee must be otherwise eligible for membership  
511 or renewed membership in the Regular Class of the Florida  
512 Retirement System, as provided in s. 121.021(11) and (12) or s.  
513 121.122.

514 b. The employee must be employed in a full-time position  
515 classified in the Accounting Manual for Florida's Public  
516 Community Colleges as:

517 (I) Instructional; or

8-04063-08

20081678\_\_

518 (II) Executive Management, Instructional Management, or  
519 Institutional Management, if a community college determines that  
520 recruiting to fill a vacancy in the position is to be conducted  
521 in the national or regional market, and:

522 (A) The duties and responsibilities of the position include  
523 either the formulation, interpretation, or implementation of  
524 policies; or

525 (B) The duties and responsibilities of the position include  
526 the performance of functions that are unique or specialized  
527 within higher education and that frequently involve the support  
528 of the mission of the community college.

529 c. The employee must be employed in a position not included  
530 in the Senior Management Service Class of the Florida Retirement  
531 System, as described in s. 121.055.

532 5. Participants in the program are subject to the same  
533 reemployment limitations, renewed membership provisions, and  
534 forfeiture provisions as are applicable to regular members of the  
535 Florida Retirement System under ss. 121.091(9), 121.122, and  
536 121.091(5), respectively.

537 6. Eligible community college employees shall be compulsory  
538 members of the Florida Retirement System until, pursuant to the  
539 procedures set forth in s. 1012.875, a written election to  
540 withdraw from the Florida Retirement System and to participate in  
541 the State Community College System Optional Retirement Program is  
542 filed with the program administrator and received by the  
543 division.

544 a. Any community college employee whose program eligibility  
545 results from initial employment shall be enrolled in the State  
546 Community College System Optional Retirement Program retroactive

8-04063-08

20081678\_\_

547 | to the first day of eligible employment. The employer retirement  
548 | contributions paid through the month of the employee plan change  
549 | shall be transferred to the community college for the employee's  
550 | optional program account, and, effective the first day of the  
551 | next month, the employer shall pay the applicable contributions  
552 | based upon subparagraph 1.

553 |       b. Any community college employee whose program eligibility  
554 | results from a change in status due to the subsequent designation  
555 | of the employee's position as one of those specified in  
556 | subparagraph 4. or due to the employee's appointment, promotion,  
557 | transfer, or reclassification to a position specified in  
558 | subparagraph 4. shall be enrolled in the program upon the first  
559 | day of the first full calendar month that such change in status  
560 | becomes effective. The employer retirement contributions paid  
561 | from the effective date through the month of the employee plan  
562 | change shall be transferred to the community college for the  
563 | employee's optional program account, and, effective the first day  
564 | of the next month, the employer shall pay the applicable  
565 | contributions based upon subparagraph 1.

566 |       7. Effective July 1, 2003, through December 31, 2008, any  
567 | participant of the State Community College System Optional  
568 | Retirement Program who has service credit in the defined benefit  
569 | plan of the Florida Retirement System for the period between his  
570 | or her first eligibility to transfer from the defined benefit  
571 | plan to the optional retirement program and the actual date of  
572 | transfer may, during his or her employment, elect to transfer to  
573 | the optional retirement program a sum representing the present  
574 | value of the accumulated benefit obligation under the defined  
575 | benefit retirement program for such period of service credit.

8-04063-08

20081678\_\_

576 Upon such transfer, all such service credit previously earned  
577 under the defined benefit program of the Florida Retirement  
578 System during this period shall be nullified for purposes of  
579 entitlement to a future benefit under the defined benefit program  
580 of the Florida Retirement System.

581 Reviser's note.--Amended to conform to the complete title of  
582 the State Community College System Optional Retirement  
583 Program as referenced in s. 1012.875.

584 Section 20. Paragraph (c) of subsection (1) of section  
585 121.091, Florida Statutes, is amended to read:

586 121.091 Benefits payable under the system.--Benefits may  
587 not be paid under this section unless the member has terminated  
588 employment as provided in s. 121.021(39)(a) or begun  
589 participation in the Deferred Retirement Option Program as  
590 provided in subsection (13), and a proper application has been  
591 filed in the manner prescribed by the department. The department  
592 may cancel an application for retirement benefits when the member  
593 or beneficiary fails to timely provide the information and  
594 documents required by this chapter and the department's rules.  
595 The department shall adopt rules establishing procedures for  
596 application for retirement benefits and for the cancellation of  
597 such application when the required information or documents are  
598 not received.

599 (1) NORMAL RETIREMENT BENEFIT.--Upon attaining his or her  
600 normal retirement date, the member, upon application to the  
601 administrator, shall receive a monthly benefit which shall begin  
602 to accrue on the first day of the month of retirement and be  
603 payable on the last day of that month and each month thereafter  
604 during his or her lifetime. The normal retirement benefit,

8-04063-08

20081678\_\_

605 including any past or additional retirement credit, may not  
606 exceed 100 percent of the average final compensation. The amount  
607 of monthly benefit shall be calculated as the product of A and B,  
608 subject to the adjustment of C, if applicable, as set forth  
609 below:

610 (c) C is the normal retirement benefit credit brought  
611 forward as of November 30, 1970, by a former member of an  
612 existing system. Such normal retirement benefit credit shall be  
613 determined as the product of X and Y when X is the percentage of  
614 average final compensation which the member would have been  
615 eligible to receive if the member had attained his or her normal  
616 retirement date as of November 30, 1970, all in accordance with  
617 the existing system under which the member is covered on November  
618 30, 1970, and Y is average final compensation as defined in s.  
619 121.021(24) ~~121.021(25)~~. However, any member of an existing  
620 retirement system who is eligible to retire and who does retire,  
621 become disabled, or die prior to April 15, 1971, may have his or  
622 her retirement benefits calculated on the basis of the best 5 of  
623 the last 10 years of service.

624 Reviser's note.--Amended to correct an erroneous reference  
625 and conform to context. "Average final compensation" is  
626 defined in s. 121.021(24).

627 Section 21. Subsection (2) of section 121.121, Florida  
628 Statutes, is amended to read:

629 121.121 Authorized leaves of absence.--

630 (2) A member who is required to resign his or her office as  
631 a subordinate officer, deputy sheriff, or police officer because  
632 he or she is a candidate for a public office which is currently  
633 held by his or her superior officer who is also a candidate for

8-04063-08

20081678\_\_

634 reelection to the same office, in accordance with s. 99.012(4)  
635 ~~99.012(5)~~, shall, upon return to covered employment, be eligible  
636 to purchase retirement credit for the period between his or her  
637 date of resignation and the beginning of the term of office for  
638 which he or she was a candidate as a leave of absence without  
639 pay, as provided in subsection (1).

640 Reviser's note.--Amended to conform to the redesignation of  
641 s. 99.012(5) as s. 99.012(4) by s. 14, ch. 2007-30, Laws of  
642 Florida.

643 Section 22. Paragraph (f) of subsection (2) and paragraph  
644 (a) of subsection (4) of section 121.4501, Florida Statutes, are  
645 amended to read:

646 121.4501 Public Employee Optional Retirement Program.--

647 (2) DEFINITIONS.--As used in this part, the term:

648 (f) "Eligible employee" means an officer or employee, as  
649 defined in s. 121.021(11), who:

650 1. Is a member of, or is eligible for membership in, the  
651 Florida Retirement System, including any renewed member of the  
652 Florida Retirement System; or

653 2. Participates in, or is eligible to participate in, the  
654 Senior Management Service Optional Annuity Program as established  
655 under s. 121.055(6), the State Community College System Optional  
656 Retirement Program as established under s. 121.051(2)(c), or the  
657 State University System Optional Retirement Program established  
658 under s. 121.35.

659

660 The term does not include any member participating in the  
661 Deferred Retirement Option Program established under s.

8-04063-08

20081678\_\_

662 121.091(13) or a mandatory participant of the State University  
663 System Optional Retirement Program established under s. 121.35.

664 (4) PARTICIPATION; ENROLLMENT.--

665 (a)1. With respect to an eligible employee who is employed  
666 in a regularly established position on June 1, 2002, by a state  
667 employer:

668 a. Any such employee may elect to participate in the Public  
669 Employee Optional Retirement Program in lieu of retaining his or  
670 her membership in the defined benefit program of the Florida  
671 Retirement System. The election must be made in writing or by  
672 electronic means and must be filed with the third-party  
673 administrator by August 31, 2002, or, in the case of an active  
674 employee who is on a leave of absence on April 1, 2002, by the  
675 last business day of the 5th month following the month the leave  
676 of absence concludes. This election is irrevocable, except as  
677 provided in paragraph (e). Upon making such election, the  
678 employee shall be enrolled as a participant of the Public  
679 Employee Optional Retirement Program, the employee's membership  
680 in the Florida Retirement System shall be governed by the  
681 provisions of this part, and the employee's membership in the  
682 defined benefit program of the Florida Retirement System shall  
683 terminate. The employee's enrollment in the Public Employee  
684 Optional Retirement Program shall be effective the first day of  
685 the month for which a full month's employer contribution is made  
686 to the optional program.

687 b. Any such employee who fails to elect to participate in  
688 the Public Employee Optional Retirement Program within the  
689 prescribed time period is deemed to have elected to retain  
690 membership in the defined benefit program of the Florida



8-04063-08

20081678\_\_

691 Retirement System, and the employee's option to elect to  
692 participate in the optional program is forfeited.

693 2. With respect to employees who become eligible to  
694 participate in the Public Employee Optional Retirement Program by  
695 reason of employment in a regularly established position with a  
696 state employer commencing after April 1, 2002:

697 a. Any such employee shall, by default, be enrolled in the  
698 defined benefit retirement program of the Florida Retirement  
699 System at the commencement of employment, and may, by the last  
700 business day of the 5th month following the employee's month of  
701 hire, elect to participate in the Public Employee Optional  
702 Retirement Program. The employee's election must be made in  
703 writing or by electronic means and must be filed with the third-  
704 party administrator. The election to participate in the optional  
705 program is irrevocable, except as provided in paragraph (e).

706 b. If the employee files such election within the  
707 prescribed time period, enrollment in the optional program shall  
708 be effective on the first day of employment. The employer  
709 retirement contributions paid through the month of the employee  
710 plan change shall be transferred to the optional program, and,  
711 effective the first day of the next month, the employer shall pay  
712 the applicable contributions based on the employee membership  
713 class in the optional program.

714 c. Any such employee who fails to elect to participate in  
715 the Public Employee Optional Retirement Program within the  
716 prescribed time period is deemed to have elected to retain  
717 membership in the defined benefit program of the Florida  
718 Retirement System, and the employee's option to elect to  
719 participate in the optional program is forfeited.

8-04063-08

20081678\_\_

720           3. With respect to employees who become eligible to  
721 participate in the Public Employee Optional Retirement Program  
722 pursuant to s. 121.051(2)(c)3. or s. 121.35(3)(i), any such  
723 employee may elect to participate in the Public Employee Optional  
724 Retirement Program in lieu of retaining his or her participation  
725 in the State Community College System Optional Retirement Program  
726 or the State University System Optional Retirement Program. The  
727 election must be made in writing or by electronic means and must  
728 be filed with the third-party administrator. This election is  
729 irrevocable, except as provided in paragraph (e). Upon making  
730 such election, the employee shall be enrolled as a participant of  
731 the Public Employee Optional Retirement Program, the employee's  
732 membership in the Florida Retirement System shall be governed by  
733 the provisions of this part, and the employee's participation in  
734 the State Community College System Optional Retirement Program or  
735 the State University System Optional Retirement Program shall  
736 terminate. The employee's enrollment in the Public Employee  
737 Optional Retirement Program shall be effective the first day of  
738 the month for which a full month's employer contribution is made  
739 to the optional program.

740           4. For purposes of this paragraph, "state employer" means  
741 any agency, board, branch, commission, community college,  
742 department, institution, institution of higher education, or  
743 water management district of the state, which participates in the  
744 Florida Retirement System for the benefit of certain employees.

745           Reviser's note.--Amended to conform to the complete title of  
746 the State Community College System Optional Retirement  
747 Program as referenced in s. 1012.875.

8-04063-08

20081678\_\_

748 Section 23. Subsection (5) of section 124.01, Florida  
749 Statutes, is amended to read:

750 124.01 Division of counties into districts; county  
751 commissioners.--

752 (5) This section shall not apply to Miami-Dade ~~Dade~~ County.  
753 Reviser's note.--Amended to conform to the redesignation of  
754 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
755 Dade County Code.

756 Section 24. Paragraph (b) of subsection (11) of section  
757 125.901, Florida Statutes, is amended to read:

758 125.901 Children's services; independent special district;  
759 council; powers, duties, and functions.--

760 (11)

761 (b) This subsection is subject to the Open Government  
762 Sunset Review Act ~~of 1995~~ in accordance with s. 119.15, and shall  
763 stand repealed on October 2, 2009, unless reviewed and saved from  
764 repeal through reenactment by the Legislature.

765 Reviser's note.--Amended to conform to the renaming of the  
766 "Open Government Sunset Review Act of 1995" as the "Open  
767 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws  
768 of Florida.

769 Section 25. Paragraph (b) of subsection (2) of section  
770 159.804, Florida Statutes, is amended to read:

771 159.804 Allocation of state volume limitation.--The  
772 division shall annually determine the amount of private activity  
773 bonds permitted to be issued in this state under the Code and  
774 shall make such information available upon request to any person  
775 or agency. The total amount of private activity bonds authorized

8-04063-08

20081678\_\_

776 to be issued in this state pursuant to the Code shall be  
777 initially allocated as follows on January 1 of each year:  
778 (2)  
779 (b) The following regions are established for the purposes  
780 of this allocation:  
781 1. Region 1 consisting of Bay, Escambia, Holmes, Okaloosa,  
782 Santa Rosa, Walton, and Washington Counties.  
783 2. Region 2 consisting of Calhoun, Franklin, Gadsden, Gulf,  
784 Jackson, Jefferson, Leon, Liberty, and Wakulla Counties.  
785 3. Region 3 consisting of Alachua, Bradford, Columbia,  
786 Dixie, Gilchrist, Hamilton, Lafayette, Madison, Suwannee, Taylor,  
787 and Union Counties.  
788 4. Region 4 consisting of Baker, Clay, Flagler, Nassau,  
789 Putnam, and St. Johns Counties.  
790 5. Region 5 consisting of Citrus, Hernando, Levy, Marion,  
791 Pasco, and Sumter Counties.  
792 6. Region 6 consisting of Lake, Osceola, and Seminole  
793 Counties.  
794 7. Region 7 consisting of DeSoto, Hardee, Highlands,  
795 Manatee, Okeechobee, and Polk Counties.  
796 8. Region 8 consisting of Charlotte, Collier, Glades,  
797 Hendry, Lee, Monroe, and Sarasota Counties.  
798 9. Region 9 consisting of Indian River, Martin, and St.  
799 Lucie Counties.  
800 10. Region 10 consisting of Broward County.  
801 11. Region 11 consisting of Miami-Dade ~~Dade~~ County.  
802 12. Region 12 consisting of Duval County.  
803 13. Region 13 consisting of Hillsborough County.  
804 14. Region 14 consisting of Orange County.

8-04063-08

20081678\_\_

- 805 15. Region 15 consisting of Palm Beach County.  
806 16. Region 16 consisting of Pinellas County.  
807 17. Region 17 consisting of Brevard and Volusia Counties.  
808 Reviser's note.--Amended to conform to the redesignation of  
809 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
810 Dade County Code.

811 Section 26. Paragraph (a) of subsection (2) and paragraph  
812 (e) of subsection (3) of section 163.06, Florida Statutes, are  
813 amended to read:

814 163.06 Miami River Commission.--

815 (2) The Miami River Commission shall consist of:

816 (a) A policy committee comprised of the Governor, the chair  
817 of the Miami-Dade County ~~Dade~~ delegation, the chair of the  
818 governing board of the South Florida Water Management District,  
819 the Miami-Dade County State Attorney, the Mayor of Miami, the  
820 Mayor of Miami-Dade County, a commissioner of the City of Miami  
821 Commission, a commissioner of the Miami-Dade County Commission,  
822 the chair of the Miami River Marine Group, the chair of the  
823 Marine Council, the Executive Director of the Downtown  
824 Development Authority, and the chair of the Greater Miami Chamber  
825 of Commerce; two neighborhood representatives, selected from the  
826 Spring Garden Neighborhood Association, the Grove Park  
827 Neighborhood Association, and the Miami River Neighborhood  
828 Enhancement Corporation, one neighborhood representative to be  
829 appointed by the city commission and one neighborhood  
830 representative to be appointed by the county commission, each  
831 selected from a list of three names submitted by each such  
832 organization; one representative from an environmental or civic  
833 association, appointed by the Governor; and three members-at-

8-04063-08

20081678\_\_

834 large, who shall be persons who have a demonstrated history of  
835 involvement on the Miami River through business, residence, or  
836 volunteer activity, one appointed by the Governor, one appointed  
837 by the city commission, and one appointed by the county  
838 commission. All members shall be voting members. The committee  
839 shall also include a member of the United States Congressional  
840 delegation and the Captain of the Port of Miami as a  
841 representative of the United States Coast Guard, as nonvoting, ex  
842 officio members. The policy committee may meet monthly, but shall  
843 meet at least quarterly.

844 (3) The policy committee shall have the following powers  
845 and duties:

846 (e) Publicize a semiannual report describing  
847 accomplishments of the commission and each member agency, as well  
848 as the status of each pending task. The committee shall  
849 distribute the report to the city and county commissions and  
850 mayors, the Governor, chair of the Miami-Dade ~~Dade~~ County  
851 delegation, stakeholders, and the local media.

852 Reviser's note.--Amended to conform to the redesignation of  
853 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
854 Dade County Code.

855 Section 27. Paragraph (d) of subsection (3) of section  
856 163.3182, Florida Statutes, is amended to read:

857 163.3182 Transportation concurrency backlogs.--

858 (3) POWERS OF A TRANSPORTATION CONCURRENCY BACKLOG  
859 AUTHORITY.--Each transportation concurrency backlog authority has  
860 the powers necessary or convenient to carry out the purposes of  
861 this section, including the following powers in addition to  
862 others granted in this section:

8-04063-08

20081678\_\_

863 (d) To borrow money; to apply for and accept advances,  
864 loans, grants, contributions, and any other forms of financial  
865 assistance from the Federal Government or the state, county, or  
866 any other public body or from any sources, public or private, for  
867 the purposes of this part; to give such security as may be  
868 required; to enter into and carry out contracts or agreements;  
869 and to include in any contracts for financial assistance with the  
870 Federal Government for or with respect to a transportation  
871 concurrency backlog project and related activities such  
872 conditions imposed pursuant to federal laws as the transportation  
873 concurrency backlog authority considers reasonable and  
874 appropriate and which are not inconsistent with the purposes of  
875 this section.

876 Reviser's note.--Amended to confirm the insertion of the  
877 word "to" by the editors.

878 Section 28. Paragraph (a) of subsection (6) of section  
879 163.32465, Florida Statutes, is amended to read:

880 163.32465 State review of local comprehensive plans in  
881 urban areas.--

882 (6) ADMINISTRATIVE CHALLENGES TO PLAN AMENDMENTS FOR PILOT  
883 PROGRAM.--

884 (a) Any "affected person" as defined in s. 163.3184(1)(a)  
885 may file a petition with the Division of Administrative Hearings  
886 pursuant to ss. 120.569 and 120.57, with a copy served on the  
887 affected local government, to request a formal hearing to  
888 challenge whether the amendments are "in compliance" as defined  
889 in s. 163.3184(1)(b). This petition must be filed with the  
890 Division within 30 days after the local government adopts the

8-04063-08

20081678\_\_

891 amendment. The state land planning agency may intervene in a  
892 proceeding instituted by an affected person.

893 Reviser's note.--Amended to confirm the insertion of the  
894 word "agency" by the editors.

895 Section 29. Section 163.430, Florida Statutes, is amended  
896 to read:

897 163.430 Powers supplemental to existing community  
898 redevelopment powers.--The powers conferred upon counties or  
899 municipalities by this part shall be supplemental to any  
900 community redevelopment powers now being exercised by any county  
901 or municipality in accordance with the provisions of any  
902 population act, special act, or under the provisions of the home  
903 rule charter for Miami-Dade ~~Dade~~ County, or under the provision  
904 of the charter of the consolidated City of Jacksonville.

905 Reviser's note.--Amended to conform to the redesignation of  
906 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
907 Dade County Code.

908 Section 30. Subsection (1) and paragraph (a) of subsection  
909 (2) of section 166.271, Florida Statutes, are amended to read:

910 166.271 Surcharge on municipal facility parking fees.--

911 (1) The governing authority of any municipality with a  
912 resident population of 200,000 or more, more than 20 percent of  
913 the real property of which is exempt from ad valorem taxes, and  
914 which is located in a county with a population of more than  
915 500,000 may impose and collect, subject to referendum approval by  
916 voters in the municipality, a discretionary per vehicle surcharge  
917 of up to 15 percent of the amount charged for the sale, lease, or  
918 rental of space at parking facilities within the municipality  
919 which are open for use to the general public and which are not



8-04063-08

20081678\_\_

920 airports, seaports, county administration buildings, or other  
921 projects as defined under ss. 125.011 and 125.015, provided that  
922 this surcharge shall not take effect while any surcharge imposed  
923 pursuant to former s. 218.503(6) (a), is in effect.

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

927 (a) No less than 60 percent and no more than 80 percent of  
928 surcharge proceeds shall be used to reduce the municipality's ad  
929 valorem tax millage or to reduce or eliminate non-ad valorem  
930 assessments, unless the municipality has previously used the  
931 proceeds from the surcharge levied under former s. 218.503(6) (b)  
932 to reduce the municipality's ad valorem tax millage or to reduce  
933 non-ad valorem assessments.

934 Reviser's note.--Amended to conform to the repeal of s.  
935 218.503(6) by s. 6, ch. 2007-6, Laws of Florida.

936 Section 31. Section 171.071, Florida Statutes, is amended  
937 to read:

938 171.071 Effect in Miami-Dade ~~Dade~~ County.--Municipalities  
939 within the boundaries of Miami-Dade ~~Dade~~ County shall adopt  
940 annexation or contraction ordinances pursuant to methods  
941 established by the home rule charter established pursuant to s.  
942 6(e), Art. VIII of the State Constitution.

943 Reviser's note.--Amended to conform to the redesignation of  
944 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
945 Dade County Code.

946 Section 32. Subsection (2) of section 171.205, Florida  
947 Statutes, is amended to read:

8-04063-08

20081678\_\_

948           171.205 Consent requirements for annexation of land under  
949 this part.--Notwithstanding part I, an interlocal service  
950 boundary agreement may provide a process for annexation  
951 consistent with this section or with part I.

952           (2) If the area to be annexed includes a privately owned  
953 solid waste disposal facility as defined in s. 403.703(33)  
954 ~~403.703(11)~~ which receives municipal solid waste collected within  
955 the jurisdiction of multiple local governments, the annexing  
956 municipality must set forth in its plan the effects that the  
957 annexation of the solid waste disposal facility will have on the  
958 other local governments. The plan must also indicate that the  
959 owner of the affected solid waste disposal facility has been  
960 contacted in writing concerning the annexation, that an agreement  
961 between the annexing municipality and the solid waste disposal  
962 facility to govern the operations of the solid waste disposal  
963 facility if the annexation occurs has been approved, and that the  
964 owner of the solid waste disposal facility does not object to the  
965 proposed annexation.

966           Reviser's note.--Amended to conform to the redesignation of  
967 s. 403.703(11) as s. 403.703(33) by s. 6, ch. 2007-184, Laws  
968 of Florida.

969           Section 33. Paragraph (e) of subsection (2) of section  
970 190.005, Florida Statutes, is amended to read:

971           190.005 Establishment of district.--

972           (2) The exclusive and uniform method for the establishment  
973 of a community development district of less than 1,000 acres in  
974 size shall be pursuant to an ordinance adopted by the county  
975 commission of the county having jurisdiction over the majority of  
976 land in the area in which the district is to be located granting

8-04063-08

20081678\_\_

977 a petition for the establishment of a community development  
978 district as follows:

979 (e) If all of the land in the area for the proposed  
980 district is within the territorial jurisdiction of a municipal  
981 corporation, then the petition requesting establishment of a  
982 community development district under this act shall be filed by  
983 the petitioner with that particular municipal corporation. In  
984 such event, the duties of the county, hereinabove described, in  
985 action upon the petition shall be the duties of the municipal  
986 corporation. If any of the land area of a proposed district is  
987 within the land area of a municipality, the county commission may  
988 not create the district without municipal approval. If all of the  
989 land in the area for the proposed district, even if less than  
990 1,000 acres, is within the territorial jurisdiction of two or  
991 more municipalities, the petition shall be filed with the Florida  
992 Land and Water Adjudicatory Commission and proceed in accordance  
993 with subsection (1).

994 Reviser's note.--Amended to confirm the insertion of the  
995 word "than" by the editors.

996 Section 34. Paragraph (c) of subsection (2) of section  
997 192.0105, Florida Statutes, is amended to read:

998 192.0105 Taxpayer rights.--There is created a Florida  
999 Taxpayer's Bill of Rights for property taxes and assessments to  
1000 guarantee that the rights, privacy, and property of the taxpayers  
1001 of this state are adequately safeguarded and protected during tax  
1002 levy, assessment, collection, and enforcement processes  
1003 administered under the revenue laws of this state. The Taxpayer's  
1004 Bill of Rights compiles, in one document, brief but comprehensive  
1005 statements that summarize the rights and obligations of the

8-04063-08

20081678\_\_

1006 | property appraisers, tax collectors, clerks of the court, local  
 1007 | governing boards, the Department of Revenue, and taxpayers.  
 1008 | Additional rights afforded to payors of taxes and assessments  
 1009 | imposed under the revenue laws of this state are provided in s.  
 1010 | 213.015. The rights afforded taxpayers to assure that their  
 1011 | privacy and property are safeguarded and protected during tax  
 1012 | levy, assessment, and collection are available only insofar as  
 1013 | they are implemented in other parts of the Florida Statutes or  
 1014 | rules of the Department of Revenue. The rights so guaranteed to  
 1015 | state taxpayers in the Florida Statutes and the departmental  
 1016 | rules include:

1017 |       (2) THE RIGHT TO DUE PROCESS.--

1018 |       (c) The right to file a petition for exemption or  
 1019 | agricultural classification with the value adjustment board when  
 1020 | an application deadline is missed, upon demonstration of  
 1021 | particular extenuating circumstances for filing late (see ss.  
 1022 | 193.461(3)(a) and 196.011(1), (7), (8), and (9)(d) ~~196.011(1),~~  
 1023 | ~~(7), (8), and (9)(c)~~).

1024 |       Reviser's note.--Amended to confirm the substitution by the  
 1025 | editors of a reference to conform to the redesignation of s.  
 1026 | 196.011(9)(c) as s. 196.011(9)(d) by s. 2, ch. 2007-36, Laws  
 1027 | of Florida.

1028 |       Section 35. Subsection (4) of section 198.13, Florida  
 1029 | Statutes, is amended to read:

1030 |       198.13 Tax return to be made in certain cases; certificate  
 1031 | of nonliability.--

1032 |       (4) Notwithstanding any other provisions of this section  
 1033 | and applicable to the estate of a decedent who dies after  
 1034 | December 31, 2004, if, upon the death of the decedent, a state

8-04063-08

20081678\_\_

1035 death tax credit or a generation-skipping transfer credit is not  
1036 allowable pursuant to the Internal Revenue Code of 1986, as  
1037 amended:

1038 (a) The personal representative of the estate is not  
1039 required to file a return under subsection (1) in connection with  
1040 the estate.

1041 (b) The person who would otherwise be required to file a  
1042 return reporting a generation-skipping transfer under subsection  
1043 (3) is not required to file such a return in connection with the  
1044 estate.

1045

1046 The provisions of this subsection do not apply to estates of  
1047 decedents ~~descendants~~ dying after December 31, 2010.

1048 Reviser's note.--Amended to correct terminology and conform  
1049 to context.

1050 Section 36. Paragraphs (l) and (m) of subsection (8) of  
1051 section 200.001, Florida Statutes, are amended to read:

1052 200.001 Millages; definitions and general provisions.--

1053 (8)

1054 (l) "Maximum total county ad valorem taxes levied" means  
1055 the total taxes levied by a county, municipal service taxing  
1056 units of that county, and special districts dependent to that  
1057 county at their individual maximum millages, calculated pursuant  
1058 to s. 200.065(5) (a) for fiscal years 2009-2010 and thereafter  
1059 and, pursuant to s. 200.185 for fiscal years 2007-2008 and 2008-  
1060 2009, ~~and pursuant to s. 200.186 for fiscal year 2008-2009 if SJR~~  
1061 ~~4B or HJR 3B is approved by a vote of the electors.~~

1062 (m) "Maximum total municipal ad valorem taxes levied" means  
1063 the total taxes levied by a municipality and special districts

8-04063-08

20081678\_\_

1064 dependent to that municipality at their individual maximum  
 1065 millages, calculated pursuant to s. 200.065(5)(b) for fiscal  
 1066 years 2009-2010 and thereafter and, by s. 200.185 for fiscal  
 1067 years 2007-2008 and 2008-2009, ~~and pursuant to s. 200.186 for~~  
 1068 ~~fiscal year 2008-2009 if SJR 4B or HJR 3B is approved by a vote~~  
 1069 ~~of the electors.~~

1070 Reviser's note.--Amended to conform to the fact that Senate  
 1071 Joint Resolution 4B, Special Session B, 2007, did not appear  
 1072 on the ballot for consideration by the electorate due to  
 1073 legal action concerning the ballot language for the proposed  
 1074 amendment. The House companion, House Joint Resolution 3B,  
 1075 did not pass.

1076 Section 37. Subsection (3) of section 202.20, Florida  
 1077 Statutes, is amended to read:

1078 202.20 Local communications services tax conversion  
 1079 rates.--

1080 (3) For any county or school board that levies a  
 1081 discretionary surtax under s. 212.055, the rate of such tax on  
 1082 communications services as authorized by s. 202.19(5) shall be as  
 1083 follows:

1084

County	.5%	1%	1.5%
	Discretionary	Discretionary	Discretionary
	surtax	surtax	surtax
	conversion	conversion	conversion
	rates	rates	rates
1085 Alachua	0.3%	0.6%	0.8%

1086

8-04063-08

20081678\_\_

1087	Baker	0.3%	0.5%	0.8%
1088	Bay	0.3%	0.5%	0.8%
1089	Bradford	0.3%	0.6%	0.8%
1090	Brevard	0.3%	0.6%	0.9%
1091	Broward	0.3%	0.5%	0.8%
1092	Calhoun	0.3%	0.5%	0.8%
1093	Charlotte	0.3%	0.6%	0.9%
1094	Citrus	0.3%	0.6%	0.9%
1095	Clay	0.3%	0.6%	0.8%
1096	Collier	0.4%	0.7%	1.0%
1097	Columbia	0.3%	0.6%	0.9%
1098	<del>Dade</del>	<del>0.3%</del>	<del>0.5%</del>	<del>0.8%</del>
1099	Desoto	0.3%	0.6%	0.8%
1100	Dixie	0.3%	0.5%	0.8%
	Duval	0.3%	0.6%	0.8%

8-04063-08

20081678\_\_

1101	Escambia	0.3%	0.6%	0.9%
1102	Flagler	0.4%	0.7%	1.0%
1103	Franklin	0.3%	0.6%	0.9%
1104	Gadsden	0.3%	0.5%	0.8%
1105	Gilchrist	0.3%	0.5%	0.7%
1106	Glades	0.3%	0.6%	0.8%
1107	Gulf	0.3%	0.5%	0.8%
1108	Hamilton	0.3%	0.6%	0.8%
1109	Hardee	0.3%	0.5%	0.8%
1110	Hendry	0.3%	0.6%	0.9%
1111	Hernando	0.3%	0.6%	0.9%
1112	Highlands	0.3%	0.6%	0.9%
1113	Hillsborough	0.3%	0.6%	0.8%
1114	Holmes	0.3%	0.6%	0.8%
1115				



8-04063-08

20081678\_\_

1116	Indian River	0.3%	0.6%	0.9%
1117	Jackson	0.3%	0.5%	0.7%
1118	Jefferson	0.3%	0.5%	0.8%
1119	Lafayette	0.3%	0.5%	0.7%
1120	Lake	0.3%	0.6%	0.9%
1121	Lee	0.3%	0.6%	0.9%
1122	Leon	0.3%	0.6%	0.8%
1123	Levy	0.3%	0.5%	0.8%
1124	Liberty	0.3%	0.6%	0.8%
1125	Madison	0.3%	0.5%	0.8%
1126	Manatee	0.3%	0.6%	0.8%
1127	Marion	0.3%	0.5%	0.8%
1128	Martin	0.3%	0.6%	0.8%
1129	<u>Miami-Dade</u>	<u>0.3%</u>	<u>0.5%</u>	<u>0.8%</u>
	Monroe	0.3%	0.6%	0.9%

8-04063-08

20081678\_\_

1130	Nassau	0.3%	0.6%	0.8%
1131	Okaloosa	0.3%	0.6%	0.8%
1132	Okeechobee	0.3%	0.6%	0.9%
1133	Orange	0.3%	0.5%	0.8%
1134	Osceola	0.3%	0.5%	0.8%
1135	Palm Beach	0.3%	0.6%	0.8%
1136	Pasco	0.3%	0.6%	0.9%
1137	Pinellas	0.3%	0.6%	0.9%
1138	Polk	0.3%	0.6%	0.8%
1139	Putnam	0.3%	0.6%	0.8%
1140	St. Johns	0.3%	0.6%	0.8%
1141	St. Lucie	0.3%	0.6%	0.8%
1142	Santa Rosa	0.3%	0.6%	0.9%
1143	Sarasota	0.3%	0.6%	0.9%
1144				

8-04063-08

20081678\_\_

1145  
1146  
1147  
1148  
1149  
1150  
1151  
1152  
1153  
1154  
1155  
1156  
1157  
1158  
1159  
1160  
1161  
1162  
1163  
1164

Seminole	0.3%	0.6%	0.8%
Sumter	0.3%	0.5%	0.8%
Suwannee	0.3%	0.6%	0.8%
Taylor	0.3%	0.6%	0.9%
Union	0.3%	0.5%	0.8%
Volusia	0.3%	0.6%	0.8%
Wakulla	0.3%	0.6%	0.9%
Walton	0.3%	0.6%	0.9%
Washington	0.3%	0.5%	0.8%

The discretionary surtax conversion rate with respect to communications services reflected on bills dated on or after October 1, 2001, shall take effect without any further action by a county or school board that has levied a surtax on or before October 1, 2001. For a county or school board that levies a surtax subsequent to October 1, 2001, the discretionary surtax conversion rate with respect to communications services shall take effect upon the effective date of the surtax as provided in s. 212.054. The discretionary sales surtax rate on communications services for a county or school board levying a combined rate which is not listed in the table provided by this subsection

8-04063-08

20081678\_\_

1165 shall be calculated by averaging or adding the appropriate rates  
1166 from the table and rounding up to the nearest tenth of a percent.

1167 Reviser's note.--Amended to conform to the redesignation of  
1168 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
1169 Dade County Code.

1170 Section 38. Paragraph (ccc) of subsection (7) of section  
1171 212.08, Florida Statutes, is amended to read:

1172 212.08 Sales, rental, use, consumption, distribution, and  
1173 storage tax; specified exemptions.--The sale at retail, the  
1174 rental, the use, the consumption, the distribution, and the  
1175 storage to be used or consumed in this state of the following are  
1176 hereby specifically exempt from the tax imposed by this chapter.

1177 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any  
1178 entity by this chapter do not inure to any transaction that is  
1179 otherwise taxable under this chapter when payment is made by a  
1180 representative or employee of the entity by any means, including,  
1181 but not limited to, cash, check, or credit card, even when that  
1182 representative or employee is subsequently reimbursed by the  
1183 entity. In addition, exemptions provided to any entity by this  
1184 subsection do not inure to any transaction that is otherwise  
1185 taxable under this chapter unless the entity has obtained a sales  
1186 tax exemption certificate from the department or the entity  
1187 obtains or provides other documentation as required by the  
1188 department. Eligible purchases or leases made with such a  
1189 certificate must be in strict compliance with this subsection and  
1190 departmental rules, and any person who makes an exempt purchase  
1191 with a certificate that is not in strict compliance with this  
1192 subsection and the rules is liable for and shall pay the tax. The  
1193 department may adopt rules to administer this subsection.

8-04063-08

20081678\_\_

1194 (ccc) Equipment, machinery, and other materials for  
1195 renewable energy technologies.--

1196 1. As used in this paragraph, the term:

1197 a. "Biodiesel" means the mono-alkyl esters of long-chain  
1198 fatty acids derived from plant or animal matter for use as a  
1199 source of energy and meeting the specifications for biodiesel and  
1200 biodiesel blends with petroleum products as adopted by the  
1201 Department of Agriculture and Consumer Services. Biodiesel may  
1202 refer to biodiesel blends designated BXX, where XX represents the  
1203 volume percentage of biodiesel fuel in the blend.

1204 b. "Ethanol" means nominally anhydrous denatured alcohol  
1205 produced by the fermentation of plant sugars meeting the  
1206 specifications for fuel ethanol and fuel ethanol blends with  
1207 petroleum products as adopted by the Department of Agriculture  
1208 and Consumer Services. Ethanol may refer to fuel ethanol blends  
1209 designated EXX, where XX represents the volume percentage of fuel  
1210 ethanol in the blend.

1211 c. "Hydrogen fuel cells" means equipment using hydrogen or  
1212 a hydrogen-rich fuel in an electrochemical process to generate  
1213 energy, electricity, or the transfer of heat.

1214 2. The sale or use of the following in the state is exempt  
1215 from the tax imposed by this chapter:

1216 a. Hydrogen-powered vehicles, materials incorporated into  
1217 hydrogen-powered vehicles, and hydrogen-fueling stations, up to a  
1218 limit of \$2 million in tax each state fiscal year for all  
1219 taxpayers.

1220 b. Commercial stationary hydrogen fuel cells, up to a limit  
1221 of \$1 million in tax each state fiscal year for all taxpayers.

8-04063-08

20081678\_\_

1222 c. Materials used in the distribution of biodiesel (B10-  
1223 B100) and ethanol (E10-E100), including fueling infrastructure,  
1224 transportation, and storage, up to a limit of \$1 million in tax  
1225 each state fiscal year for all taxpayers. Gasoline fueling  
1226 station pump retrofits for ethanol (E10-E100) distribution  
1227 qualify for the exemption provided in this sub-subparagraph.

1228 3. The Department of Environmental Protection shall provide  
1229 to the department a list of items eligible for the exemption  
1230 provided in this paragraph.

1231 4.a. The exemption provided in this paragraph shall be  
1232 available to a purchaser only through a refund of previously paid  
1233 taxes.

1234 b. To be eligible to receive the exemption provided in this  
1235 paragraph, a purchaser shall file an application with the  
1236 Department of Environmental Protection. The application shall be  
1237 developed by the Department of Environmental Protection, in  
1238 consultation with the department, and shall require:

1239 (I) The name and address of the person claiming the refund.

1240 (II) A specific description of the purchase for which a  
1241 refund is sought, including, when applicable, a serial number or  
1242 other permanent identification number.

1243 (III) The sales invoice or other proof of purchase showing  
1244 the amount of sales tax paid, the date of purchase, and the name  
1245 and address of the sales tax dealer from whom the property was  
1246 purchased.

1247 (IV) A sworn statement that the information provided is  
1248 accurate and that the requirements of this paragraph have been  
1249 met.

8-04063-08

20081678\_\_

1250 c. Within 30 days after receipt of an application, the  
1251 Department of Environmental Protection shall review the  
1252 application and shall notify the applicant of any deficiencies.  
1253 Upon receipt of a completed application, the Department of  
1254 Environmental Protection shall evaluate the application for  
1255 exemption and issue a written certification that the applicant is  
1256 eligible for a refund or issue a written denial of such  
1257 certification within 60 days after receipt of the application.  
1258 The Department of Environmental Protection shall provide the  
1259 department with a copy of each certification issued upon approval  
1260 of an application.

1261 d. Each certified applicant shall be responsible for  
1262 forwarding a certified copy of the application and copies of all  
1263 required documentation to the department within 6 months after  
1264 certification by the Department of Environmental Protection.

1265 e. The provisions of former s. 212.095 do not apply to any  
1266 refund application made pursuant to this paragraph. A refund  
1267 approved pursuant to this paragraph shall be made within 30 days  
1268 after formal approval by the department.

1269 f. The department may adopt all rules pursuant to ss.  
1270 120.536(1) and 120.54 to administer this paragraph, including  
1271 rules establishing forms and procedures for claiming this  
1272 exemption.

1273 g. The Department of Environmental Protection shall be  
1274 responsible for ensuring that the total amounts of the exemptions  
1275 authorized do not exceed the limits as specified in subparagraph  
1276 2.

8-04063-08

20081678\_\_

1277 5. The Department of Environmental Protection shall  
1278 determine and publish on a regular basis the amount of sales tax  
1279 funds remaining in each fiscal year.

1280 6. This paragraph expires July 1, 2010.

1281 Reviser's note.--Amended to conform to the repeal of s.  
1282 212.095 by s. 24, ch. 2007-106, Laws of Florida.

1283 Section 39. Paragraphs (c) and (e) of subsection (17) of  
1284 section 215.555, Florida Statutes, are amended to read:

1285 215.555 Florida Hurricane Catastrophe Fund.--

1286 (17) TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.--

1287 (c) Optional coverage.--For the contract year commencing  
1288 June 1, 2007, and ending May 31, 2008, the contract year  
1289 commencing ~~commencing~~ June 1, 2008, and ending May 31, 2009, and  
1290 the contract year commencing June 1, 2009, and ending May 31,  
1291 2010, the board shall offer, for each of such years, the optional  
1292 coverage as provided in this subsection.

1293 (e) TICL options addendum.--

1294 1. The TICL options addendum shall provide for  
1295 reimbursement of TICL insurers for covered events occurring  
1296 between June 1, 2007, and May 31, 2008, and between June 1, 2008,  
1297 and May 31, 2009, or between June 1, 2009, and May 31, 2010, in  
1298 exchange for the TICL reimbursement premium paid into the fund  
1299 under paragraph (f) ~~paragraph (e)~~. Any insurer writing covered  
1300 policies has the option of selecting an increased limit of  
1301 coverage under the TICL options addendum and shall select such  
1302 coverage at the time that it executes the FHCF reimbursement  
1303 contract.

1304 2. The TICL addendum shall contain a promise by the board  
1305 to reimburse the TICL insurer for 45 percent, 75 percent, or 90



8-04063-08

20081678\_\_

1306 percent of its losses from each covered event in excess of the  
1307 insurer's retention, plus 5 percent of the reimbursed losses to  
1308 cover loss adjustment expenses. The percentage shall be the same  
1309 as the coverage level selected by the insurer under paragraph  
1310 (4) (b) .

1311 3. The TICL addendum shall provide that reimbursement  
1312 amounts shall not be reduced by reinsurance paid or payable to  
1313 the insurer from other sources.

1314 4. The priorities, schedule, and method of reimbursements  
1315 under the TICL addendum shall be the same as provided under  
1316 subsection (4) .

1317 Reviser's note.--Paragraph (17) (c) is amended to confirm the  
1318 editorial substitution of the word "commencing" for the word  
1319 "commending" to conform to context. Paragraph (17) (c) is  
1320 also amended to confirm the editorial insertion of the word  
1321 "and" preceding the word "the" to improve clarity and  
1322 facilitate correct interpretation. Paragraph (17) (e) is  
1323 amended to confirm the editorial insertion of the word "and"  
1324 preceding the word "May" to improve clarity and facilitate  
1325 correct interpretation. Paragraph (17) (e) is also amended to  
1326 confirm the editorial substitution of a reference to  
1327 paragraph (f) for a reference to paragraph (e); paragraph  
1328 (17) (f) provides for reimbursement premiums to be paid into  
1329 the fund.

1330 Section 40. Subsection (8) of section 215.5586, Florida  
1331 Statutes, is amended to read:

1332 215.5586 My Safe Florida Home Program.--There is  
1333 established within the Department of Financial Services the My  
1334 Safe Florida Home Program. The department shall provide fiscal

8-04063-08

20081678\_\_

1335 accountability, contract management, and strategic leadership for  
1336 the program, consistent with this section. This section does not  
1337 create an entitlement for property owners or obligate the state  
1338 in any way to fund the inspection or retrofitting of residential  
1339 property in this state. Implementation of this program is subject  
1340 to annual legislative appropriations. It is the intent of the  
1341 Legislature that the My Safe Florida Home Program provide  
1342 inspections for at least 400,000 site-built, single-family,  
1343 residential properties and provide grants to at least 35,000  
1344 applicants before June 30, 2009. The program shall develop and  
1345 implement a comprehensive and coordinated approach for hurricane  
1346 damage mitigation that shall include the following:

1347 (8) NO-INTEREST LOANS.--The department may develop a no-  
1348 interest loan program by December 31, 2007, to encourage the  
1349 private sector to provide loans to owners of site-built, single-  
1350 family, residential property to pay for mitigation measures  
1351 listed in subsection (2). A loan eligible for interest payments  
1352 pursuant to this subsection may be for a term of up to 3 years  
1353 and cover up to \$5,000 in mitigation measures. The department  
1354 shall pay the creditor the market rate of interest using funds  
1355 appropriated for the My Safe Florida Home Program. In no case  
1356 shall the department pay more than the interest rate set by s.  
1357 687.03. To be eligible for a loan, a loan applicant must first  
1358 obtain a home inspection and report that specifies what  
1359 improvements are needed to reduce the property's vulnerability to  
1360 windstorm damage pursuant to this section and meet loan  
1361 underwriting requirements set by the lender. The department may  
1362 set aside up to \$10 million from funds appropriated for the My  
1363 Safe Florida Home Program to implement this subsection. The

8-04063-08

20081678\_\_

1364 department shall adopt rules pursuant to ss. 120.536(1) ~~120.36(1)~~  
1365 and 120.54 to implement this subsection which may include  
1366 eligibility criteria.

1367 Reviser's note.--Amended to confirm the editorial  
1368 substitution of a reference to s. 120.536(1) for a reference  
1369 to s. 120.36(1) to correct an apparent error. Section 120.36  
1370 does not exist; s. 120.536(1) provides for an agency's  
1371 rulemaking authority to adopt rules.

1372 Section 41. Paragraph (a) of subsection (2) and subsection  
1373 (7) of section 215.559, Florida Statutes, are reenacted to read:  
1374 215.559 Hurricane Loss Mitigation Program.--

1375 (2) (a) Seven million dollars in funds provided in  
1376 subsection (1) shall be used for programs to improve the wind  
1377 resistance of residences and mobile homes, including loans,  
1378 subsidies, grants, demonstration projects, and direct assistance;  
1379 educating persons concerning the Florida Building Code  
1380 cooperative programs with local governments and the Federal  
1381 Government; and other efforts to prevent or reduce losses or  
1382 reduce the cost of rebuilding after a disaster.

1383 (7) On January 1st of each year, the Department of  
1384 Community Affairs shall provide a full report and accounting of  
1385 activities under this section and an evaluation of such  
1386 activities to the Speaker of the House of Representatives, the  
1387 President of the Senate, and the Majority and Minority Leaders of  
1388 the House of Representatives and the Senate. Upon completion of  
1389 the report, the Department of Community Affairs shall deliver the  
1390 report to the Office of Insurance Regulation. The Office of  
1391 Insurance Regulation shall review the report and shall make such  
1392 recommendations available to the insurance industry as the Office

8-04063-08

20081678\_\_

1393 of Insurance Regulation deems appropriate. These recommendations  
1394 may be used by insurers for potential discounts or rebates  
1395 pursuant to s. 627.0629. The Office of Insurance Regulation shall  
1396 make the recommendations within 1 year after receiving the  
1397 report.

1398 Reviser's note.--Paragraph (2)(a) and subsection (7) are  
1399 reenacted to conform to the validity of the amendments to  
1400 those provisions by s. 1, ch. 2005-147, Laws of Florida. The  
1401 Governor vetoed the specific appropriation in s. 1, ch.  
1402 2005-147, Laws of Florida. The Governor's veto message  
1403 states that he is withholding "approval of section 1," but  
1404 the message goes on to set out the vetoed language, which is  
1405 only the amendment to subsection (5).

1406 Section 42. Paragraph (a) of subsection (16) and paragraph  
1407 (a) of subsection (17) of section 218.415, Florida Statutes, are  
1408 amended to read:

1409 218.415 Local government investment policies.--Investment  
1410 activity by a unit of local government must be consistent with a  
1411 written investment plan adopted by the governing body, or in the  
1412 absence of the existence of a governing body, the respective  
1413 principal officer of the unit of local government and maintained  
1414 by the unit of local government or, in the alternative, such  
1415 activity must be conducted in accordance with subsection (17).  
1416 Any such unit of local government shall have an investment policy  
1417 for any public funds in excess of the amounts needed to meet  
1418 current expenses as provided in subsections (1)-(16), or shall  
1419 meet the alternative investment guidelines contained in  
1420 subsection (17). Such policies shall be structured to place the  
1421 highest priority on the safety of principal and liquidity of

8-04063-08

20081678\_\_

1422 funds. The optimization of investment returns shall be secondary  
1423 to the requirements for safety and liquidity. Each unit of local  
1424 government shall adopt policies that are commensurate with the  
1425 nature and size of the public funds within its custody.

1426 (16) AUTHORIZED INVESTMENTS; WRITTEN INVESTMENT  
1427 POLICIES.--Those units of local government electing to adopt a  
1428 written investment policy as provided in subsections (1)-(15) may  
1429 by resolution invest and reinvest any surplus public funds in  
1430 their control or possession in:

1431 (a) The Local Government Surplus Funds Trust Fund or any  
1432 intergovernmental investment pool authorized pursuant to the  
1433 Florida Interlocal Cooperation Act of 1969, as provided in s.  
1434 163.01.

1435 (17) AUTHORIZED INVESTMENTS; NO WRITTEN INVESTMENT  
1436 POLICY.--Those units of local government electing not to adopt a  
1437 written investment policy in accordance with investment policies  
1438 developed as provided in subsections (1)-(15) may invest or  
1439 reinvest any surplus public funds in their control or possession  
1440 in:

1441 (a) The Local Government Surplus Funds Trust Fund, or any  
1442 intergovernmental investment pool authorized pursuant to the  
1443 Florida Interlocal Cooperation Act of 1969, as provided in s.  
1444 163.01.

1445

1446 The securities listed in paragraphs (c) and (d) shall be invested  
1447 to provide sufficient liquidity to pay obligations as they come  
1448 due.

8-04063-08

20081678\_\_

1449 Reviser's note.--Amended to conform to the name of the  
1450 Florida Interlocal Cooperation Act of 1969 as referenced in  
1451 s. 163.01.

1452 Section 43. Subsection (4) of section 222.25, Florida  
1453 Statutes, is amended to read:

1454 222.25 Other individual property of natural persons exempt  
1455 from legal process.--The following property is exempt from  
1456 attachment, garnishment, or other legal process:

1457 (4) A debtor's interest in personal property, not to exceed  
1458 \$4,000, if the debtor does not claim or receive the benefits of a  
1459 homestead exemption under s. 4, Art. X of the State ~~Florida~~  
1460 Constitution. This exemption does not apply to a debt owed for  
1461 child support or spousal support.

1462 Reviser's note.--Amended to confirm the editorial  
1463 substitution of the word "State" for the word "Florida" for  
1464 contextual consistency.

1465 Section 44. Section 250.83, Florida Statutes, is amended to  
1466 read:

1467 250.83 Construction of part.--In the event that any other  
1468 provision of law conflicts with SCRA ~~SSCRA~~, USERRA, or the  
1469 provisions of this chapter, the provisions of SCRA ~~SSCRA~~, USERRA,  
1470 or the provisions of this chapter, whichever is applicable, shall  
1471 control. Nothing in this part shall construe rights or  
1472 responsibilities not provided under the SCRA ~~SSCRA~~, USERRA, or  
1473 this chapter.

1474 Reviser's note.--Amended to conform to the redesignation of  
1475 the federal act in Title 50 United States Code.

1476 Section 45. Subsections (3) and (4) of section 253.033,  
1477 Florida Statutes, are amended to read:

8-04063-08

20081678\_\_

1478 253.033 Inter-American Center property; transfer to board;  
1479 continued use for government purposes.--

1480 (3) (a) Except as provided in this subsection, in no event  
1481 shall any of the lands known as "the Graves tract," including,  
1482 without limitation, the land previously transferred to the City  
1483 of Miami and Miami-Dade ~~Dade~~ County by the Inter-American Center  
1484 Authority and the lands transferred pursuant to this act, be used  
1485 for other than public purposes. However, the portion of "the  
1486 Graves tract" owned by the City of North Miami on the effective  
1487 date of this act or subsequently acquired by the city shall not  
1488 be subject to such public purpose use restriction and may be used  
1489 for any purpose in accordance with local building and zoning  
1490 regulations.

1491 (b)1. Notwithstanding any provision of paragraph (a) or any  
1492 other law to the contrary, the Board of Trustees of the Internal  
1493 Improvement Trust Fund shall convey and transfer to the City of  
1494 North Miami as soon as feasible that portion of "the Graves  
1495 tract" described in this paragraph as set forth with  
1496 particularity in s. 1, chapter 85-201, Laws of Florida, along  
1497 with that certain additional portion of "the Graves tract"  
1498 described as follows: Commencing at the center of Section 21,  
1499 Township 52S., Range 42E., Miami-Dade ~~Dade~~ County, Florida, run  
1500 South 87°-38'-50" West, 180.0 feet to the point of beginning of a  
1501 parcel of land described as follows: run South 87°-38'-50" West  
1502 804.17 feet to the east right-of-way line of State Road #5,  
1503 thence run South 15°-20'-05" West for a distance of 206.85 feet,  
1504 thence run North 87°-45'-31" East for a distance of 751.20 feet,  
1505 thence run North 27°-50'-00" East for a distance of 229.47 feet  
1506 to the point of beginning, such parcel containing 3.89 acres more

8-04063-08

20081678\_\_

1507 or less, except for that certain portion thereof which the  
1508 Department of Transportation has reserved for right-of-way for  
1509 transportation facilities.

1510 2. Upon the recordation in the Official Records of Miami-  
1511 Dade ~~Dade~~ County, Florida, by the Department of Transportation of  
1512 a right-of-way map for State Road #5, which reserves a portion of  
1513 the lands described in subparagraph 1., which said portion  
1514 reserved is within, but smaller than, the portion reserved from  
1515 the conveyance required by subparagraph 1. as accomplished by  
1516 instrument recorded in page 30 of Official Record Book 14405 of  
1517 the Official Records of Miami-Dade ~~Dade~~ County, Florida, as Deed  
1518 No. 28289, pursuant to chapter 89-246, Laws of Florida, the Board  
1519 of Trustees of the Internal Improvement Trust Fund shall convey  
1520 and transfer to the City of North Miami as soon as feasible that  
1521 additional portion of "the Graves tract" which consists of:  
1522 Parcel No. 1, 'Interama Tract' Right-of-Way Reservation for State  
1523 Road #5, together with Parcel No. 2, 'Interama Tract' Right-of-  
1524 Way Reservation for State Road #5 as described in that certain  
1525 instrument of conveyance referred to in this subparagraph as Deed  
1526 No. 28289, less and except that certain portion of said Parcels  
1527 No. 1 and No. 2 which is, after the effective date of this act,  
1528 reserved for right-of-way for transportation facilities in a  
1529 right-of-way map or like instrument hereafter filed and recorded  
1530 by the Department of Transportation in the official records, so  
1531 that the City of North Miami obtains title to those additional  
1532 lands which are not necessary to be reserved for right-of-way for  
1533 transportation facilities.

1534 3. The City of North Miami shall not be required to pay any  
1535 monetary consideration for the conveyances of land specified in



8-04063-08

20081678\_\_

1536 | this paragraph, since these conveyances are in mitigation of the  
1537 | loss sustained by the city upon dissolution of the Inter-American  
1538 | Center Authority pursuant to s. 1 of chapter 75-131, Laws of  
1539 | Florida.

1540 |         (4) The Board of Trustees of the Internal Improvement Trust  
1541 | Fund may lease to Miami-Dade ~~Dade~~ County approximately 300 acres  
1542 | of land, and approximately 90 acres of abutting lagoon and  
1543 | waterways, designated as the Primary Development Area, and may  
1544 | also transfer to Miami-Dade ~~Dade~~ County all or any part of the  
1545 | plans, drawings, maps, etc., of the Inter-American Center  
1546 | Authority existing at the date of transfer, provided Miami-Dade  
1547 | ~~Dade~~ County:

1548 |         (a) Assumes responsibilities of the following agreements:

1549 |         1. That certain agreement entered into on June 12, 1972,  
1550 | between the City of Miami and Inter-American Center Authority  
1551 | whereby the authority agreed to repurchase, with revenues derived  
1552 | from the net operating revenue of the project developed on the  
1553 | leased lands after expenses and debt service requirements, the  
1554 | approximately 93 acres of lands previously deeded to the City of  
1555 | Miami as security for repayment of the \$8,500,000 owed by the  
1556 | authority to the City of Miami. Title to the land repurchased  
1557 | pursuant to the provisions of this subsection shall be conveyed  
1558 | to the State of Florida.

1559 |         2. Those certain rights granted to the City of North Miami  
1560 | pursuant to the provisions of former s. 554.29(1)(a) and former  
1561 | s. 554.30 obligating the authority to issue a revenue bond to the  
1562 | City of North Miami, containing provisions to be determined by  
1563 | Miami-Dade ~~Dade~~ County, to be repaid from all ad valorem taxes,  
1564 | occupational license fees, franchise taxes, utility taxes, and

8-04063-08

20081678\_\_

1565 cigarette taxes which would have accrued to the authority or the  
1566 City of North Miami by nature of property owned by the authority  
1567 having been in the City of North Miami and from the excess  
1568 revenue after operating expenses, development cost and debt  
1569 service requirements, of the project developed on the leased  
1570 lands.

1571 (b) Develops a plan for the use of the land that meets the  
1572 approval of the Board of Trustees of the Internal Improvement  
1573 Trust Fund or that meets the following purposes heretofore  
1574 authorized:

1575 1. To provide a permanent international center which will  
1576 serve as a meeting ground for the governments and industries of  
1577 the Western Hemisphere and of other areas of the world.

1578 2. To facilitate broad and continuous exchanges of ideas,  
1579 persons, and products through cultural, educational, and other  
1580 exchanges.

1581 3. By appropriate means, to promote mutual understanding  
1582 between the peoples of the Western Hemisphere and to strengthen  
1583 the ties which unite the United States with other nations of the  
1584 free world.

1585  
1586 Any property leased under this subsection shall not be leased for  
1587 less than fair market value.

1588 Reviser's note.--Amended to conform to the redesignation of  
1589 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
1590 Dade County Code.

1591 Section 46. Paragraph (g) of subsection (6) of section  
1592 253.034, Florida Statutes, is amended to read:

1593 253.034 State-owned lands; uses.--

8-04063-08

20081678\_\_

1594 (6) The Board of Trustees of the Internal Improvement Trust  
1595 Fund shall determine which lands, the title to which is vested in  
1596 the board, may be surplus. For conservation lands, the board  
1597 shall make a determination that the lands are no longer needed  
1598 for conservation purposes and may dispose of them by an  
1599 affirmative vote of at least three members. In the case of a land  
1600 exchange involving the disposition of conservation lands, the  
1601 board must determine by an affirmative vote of at least three  
1602 members that the exchange will result in a net positive  
1603 conservation benefit. For all other lands, the board shall make a  
1604 determination that the lands are no longer needed and may dispose  
1605 of them by an affirmative vote of at least three members.

1606 (g) The sale price of lands determined to be surplus  
1607 pursuant to this subsection shall be determined by the division  
1608 and shall take into consideration an appraisal of the property,  
1609 or, when the estimated value of the land is less than \$100,000, a  
1610 comparable sales analysis or a broker's opinion of value, and the  
1611 price paid by the state to originally acquire the lands.

1612 1.a. A written valuation of land determined to be surplus  
1613 pursuant to this subsection, and related documents used to form  
1614 the valuation or which pertain to the valuation, are confidential  
1615 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
1616 Constitution until 2 weeks before the contract or agreement  
1617 regarding the purchase, exchange, or disposal of the surplus land  
1618 is first considered for approval by the board. Notwithstanding  
1619 the exemption provided under this subparagraph, the division may  
1620 disclose appraisals, valuations, or valuation information  
1621 regarding surplus land during negotiations for the sale or  
1622 exchange of the land, during the marketing effort or bidding

8-04063-08

20081678\_\_

1623 process associated with the sale, disposal, or exchange of the  
1624 land to facilitate closure of such effort or process, when the  
1625 passage of time has made the conclusions of value invalid, or  
1626 when negotiations or marketing efforts concerning the land are  
1627 concluded.

1628       b. This subparagraph is subject to the Open Government  
1629 Sunset Review Act ~~of 1995~~ in accordance with s. 119.15, and shall  
1630 stand repealed on October 2, 2009, unless reviewed and saved from  
1631 repeal through reenactment by the Legislature.

1632       2. A unit of government that acquires title to lands  
1633 hereunder for less than appraised value may not sell or transfer  
1634 title to all or any portion of the lands to any private owner for  
1635 a period of 10 years. Any unit of government seeking to transfer  
1636 or sell lands pursuant to this paragraph shall first allow the  
1637 board of trustees to reacquire such lands for the price at which  
1638 the board sold such lands.

1639       Reviser's note.--Amended to conform to the renaming of the  
1640 "Open Government Sunset Review Act of 1995" as the "Open  
1641 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws  
1642 of Florida.

1643       Section 47. Subsection (2) of section 257.38, Florida  
1644 Statutes, is amended to read:

1645       257.38 Manuscripts or other archival material held by local  
1646 government; public records exemption.--

1647       (2) Subsection (1) is subject to the Open Government Sunset  
1648 Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand  
1649 repealed on October 2, 2009, unless reviewed and saved from  
1650 repeal through reenactment by the Legislature.

8-04063-08

20081678\_\_

1651 Reviser's note.--Amended to conform to the renaming of the  
1652 "Open Government Sunset Review Act of 1995" as the "Open  
1653 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws  
1654 of Florida.

1655 Section 48. Subsection (5) of section 258.001, Florida  
1656 Statutes, is amended to read:

1657 258.001 Park regions.--For the purpose of administering  
1658 this chapter, regulating the public parks, monuments and  
1659 memorials of this state, the state is divided into five park  
1660 regions which are defined as:

1661 (5) FIFTH REGION.--The Counties of Lee, Hendry, Palm Beach,  
1662 Collier, Broward, Miami-Dade ~~Dade~~, and Monroe shall constitute  
1663 the Fifth Park Region.

1664 Reviser's note.--Amended to conform to the redesignation of  
1665 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
1666 Dade County Code.

1667 Section 49. Section 258.11, Florida Statutes, is amended to  
1668 read:

1669 258.11 Land ceded for Royal Palm State Park;  
1670 proviso.--Section fifteen, and the north half of section twenty-  
1671 two of township fifty-eight south, range thirty-seven east,  
1672 situated in Miami-Dade ~~Dade~~ County, is ceded to the Florida  
1673 Federation of Women's Clubs and designated as the "Royal Palm  
1674 State Park," to be cared for, protected, and to remain in the  
1675 full possession and enjoyment, with all the possessory rights and  
1676 privileges thereunto, belonging to the Florida Federation of  
1677 Women's Clubs, for the purpose of a state park, for the benefit  
1678 and use of all the people of Florida, perpetually; provided, that  
1679 the Florida Federation of Women's Clubs shall procure a deed to

8-04063-08

20081678\_\_

1680 960 acres of land in Miami-Dade ~~Dade~~ County, in the vicinity of  
1681 said state park, suitable for agricultural purposes, conveying to  
1682 said Florida Federation of Women's Clubs fee simple title  
1683 thereto, said land to be used as an endowment for the perpetual  
1684 use and benefit of the said park, its protection, improvement and  
1685 the beautifying thereof, including the construction of roads and  
1686 other improvements, either in kind or by the use of the rents and  
1687 profits accruing therefrom, or the proceeds of sale thereof or  
1688 any part of said endowment tract.

1689 Reviser's note.--Amended to conform to the redesignation of  
1690 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
1691 Dade County Code.

1692 Section 50. Section 258.12, Florida Statutes, is amended to  
1693 read:

1694 258.12 Additional lands ceded for Royal Palm State  
1695 Park.--For the use and benefit of all the people of the state,  
1696 the state cedes to the Florida Federation of Women's Clubs the  
1697 south half of section ten, southwest quarter of section eleven,  
1698 west half of section fourteen, west half of section twenty-three,  
1699 south half of section twenty-two, northwest quarter of section  
1700 twenty-seven, north half of section twenty-eight, and northeast  
1701 quarter of section twenty-nine, township fifty-eight south, range  
1702 thirty-seven east, situated in Miami-Dade ~~Dade~~ County, as  
1703 additional acreage to "Royal Palm State Park," to be cared for  
1704 and remain in the full possession and enjoyment of said Florida  
1705 Federation of Women's Clubs, with all the possessory rights and  
1706 privileges to the same belonging or in anywise appertaining;  
1707 provided, that said land is granted to the said Florida  
1708 Federation of Women's Clubs upon the express condition that said

8-04063-08

20081678\_\_

1709 land and every part thereof shall be used as a state park for the  
1710 use and benefit of all the people of Florida, and for no other  
1711 purpose; and in the event said grantee shall permit or suffer the  
1712 use of said land for any other purpose, or shall discontinue the  
1713 use thereof for such purpose, such misuse or discontinuance shall  
1714 operate as a defeasance and said land and every part thereof  
1715 shall revert to the state.

1716 Reviser's note.--Amended to conform to the redesignation of  
1717 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
1718 Dade County Code.

1719 Section 51. Section 258.39, Florida Statutes, is amended to  
1720 read:

1721 258.39 Boundaries of preserves.--The submerged lands  
1722 included within the boundaries of Nassau, Duval, St. Johns,  
1723 Flagler, Volusia, Brevard, Indian River, St. Lucie, Charlotte,  
1724 Pinellas, Martin, Palm Beach, Miami-Dade ~~Dade~~, Monroe, Collier,  
1725 Lee, Citrus, Franklin, Gulf, Bay, Okaloosa, Marion, Santa Rosa,  
1726 Hernando, and Escambia Counties, as hereinafter described, with  
1727 the exception of privately held submerged lands lying landward of  
1728 established bulkheads and of privately held submerged lands  
1729 within Monroe County where the establishment of bulkhead lines is  
1730 not required, are hereby declared to be aquatic preserves. Such  
1731 aquatic preserve areas include:

1732 (1) The Fort Clinch State Park Aquatic Preserve, as  
1733 described in the Official Records of Nassau County in Book 108,  
1734 pages 343-346, and in Book 111, page 409.

1735 (2) Nassau River-St. Johns River Marshes Aquatic Preserve,  
1736 as described in the Official Records of Duval County in Volume

8-04063-08

20081678\_\_

1737 3183, pages 547-552, and in the Official Records of Nassau County  
1738 in Book 108, pages 232-237.

1739 (3) Pellicer Creek Aquatic Preserve, as described in the  
1740 Official Records of St. Johns County in Book 181, pages 363-366,  
1741 and in the Official Records of Flagler County in Book 33, pages  
1742 131-134.

1743 (4) Tomoka Marsh Aquatic Preserve, as described in the  
1744 Official Records of Flagler County in Book 33, pages 135-138, and  
1745 in the Official Records of Volusia County in Book 1244, pages  
1746 615-618.

1747 (5) Mosquito Lagoon Aquatic Preserve, as described in the  
1748 Official Records of Volusia County in Book 1244, pages 619-623,  
1749 and in the Official Records of Brevard County in Book 1143, pages  
1750 190-194.

1751 (6) Banana River Aquatic Preserve, as described in the  
1752 Official Records of Brevard County in Book 1143, pages 195-198,  
1753 and the sovereignty submerged lands lying within the following  
1754 described boundaries: BEGIN at the intersection of the westerly  
1755 ordinary high water line of Newfound Harbor with the North line  
1756 of Section 12, Township 25 South, Range 36 East, Brevard County:  
1757 Thence proceed northeasterly crossing Newfound Harbor to the  
1758 intersection of the South line of Section 31, Township 24 South,  
1759 Range 37 East, with the easterly ordinary high water line of said  
1760 Newfound Harbor; thence proceed northerly along the easterly  
1761 ordinary high water line of Newfound Harbor to its intersection  
1762 with the easterly ordinary high water line of Sykes Creek; thence  
1763 proceed northerly along the easterly ordinary high water line of  
1764 said creek to its intersection with the southerly right-of-way of  
1765 Hall Road; thence proceed westerly along said right-of-way to the



8-04063-08

20081678\_\_

1766 westerly ordinary high water line of Sykes Creek; thence  
1767 southerly along said ordinary high water line to its intersection  
1768 with the ordinary high water line of Newfound Harbor; thence  
1769 proceed southerly along the westerly ordinary high water line of  
1770 Newfound Harbor to the POINT OF BEGINNING.

1771 (7) (a) Indian River-Malabar to Vero Beach Aquatic Preserve,  
1772 as described in the Official Records of Brevard County in Book  
1773 1143, pages 199-202, and in the Official Records of Indian River  
1774 County in Book 368, pages 5-8 and the sovereignty submerged lands  
1775 lying within the following described boundaries, excluding those  
1776 lands contained within the corporate boundary of the City of Vero  
1777 Beach as of the effective date of this act: Commence at the  
1778 intersection of the north line of Section 31, Township 28 South,  
1779 Range 38 East, and the westerly mean high water line of Indian  
1780 River for a point of beginning; thence from the said point of  
1781 beginning proceed northerly, westerly, and easterly along the  
1782 mean high water line of Indian River and its navigable  
1783 tributaries to an intersection with the north line of Section 24,  
1784 Township 28 South, Range 37 East; thence proceed easterly, to a  
1785 point on the easterly mean high water line of Indian River at its  
1786 intersection with the north line of Section 20, Township 28  
1787 South, Range 38 East; thence proceed southerly, along the  
1788 easterly mean high water line of Indian River to the most  
1789 westerly tip of Blue Fish Point in said Section 20, thence  
1790 proceed southwesterly to the intersection of the westerly mean  
1791 high water line of Indian River with the north line of Section  
1792 31, Township 28 South, Range 38 East and the point of beginning:  
1793 And also commence at the intersection of the northern Vero Beach  
1794 city limits line in Section 25, Township 32 South, Range 39 East,

8-04063-08

20081678\_\_

1795 and the westerly mean high water line of Indian River for the  
1796 point of beginning: Thence from the said point of beginning  
1797 proceed northerly, along the westerly mean high water line of  
1798 Indian River and its navigable tributaries to an intersection  
1799 with the south line of Section 14, Township 30 South, Range 38  
1800 East; thence proceed easterly, along the easterly projection of  
1801 the south line of said Section 14, to an intersection with the  
1802 easterly right-of-way line of the Intracoastal Waterway; thence  
1803 proceed southerly, along the easterly right-of-way line of the  
1804 Intracoastal Waterway, to an intersection with the northerly line  
1805 of the Pelican Island National Wildlife Refuge; thence proceed  
1806 easterly, along the northerly line of the Pelican Island National  
1807 Wildlife Refuge, to an intersection with the easterly mean high  
1808 water line of Indian River; thence proceed southerly along the  
1809 easterly mean high water line of Indian River and its  
1810 tributaries, to an intersection with the northern Vero Beach city  
1811 limits line in Section 30, Township 32 South, Range 40 East;  
1812 thence proceed westerly and southerly, along the northern Vero  
1813 Beach city limits line to an intersection with the easterly mean  
1814 high water line of Indian River and the point of beginning.

1815 (b) For purposes of the Indian River-Malabar to Vero Beach  
1816 Aquatic Preserve, a lease of sovereign submerged lands for a  
1817 noncommercial dock may be deemed to be in the public interest  
1818 when the noncommercial dock constitutes a reasonable exercise of  
1819 riparian rights and is consistent with the preservation of the  
1820 exceptional biological, aesthetic, or scientific values which the  
1821 aquatic preserve was created to protect.

1822 (8) Indian River-Vero Beach to Fort Pierce Aquatic  
1823 Preserve, as described in the Official Records of Indian River

8-04063-08

20081678\_\_

1824 County in Book 368, pages 9-12, and in the Official Records of  
1825 St. Lucie County in Book 187, pages 1083-1086. More specifically,  
1826 within that description, the southern corporate line of Vero  
1827 Beach refers to the southerly corporate boundary line of Vero  
1828 Beach as it existed on June 3, 1970, which is also a westerly  
1829 projection of the south boundary of "Indian Bay" subdivision as  
1830 recorded in Plat Book 3, page 43, Docket No. 59267, Public  
1831 Records of Indian River County, and State Road A1A refers to  
1832 State Road A1A, North Beach Causeway, located north of Fort  
1833 Pierce Inlet.

1834 (9) Jensen Beach to Jupiter Inlet Aquatic Preserve, as  
1835 described in the Official Records of St. Lucie County in Book  
1836 218, pages 2865-2869. More specifically, within that description,  
1837 the southerly corporate line of the City of Fort Pierce refers to  
1838 the southerly corporate boundary line of the City of Fort Pierce  
1839 as it existed in 1969; and the western boundary of the preserve  
1840 as it crosses the St. Lucie River is more specifically described  
1841 as a line which connects the intersection point of the westerly  
1842 mean high-water line of the Indian River and the northerly mean  
1843 high-water line of the St. Lucie River to the intersection point  
1844 of the intersection of the westerly mean high-water line of the  
1845 Intracoastal Waterway and the southerly mean high-water line of  
1846 the St. Lucie River, lands within this preserve are more  
1847 particularly described as lying and being in Sections 12, 13, 26,  
1848 35, and 36, Township 35 South, Range 40 East, and Sections 18,  
1849 19, 29, 30, and 32, Township 35 South, Range 41 East, and  
1850 Sections 1 and 12, Township 36 South, Range 40 East, and Sections  
1851 5, 7, 8, 9, 16, 17, 18, 19, 20, 22, 27, 29, 32, and 34, Township  
1852 36 South, Range 41 East, and Sections 2, 3, 4, 9, 10, 11, 13, 14,

8-04063-08

20081678\_\_

1853 15, 22, 23, 24, 26, 35, and 36, Township 37 South, Range 41 East,  
1854 and Sections 19, 30, 31, and 32, Township 37 South, Range 42  
1855 East, and Sections 1 and 12, Township 38 South, Range 41 East,  
1856 and Sections 5, 6, 8, 16, 17, 19, 20, 21, 28, 29, 32, and 33,  
1857 Township 38 South, Range 42 East, including the eastern portion  
1858 of the Hanson Grant, east of Rocky Point Cove, and west of St.  
1859 Lucie Inlet State Park, and portions of the Gomez Grant lying  
1860 adjacent to Peck Lake and South Jupiter Narrows, and Sections 25,  
1861 26, 35, and 36, Township 39 South, Range 42 East, and Sections 1,  
1862 12, and 13, Township 40 South, Range 42 East, and Sections 7, 18,  
1863 19, 30, 31, and 32, Township 40 South, Range 43 East.

1864 (10) Loxahatchee River-Lake Worth Creek Aquatic Preserve,  
1865 as described in the Official Records of Martin County in Book  
1866 320, pages 193-196, and in the Official Records of Palm Beach  
1867 County in Volume 1860, pages 806-809, and the sovereignty  
1868 submerged lands lying within the following described boundaries:  
1869 Begin at the intersection of the easterly mean high water line of  
1870 the North Fork of the Loxahatchee River with the northerly mean  
1871 high water line of the Loxahatchee River, being in Section 36,  
1872 Township 40 South, Range 43 East, Palm Beach County: Thence  
1873 proceed easterly along the northerly mean high water line of the  
1874 Loxahatchee River to the westerly right-of-way of U.S. Highway 1;  
1875 thence proceed southerly along said right-of-way to the southerly  
1876 mean high water line of said river; thence proceed easterly along  
1877 the southerly mean high water line of said river to its  
1878 intersection with the easterly mean high water line of the Lake  
1879 Worth Creek; thence proceed northwesterly crossing the  
1880 Loxahatchee River to the point of beginning: And also: Commence  
1881 at the southwest corner of Section 16, Township 40 South, Range

8-04063-08

20081678\_\_

1882 42 East Martin County; thence proceed north along the west line  
1883 of Section 16 to the mean high water line of the Loxahatchee  
1884 River being the point of beginning: Thence proceed southerly  
1885 along the easterly mean high water line of said river and its  
1886 tributaries to a point of nonnavigability; thence proceed  
1887 westerly to the westerly mean high water line of said river;  
1888 thence proceed northerly along the westerly mean high water line  
1889 of said river and its tributaries to its intersection with the  
1890 westerly line of Section 16, Township 40 South, Range 42 East;  
1891 thence proceed southerly along the said westerly section line to  
1892 the point of beginning: And also begin where the southerly mean  
1893 high water line of the Southwest Fork of the Loxahatchee River  
1894 intersects the westerly line of Section 35, Township 40 South,  
1895 Range 42 East: Thence proceed southwesterly along the southerly  
1896 mean high water line of the Southwest Fork to the northeasterly  
1897 face of structure #46; thence proceed northwesterly along the  
1898 face of said structure to the northerly mean high water line of  
1899 the Southwest Fork; thence proceed northeasterly along said mean  
1900 high water line to its intersection with the westerly line of  
1901 Section 35, Township 40 South, Range 42 East; thence proceed  
1902 southerly along westerly line of said section to the point of  
1903 beginning.

1904 (11) Biscayne Bay-Cape Florida to Monroe County Line  
1905 Aquatic Preserve, as described in the Official Records of Miami-  
1906 Dade ~~Dade~~ County in Book 7055, pages 852-856, less, however,  
1907 those lands and waters as described in s. 258.397.

1908 (12) North Fork, St. Lucie Aquatic Preserve, as described  
1909 in the Official Records of Martin County in Book 337, pages 2159-

8-04063-08

20081678\_\_

1910 2162, and in the Official Records of St. Lucie County in Book  
1911 201, pages 1676-1679.

1912 (13) Yellow River Marsh Aquatic Preserve, as described in  
1913 the Official Records of Santa Rosa County in Book 206, pages 568-  
1914 571.

1915 (14) Fort Pickens State Park Aquatic Preserve, as described  
1916 in the Official Records of Santa Rosa County in Book 220, pages  
1917 60-63, and in the Official Records of Escambia County in Book  
1918 518, pages 659-662.

1919 (15) Rocky Bayou State Park Aquatic Preserve, as described  
1920 in the Official Records of Okaloosa County in Book 593, pages  
1921 742-745.

1922 (16) St. Andrews State Park Aquatic Preserve, as described  
1923 in the Official Records of Bay County in Book 379, pages 547-550.

1924 (17) St. Joseph Bay Aquatic Preserve, as described in the  
1925 Official Records of Gulf County in Book 46, pages 73-76.

1926 (18) Apalachicola Bay Aquatic Preserve, as described in the  
1927 Official Records of Gulf County in Book 46, pages 77-81, and in  
1928 the Official Records of Franklin County in Volume 98, pages 102-  
1929 106.

1930 (19) Alligator Harbor Aquatic Preserve, as described in the  
1931 Official Records of Franklin County in Volume 98, pages 82-85.

1932 (20) St. Martins Marsh Aquatic Preserve, as described in  
1933 the Official Records of Citrus County in Book 276, pages 238-241.

1934 (21) Matlacha Pass Aquatic Preserve, as described in the  
1935 Official Records of Lee County in Book 800, pages 725-728.

1936 (22) Pine Island Sound Aquatic Preserve, as described in  
1937 the Official Records of Lee County in Book 648, pages 732-736.

8-04063-08

20081678\_\_

1938 (23) Cape Romano-Ten Thousand Islands Aquatic Preserve, as  
1939 described in the Official Records of Collier County in Book 381,  
1940 pages 298-301.

1941 (24) Lignumvitae Key Aquatic Preserve, as described in the  
1942 Official Records of Monroe County in Book 502, pages 139-142.

1943 (25) Coupon Bight Aquatic Preserve, as described in the  
1944 Official Records of Monroe County in Book 502, pages 143-146.

1945 (26) Lake Jackson Aquatic Preserve, as established by  
1946 chapter 73-534, Laws of Florida, and defined as authorized by  
1947 law.

1948 (27) Pinellas County Aquatic Preserve, as established by  
1949 chapter 72-663, Laws of Florida; Boca Ciega Aquatic Preserve, as  
1950 established by s. 258.396; and the Biscayne Bay Aquatic Preserve,  
1951 as established by s. 258.397. If any provision of this act is in  
1952 conflict with an aquatic preserve established by s. 258.396,  
1953 chapter 72-663, Laws of Florida, or s. 258.397, the stronger  
1954 provision for the maintenance of the aquatic preserve shall  
1955 prevail.

1956 (28) Estero Bay Aquatic Preserve, the boundaries of which  
1957 are generally: All of those sovereignty submerged lands located  
1958 bayward of the mean high-water line being in Sections 13, 14, 15,  
1959 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 35, and 36, Township 46  
1960 South, Range 24 East; and in Sections 19, 20, 28, 29, and 34,  
1961 Township 46 South, Range 24 East, lying north and east of  
1962 Matanzas Pass Channel; and in Sections 19, 30, and 31, Township  
1963 46 South, Range 25 East; and in Sections 6, 7, 17, 18, 19, 20,  
1964 29, 30, 31, and 32, Township 47 South, Range 25 East; and in  
1965 Sections 1, 2, 3, 11, 12, 13, 14, 24, and 25, Township 47 South,  
1966 Range 24 East, in Lee County, Florida. Any and all submerged

8-04063-08

20081678\_\_

1967 | lands conveyed by the Trustees of the Internal Improvement Trust  
1968 | Fund prior to October 12, 1966, and any and all uplands now in  
1969 | private ownership are specifically exempted from this preserve.

1970 |       (29) Cape Haze Aquatic Preserve, the boundaries of which  
1971 | are generally: That part of Gasparilla Sound, Catfish Creek,  
1972 | Whiddon Creek, "The Cutoff," Turtle Bay, and Charlotte Harbor  
1973 | lying within the following described limits: Northerly limits:  
1974 | Commence at the northwest corner of Section 18, Township 42  
1975 | South, Range 21 East, thence south along the west line of said  
1976 | Section 18 to its intersection with the Government Meander Line  
1977 | of 1843-1844, and the point of beginning, thence southeasterly  
1978 | along said meander line to the northwesterly shoreline of Catfish  
1979 | Creek, thence northeasterly along said shoreline to the north  
1980 | line of said Section 18, thence east along said north line to the  
1981 | easterly shoreline of Catfish Creek, thence southeasterly along  
1982 | said shoreline to the east line of said Section 18, thence south  
1983 | along said east line, crossing an arm of said Catfish Creek to  
1984 | the southerly shoreline of said creek, thence westerly along said  
1985 | southerly shoreline and southerly along the easterly shoreline of  
1986 | Catfish Creek to said Government Meander Line, thence easterly  
1987 | and southeasterly along said meander line to the northerly  
1988 | shoreline of Gasparilla Sound in Section 21, Township 42 South,  
1989 | Range 21 East, thence easterly along said northerly shoreline and  
1990 | northeasterly along the westerly shoreline of Whiddon Creek to  
1991 | the east west quarter line in Section 16, Township 42 South,  
1992 | Range 21 East, thence east along said quarter line and the  
1993 | quarter Section line of Section 15, Township 42 South, Range 21  
1994 | East to the easterly shoreline of Whiddon Creek, thence southerly  
1995 | along said shoreline to the northerly shoreline of "The Cutoff,"



8-04063-08

20081678\_\_

1996 | thence easterly along said shoreline to the westerly shoreline of  
1997 | Turtle Bay, thence northeasterly along said shoreline to its  
1998 | intersection with said Government Meander Line in Section 23,  
1999 | Township 42 South, Range 21 East, thence northeasterly along said  
2000 | meander line to the east line of Section 12, Township 42 South,  
2001 | Range 21 East, thence north along the east line of said Section  
2002 | 12, and the east line of Section 1, Township 42 South, Range 21  
2003 | East to the northwest corner of Section 6, Township 42 South,  
2004 | Range 22 East, thence east along the north line and extension  
2005 | thereof of said Section 6 to a point 2,640 feet east of the  
2006 | westerly shoreline of Charlotte Harbor and the end of the  
2007 | northerly limits. Easterly limits: Commence at the northwest  
2008 | corner of Section 6, Township 42 South, Range 22 East, thence  
2009 | east along the north line of said Section 6 and extension thereof  
2010 | to a point 2,640 feet east of the westerly shoreline of Charlotte  
2011 | Harbor and the point of beginning, thence southerly along a line  
2012 | 2,640 feet easterly of and parallel with the westerly shoreline  
2013 | of Charlotte Harbor and along a southerly extension of said line  
2014 | to the line dividing Charlotte and Lee Counties and the end of  
2015 | the easterly limits. Southerly limits: Begin at the point of  
2016 | ending of the easterly limits, above described, said point being  
2017 | in the line dividing Charlotte and Lee Counties, thence  
2018 | southwesterly along a straight line to the most southerly point  
2019 | of Devil Fish Key, thence continue along said line to the  
2020 | easterly right-of-way of the Intracoastal Waterway and the end of  
2021 | the southerly limits. Westerly limits: Begin at the point of  
2022 | ending of the southerly limits as described above, thence  
2023 | northerly along the easterly right-of-way line of the  
2024 | Intracoastal Waterway to its intersection with a southerly

8-04063-08

20081678\_\_

2025 extension of the west line of Section 18, Township 42 South,  
2026 Range 21 East, thence north along said line to point of  
2027 beginning.

2028 (30) Wekiva River Aquatic Preserve, the boundaries of which  
2029 are generally: All the state-owned sovereignty lands lying  
2030 waterward of the ordinary high-water mark of the Wekiva River and  
2031 the Little Wekiva River and their tributaries lying and being in  
2032 Lake, Seminole, and Orange counties and more particularly  
2033 described as follows:

2034 (a) In Sections 15, 16, 17, 20, 21, 22, 27, 28, 29, and 30,  
2035 Township 20 South, Range 29 East. These sections are also  
2036 depicted on the Forest City Quadrangle (U.S.G.S. 7.5 minute  
2037 series-topographic) 1959 (70PR); and

2038 (b) In Sections 3, 4, 8, 9, and 10, Township 20 South,  
2039 Range 29 East and in Sections 21, 28, and 33, Township 19 South,  
2040 Range 29 East lying north of the right-of-way for the Atlantic  
2041 Coast Line Railroad and that part of Section 33, Township 19  
2042 South, Range 29 East lying between the Lake and Orange County  
2043 lines and the right-of-way of the Atlantic Coast Line Railroad.  
2044 These sections are also depicted on the Sanford SW Quadrangle  
2045 (U.S.G.S. 7.5 minute series-topographic) 1965 (70-1); and

2046 (c) All state-owned sovereignty lands, public lands, and  
2047 lands whether public or private below the ordinary high-water  
2048 mark of the Wekiva River and the Little Wekiva and their  
2049 tributaries within the Peter Miranda Grant in Lake County lying  
2050 below the 10 foot m.s.l. contour line nearest the meander line of  
2051 the Wekiva River and all state-owned sovereignty lands, public  
2052 lands, and lands whether public or private below the ordinary  
2053 high-water mark of the Wekiva River and the Little Wekiva and

8-04063-08

20081678\_\_

2054 their tributaries within the Moses E. Levy Grant in Lake County  
2055 below the 10 foot m.s.l. contour line nearest the meander lines  
2056 of the Wekiva River and Black Water Creek as depicted on the PINE  
2057 LAKES 1962 (70-1), ORANGE CITY 1964 (70PR), SANFORD 1965 (70-1),  
2058 and SANFORD S.W. 1965 (70-1) QUADRANGLES (U.S.G.S. 7.5 minute  
2059 topographic); and

2060 (d) All state-owned sovereignty lands, public lands, and  
2061 lands whether public or private below the ordinary high-water  
2062 mark of the Wekiva River and the Little Wekiva River and their  
2063 tributaries lying below the 10 foot m.s.l. contour line nearest  
2064 the meander line of the Wekiva and St. Johns Rivers as shown on  
2065 the ORANGE CITY 1964 (70PR), SANFORD 1965 (70-1), and SANFORD  
2066 S.W. 1965 (70-1) QUADRANGLES (U.S.G.S. 7.5 minute topographic)  
2067 within the following described property: Beginning at a point on  
2068 the south boundary of the Moses E. Levy Grant, Township 19 South,  
2069 Range 29 East, at its intersection with the meander line of the  
2070 Wekiva River; thence south 60 1/2 degrees east along said  
2071 boundary line 4,915.68 feet; thence north 29 1/2 degrees east  
2072 15,516.5 feet to the meander line of the St. Johns River; thence  
2073 northerly along the meander line of the St. Johns River to the  
2074 mouth of the Wekiva River; thence southerly along the meander  
2075 line of the Wekiva River to the beginning; and

2076 (e) All state-owned sovereignty lands, public lands, and  
2077 lands whether public or private below the ordinary high-water  
2078 mark of the Wekiva River and the Little Wekiva River and their  
2079 tributaries within the Peter Miranda Grant lying east of the  
2080 Wekiva River, less the following:

2081 1. State Road 46 and all land lying south of said State  
2082 Road No. 46.

8-04063-08

20081678\_\_

2083           2. Beginning 15.56 chains West of the Southeast corner of  
2084 the SW 1/4 of the NE 1/4 of Section 21, Township 19 South, Range  
2085 29 East, run east 600 feet; thence north 960 feet; thence west  
2086 340 feet to the Wekiva River; thence southwesterly along said  
2087 Wekiva River to point of beginning.

2088           3. That part of the east 1/4 of the SW 1/4 of Section 22,  
2089 Township 19 South, Range 29 East, lying within the Peter Miranda  
2090 Grant east of the Wekiva River.

2091           (f) All the sovereignty submerged lands lying within the  
2092 following described boundaries: Begin at the intersection of  
2093 State Road 44 and the westerly ordinary high water line of the  
2094 St. Johns River, Section 22, Township 17 South, Range 29 East,  
2095 Lake County: Thence proceed southerly along the westerly ordinary  
2096 high water line of said river and its tributaries to the  
2097 intersection of the northerly right-of-way of State Road 400;  
2098 thence proceed northeasterly along said right-of-way to the  
2099 easterly ordinary high water line of the St. Johns River; thence  
2100 proceed northerly along said ordinary high water line of the St.  
2101 Johns River and its tributaries to its intersection with the  
2102 easterly ordinary high water line of Lake Beresford; thence  
2103 proceed northerly along the ordinary high water line of said lake  
2104 to its intersection with the westerly line of Section 24,  
2105 Township 17 South, Range 29 East; thence proceed northerly to the  
2106 southerly right-of-way of West New York Avenue; thence proceed  
2107 westerly along the southerly right-of-way of said avenue to its  
2108 intersection with the southerly right-of-way line of State Road  
2109 44; thence proceed southwesterly along said right-of-way to the  
2110 point of beginning.

8-04063-08

20081678\_\_

2111 (31) Rookery Bay Aquatic Preserve, the boundaries of which  
2112 are generally: All of the state-owned sovereignty lands lying  
2113 waterward of the mean high-water line in Rookery Bay and in  
2114 Henderson Creek and the tributaries thereto in Collier County,  
2115 Florida. Said lands are more particularly described as lying and  
2116 being in Sections 27, 34, 35, and 36, Township 50 South, Range 25  
2117 East; in Section 31, Township 50 South, Range 26 East; in  
2118 Sections 1, 2, 3, 10, 11, 12, 13, 14, 23, 24, and 25, Township 51  
2119 South, Range 25 East; and in Sections 5, 6, 7, 8, 9, 10, 15, 16,  
2120 17, 18, 19, 20, 30, and 31, Township 51 South, Range 26 East,  
2121 Collier County, Florida, and all the sovereignty submerged lands  
2122 lying within the following described boundaries: Begin at the  
2123 southwest corner of Section 30, Township 52 South, Range 27 East,  
2124 Collier County: Thence proceed easterly along the southerly line  
2125 of said Section 30 to the southwest corner of Section 29,  
2126 Township 52 South, Range 27 East; proceed thence northerly along  
2127 the westerly lines of Sections 29, 20 and 17 to the northwest  
2128 corner of said Section 17; thence proceed westerly along the  
2129 northerly line of Section 18 to the southeast corner of Section  
2130 12, Township 52 South, Range 26 East; thence proceed northerly  
2131 along the easterly lines of Sections 12, 1, 36 and 25 to the  
2132 northeast corner of said Section 25, Township 51 South, Range 26  
2133 East; thence proceed westerly along the northerly lines of  
2134 Sections 25 and 26 to the northwest corner of said Section 26;  
2135 thence proceed northerly to northeast corner of said Section 22;  
2136 thence proceed westerly along the northerly lines of Sections 22  
2137 and 21 to the northwest corner of said Section 21; thence proceed  
2138 southerly to the southwest corner of said Section 21; thence  
2139 proceed westerly along the northerly line of Section 29 to the

8-04063-08

20081678\_\_

2140 northwest corner thereof; thence proceed southerly along the  
2141 westerly lines of Sections 29 and 32 to the southwest corner of  
2142 said Section 32; thence proceed westerly to the northwest corner  
2143 of Section 6, Township 52 South, Range 26 East; thence proceed  
2144 southerly along a projection of Range line 25 East to its  
2145 intersection with a line which runs westerly from the southwest  
2146 corner of Cape Romano - Ten Thousand Islands Aquatic Preserve;  
2147 thence proceed easterly to the southwest corner of Cape Romano -  
2148 Ten Thousand Islands Aquatic Preserve; thence proceed northerly  
2149 to the point of beginning. Less and except: Begin at the  
2150 southeast corner of Section 21, Township 52 South, Range 26 East;  
2151 thence proceed northerly along the easterly lines of Sections 21  
2152 and 16 to the northeast corner of said Section 16, thence proceed  
2153 northerly to the thread of John Stevens Creek; thence proceed  
2154 northwesterly along the thread of said creek to its intersection  
2155 with the thread of Marco River; thence proceed northwesterly and  
2156 westerly along the thread of said river to its intersection with  
2157 the thread of Big Marco Pass; thence proceed southwesterly along  
2158 the thread of Big Marco Pass to its intersection with Range line  
2159 25 East; thence proceed southerly along Range line 25 East to a  
2160 point which is west from the point of beginning: Thence proceed  
2161 easterly to the point of beginning.

2162 (32) Rainbow Springs Aquatic Preserve, the boundaries of  
2163 which are generally: Commencing at the intersection of Blue Run  
2164 with the Withlacoochee River in Section 35, Township 16 South,  
2165 Range 18 East; thence run southeasterly and easterly along said  
2166 Blue Run to the east boundary of said Section 35; thence continue  
2167 easterly and northerly along said Blue Run through Section 36,  
2168 Township 16 South, Range 18 East, to the north boundary of said

8-04063-08

20081678\_\_

2169 Section 36; thence continue northerly and northeasterly along  
2170 said Blue Run in Section 25, Township 16 South, Range 18 East, to  
2171 the north boundary of the city limits of Dunnellon, Florida;  
2172 thence from the north boundary of the city limits of Dunnellon,  
2173 Florida, in Section 25, Township 16 South, Range 18 East; thence  
2174 run easterly along said Blue Run to its intersection with the  
2175 east boundary line of said Section 25; thence continue easterly  
2176 along said Rainbow River (Blue Run) into Section 30, Township 16  
2177 South, Range 19 East, thence northerly along said Rainbow River  
2178 (Blue Run) through Sections 30 and 19, Township 16 South, Range  
2179 19 East, to a point on the north boundary of the northwest 1/4 of  
2180 Section 18; thence continue to run northwesterly to the head of  
2181 Rainbow Springs in Section 12, Township 16 South, Range 18 East.

2182

2183 Any and all submerged lands theretofore conveyed by the Trustees  
2184 of the Internal Improvement Trust Fund and any and all uplands  
2185 now in private ownership are specifically exempted from this  
2186 dedication.

2187 Reviser's note.--Amended to conform to the redesignation of  
2188 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
2189 Dade County Code.

2190 Section 52. Subsection (1), paragraph (a) of subsection  
2191 (2), paragraph (e) of subsection (3), and subsections (6) and (7)  
2192 of section 258.397, Florida Statutes, are amended to read:

2193 258.397 Biscayne Bay Aquatic Preserve.--

2194 (1) DESIGNATION.--Biscayne Bay in Miami-Dade ~~Dade~~ and  
2195 Monroe Counties, as hereinafter described to include Card Sound,  
2196 is designated and established as an aquatic preserve under the  
2197 provisions of this section. It is the intent of the Legislature

8-04063-08

20081678\_\_

2198 that Biscayne Bay be preserved in an essentially natural  
2199 condition so that its biological and aesthetic values may endure  
2200 for the enjoyment of future generations.

2201 (2) BOUNDARIES.--

2202 (a) For the purposes of this section, Biscayne Bay,  
2203 sometimes referred to in this section as "the preserve," shall be  
2204 comprised of the body of water in Miami-Dade ~~Dade~~ and Monroe  
2205 Counties known as Biscayne Bay whose boundaries are generally  
2206 defined as follows:

2207 Begin at the southwest intersection of the right-of-way of  
2208 State Road 826 and the mean high-water line of Biscayne Bay  
2209 (Township 52 South, Range 42 East, Miami-Dade ~~Dade~~ County);  
2210 thence southerly along the westerly mean high-water line of  
2211 Biscayne Bay to its intersection with the right-of-way of State  
2212 Road 905A (Township 59 South, Range 40 East, Monroe County);  
2213 thence easterly along such right-of-way to the easterly mean  
2214 high-water line of Biscayne Bay; thence northerly along the  
2215 easterly mean high-water line of Biscayne Bay following the  
2216 westerly shores of the most easterly islands and Keys with  
2217 connecting lines drawn between the closest points of adjacent  
2218 islands to the southeasterly intersection of the right-of-way of  
2219 State Road 826 and the mean high-water line of Biscayne Bay;  
2220 thence westerly to the point of beginning. Said boundary extends  
2221 across the mouths of all artificial waterways, but includes all  
2222 natural waterways tidally connected to Biscayne Bay. Excluded  
2223 from the preserve are those submerged lands conveyed to the  
2224 United States for the establishment of the Biscayne National  
2225 Monument as defined by Pub. L. No. 90-606 of the United States.



8-04063-08

20081678\_\_

2226 (3) AUTHORITY OF TRUSTEES.--The Board of Trustees of the  
2227 Internal Improvement Trust Fund is authorized and directed to  
2228 maintain the aquatic preserve hereby created pursuant and subject  
2229 to the following provisions:

2230 (e) Notwithstanding other provisions of this section, the  
2231 board of trustees may, respecting lands lying within Biscayne  
2232 Bay:

2233 1. Enter into agreements for and establish lines  
2234 delineating sovereignty and privately owned lands.

2235 2. Enter into agreements for the exchange of, and exchange,  
2236 sovereignty lands for privately owned lands.

2237 3. Accept gifts of land within or contiguous to the  
2238 preserve.

2239 4. Negotiate for, and enter into agreements with owners of  
2240 lands contiguous to sovereignty lands for, any public and private  
2241 use of any of such lands.

2242 5. Take any and all actions convenient for, or necessary  
2243 to, the accomplishment of any and all of the acts and matters  
2244 authorized by this paragraph.

2245 6. Conduct restoration and enhancement efforts in Biscayne  
2246 Bay and its tributaries.

2247 7. Stabilize eroding shorelines of Biscayne Bay and its  
2248 tributaries that are contributing to turbidity by planting  
2249 natural vegetation to the greatest extent feasible and by the  
2250 placement of riprap, as determined by Miami-Dade ~~Dade~~ County in  
2251 conjunction with the Department of Environmental Protection.

2252 8. Request the South Florida Water Management District to  
2253 enter into a memorandum of understanding with the Department of  
2254 Environmental Protection, the Biscayne National Park Service, the

8-04063-08

20081678\_\_

2255 Miami-Dade ~~Metro-Dade~~ County Department of Environmental  
2256 Resources Management and, at their option, the Corps of Engineers  
2257 to include enhanced marine productivity in Biscayne Bay as an  
2258 objective when operating the Central and Southern Florida Flood  
2259 Control projects consistently with the goals of the water  
2260 management district, including flood protection, water supply,  
2261 and environmental protection.

2262 (6) DISCHARGE OF WASTES PROHIBITED.--No wastes or effluents  
2263 which substantially inhibit the accomplishment of the purposes of  
2264 this section shall be discharged into the preserve. In order to  
2265 ensure that these objectives are met, the following shall be  
2266 required:

2267 (a) The Department of Environmental Protection, in  
2268 cooperation with the South Florida Water Management District and  
2269 Miami-Dade ~~Dade~~ County, shall investigate stormwater management  
2270 practices within the watershed and shall develop a corrective  
2271 plan for management and treatment of stormwater. The plan shall  
2272 provide for retrofitting of stormwater outfalls causing the  
2273 greatest environmental damage to the bay.

2274 (b) The Department of Environmental Protection, in  
2275 cooperation with Miami-Dade ~~Dade~~ County, shall develop a program  
2276 to regulate the use of pumpout facilities in the Biscayne Bay  
2277 area and along the Miami River.

2278 (c) The Department of Environmental Protection, in  
2279 cooperation with Miami-Dade ~~Dade~~ County, shall develop a program  
2280 to eliminate, to the greatest extent possible, the discharge of  
2281 oil and other pollutants from ships and to remove derelict  
2282 vessels from the Miami River and the Biscayne Bay area.

8-04063-08

20081678\_\_

2283 (7) ENFORCEMENT.--The provisions of this section may be  
2284 enforced in accordance with the provisions of s. 403.412. In  
2285 addition, the Department of Legal Affairs is authorized to bring  
2286 an action for civil penalties of \$5,000 per day against any  
2287 person, natural or corporate, who violates the provisions of this  
2288 section or any rule or regulation issued hereunder. Enforcement  
2289 of applicable state regulations shall be supplemented by the  
2290 Miami-Dade ~~Metro-Dade~~ County Department of Environmental  
2291 Resources Management through the creation of a full-time  
2292 enforcement presence along the Miami River.

2293 Reviser's note.--Amended to conform to the redesignation of  
2294 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
2295 Dade County Code and the current name of the Miami-Dade  
2296 County Department of Environmental Resources Management.

2297 Section 53. Section 286.0111, Florida Statutes, is amended  
2298 to read:

2299 286.0111 Legislative review of certain exemptions from  
2300 requirements for public meetings and recordkeeping by  
2301 governmental entities.--The provisions of s. 119.15, the Open  
2302 Government Sunset Review Act ~~of 1995~~, apply to the provisions of  
2303 law which provide exemptions to s. 286.011, as provided in s.  
2304 119.15.

2305 Reviser's note.--Amended to conform to the renaming of the  
2306 "Open Government Sunset Review Act of 1995" as the "Open  
2307 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws  
2308 of Florida.

2309 Section 54. Paragraph (e) of subsection (2) of section  
2310 288.0655, Florida Statutes, is amended to read:

2311 288.0655 Rural Infrastructure Fund.--

8-04063-08

20081678\_\_

2312 (2)

2313 (e) To enable local governments to access the resources

2314 available pursuant to s. 403.973(18) ~~403.973(19)~~, the office may

2315 award grants for surveys, feasibility studies, and other

2316 activities related to the identification and preclearance review

2317 of land which is suitable for preclearance review. Authorized

2318 grants under this paragraph shall not exceed \$75,000 each, except

2319 in the case of a project in a rural area of critical economic

2320 concern, in which case the grant shall not exceed \$300,000. Any

2321 funds awarded under this paragraph must be matched at a level of

2322 50 percent with local funds, except that any funds awarded for a

2323 project in a rural area of critical economic concern must be

2324 matched at a level of 33 percent with local funds. In evaluating

2325 applications under this paragraph, the office shall consider the

2326 extent to which the application seeks to minimize administrative

2327 and consultant expenses.

2328 Reviser's note.--Amended to conform to the repeal of s.

2329 403.973(4) by s. 23, ch. 2007-105, Laws of Florida.

2330 Section 55. Paragraph (b) of subsection (2) of section

2331 288.1223, Florida Statutes, is amended to read:

2332 288.1223 Florida Commission on Tourism; creation; purpose;

2333 membership.--

2334 (2)

2335 (b) When making the 17 general tourism-industry-related

2336 appointments to the commission, the Governor shall appoint

2337 persons who are residents of the state, recognized tourism

2338 leaders, including, but not limited to, representatives of

2339 tourist development councils, convention and visitor bureaus, and

2340 associations, and chairs of the board, presidents, chief

8-04063-08

20081678\_\_

2341 executive officers, chief operating officers, or persons of  
2342 comparable executive level or influence of leading or otherwise  
2343 important tourism industries. Consideration shall be given to  
2344 appointing members who represent those tourist-related lodging,  
2345 retail, attraction, and transportation industries which  
2346 contribute significantly to the promotion of Florida as a tourist  
2347 destination from their private budgets and publicly through their  
2348 voluntary tourism promotion investment contributions. Minority  
2349 persons, as defined in s. 288.703, shall be included in the  
2350 appointments to the commission and to any advisory committee  
2351 appointed by the commission, so that the commission and advisory  
2352 committees are broadly representative of the population of  
2353 Florida. In addition, members shall be appointed in such a manner  
2354 as to equitably represent all geographic areas of the state, with  
2355 no fewer than two and no more than four members from any of the  
2356 following regions:

2357 1. Region 1, composed of Bay, Calhoun, Escambia, Franklin,  
2358 Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty,  
2359 Okaloosa, Santa Rosa, Wakulla, Walton, and Washington Counties.

2360 2. Region 2, composed of Alachua, Baker, Bradford, Clay,  
2361 Columbia, Dixie, Duval, Flagler, Gilchrist, Hamilton, Lafayette,  
2362 Levy, Madison, Marion, Nassau, Putnam, St. Johns, Suwannee,  
2363 Taylor, and Union Counties.

2364 3. Region 3, composed of Brevard, Indian River, Lake,  
2365 Okeechobee, Orange, Osceola, St. Lucie, Seminole, Sumter, and  
2366 Volusia Counties.

2367 4. Region 4, composed of Citrus, Hernando, Hillsborough,  
2368 Manatee, Pasco, Pinellas, Polk, and Sarasota Counties.

8-04063-08

20081678\_\_

2369           5. Region 5, composed of Charlotte, Collier, DeSoto,  
2370 Glades, Hardee, Hendry, Highlands, and Lee Counties.

2371           6. Region 6, composed of Broward, ~~Dade~~, Martin, Miami-Dade,  
2372 Monroe, and Palm Beach Counties.

2373

2374 No more than one member may be an employee of any one company,  
2375 organization, council, or bureau.

2376           Reviser's note.--Amended to conform to the redesignation of  
2377 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
2378 Dade County Code.

2379           Section 56. Paragraph (e) of subsection (1) and paragraph  
2380 (d) of subsection (4) of section 288.1254, Florida Statutes, are  
2381 amended to read:

2382           288.1254 Entertainment industry financial incentive  
2383 program.--

2384           (1) DEFINITIONS.--As used in this section, the term:

2385           (e) "Production" means a theatrical or direct-to-video  
2386 motion picture; a made-for-television motion picture; a  
2387 commercial; a music video; an industrial or educational film; an  
2388 infomercial; a documentary film; a television pilot program; a  
2389 presentation for a television pilot program; a television series,  
2390 including, but not limited to, a drama, a reality show, a comedy,  
2391 a soap opera, a telenovela, a game show, or a miniseries  
2392 production; or a digital media project by the entertainment  
2393 industry. One season of a television series is considered one  
2394 production. The term excludes a weather or market program; a  
2395 sporting event; a sports show; a gala; a production that solicits  
2396 funds; a home shopping program; a political program; a political  
2397 documentary; political advertising; a gambling-related project or

8-04063-08

20081678\_\_

2398 production; a concert production; a pornographic production; or a  
2399 local, regional, or Internet-distributed-only news show, current-  
2400 events show, pornographic production, or current-affairs show. A  
2401 production may be produced on or by film, tape, or otherwise by  
2402 means of a motion picture camera; electronic camera or device;  
2403 tape device; computer; any combination of the foregoing; or any  
2404 other means, method, or device now used or later adopted.

2405 (4) PRIORITY FOR INCENTIVE FUNDING; WITHDRAWAL OF  
2406 ELIGIBILITY; QUEUES.--

2407 (d) Digital media projects queue.--Ten percent of incentive  
2408 funding appropriated in any state fiscal year shall be dedicated  
2409 to the digital media projects queue. A production certified under  
2410 this queue is eligible for a reimbursement equal to 10 percent of  
2411 ~~if~~ its actual qualified expenditures. A qualified production that  
2412 is a digital media project that demonstrates a minimum of  
2413 \$300,000 in total qualified expenditures is eligible for a  
2414 maximum of \$1 million in incentive funding. As used in this  
2415 paragraph, the term "qualified expenditures" means the wages or  
2416 salaries paid to a resident of this state for working on a single  
2417 qualified digital media project, up to a maximum of \$200,000 in  
2418 wages or salaries paid per resident. A qualified production  
2419 company producing digital media projects may not qualify for more  
2420 than three projects in any 1 fiscal year. Projects that extend  
2421 beyond a fiscal year must reapply each fiscal year in order to be  
2422 eligible for incentive funding for that year.

2423 Reviser's note.--Paragraph (1)(e) is amended to confirm the  
2424 editorial insertion of the word "or" after the word "show"  
2425 to improve clarity and facilitate correct interpretation.  
2426 Paragraph (4)(d) is amended to confirm the editorial

8-04063-08

20081678\_\_

2427 substitution of the word "of" for the word "if" to correct a  
2428 typographical error.

2429 Section 57. Paragraphs (a) and (g) of subsection (5) of  
2430 section 288.8175, Florida Statutes, are amended to read:

2431 288.8175 Linkage institutes between postsecondary  
2432 institutions in this state and foreign countries.--

2433 (5) The institutes are:

2434 (a) Florida-Brazil Institute (University of Florida and  
2435 Miami Dade ~~Miami Dade Community~~ College).

2436 (g) Florida-France Institute (New College of the University  
2437 of South Florida, Miami Dade ~~Miami Dade Community~~ College, and  
2438 Florida State University).

2439 Reviser's note.--Amended to conform to the correct name of  
2440 Miami Dade College.

2441 Section 58. Subsection (7) of section 288.9015, Florida  
2442 Statutes, is repealed.

2443 Reviser's note.--The referenced subsection, which relates to  
2444 Enterprise Florida, Inc., working with the Department of  
2445 Education and Workforce Florida, Inc., in designating  
2446 districts to participate in the CHOICE project under  
2447 repealed s. 1003.494, has served its purpose.

2448 Section 59. Subsection (6) of section 288.90151, Florida  
2449 Statutes, is amended to read:

2450 288.90151 Return on investment from activities of  
2451 Enterprise Florida, Inc.--

2452 (6) Enterprise Florida, Inc., shall fully comply with the  
2453 performance measures, standards, and sanctions in its contracts  
2454 with the Office of Tourism, Trade, and Economic Development under  
2455 s. 14.2015(2)(h) and (7) ~~14.2015(2)(i) and (7)~~. The Office of



8-04063-08

20081678\_\_

2456 Tourism, Trade, and Economic Development shall ensure, to the  
2457 maximum extent possible, that the contract performance measures  
2458 are consistent with performance measures that the office is  
2459 required to develop and track under performance-based program  
2460 budgeting.

2461 Reviser's note.--Amended to confirm the editorial  
2462 substitution of a reference to s. 14.2015(2)(h) and (7) for  
2463 a reference to s. 14.2015(2)(i) and (7). Material concerning  
2464 contracts between Enterprise Florida, Inc., and the Office  
2465 of Tourism, Trade, and Economic Development is covered in s.  
2466 14.2015(2)(h) and (7).

2467 Section 60. Subsection (8) of section 288.9551, Florida  
2468 Statutes, is amended to read:

2469 288.9551 Exemptions from public records and meetings  
2470 requirements; Scripps Florida Funding Corporation, The Scripps  
2471 Research Institute or grantee, and the Office of Tourism, Trade,  
2472 and Economic Development.--

2473 (8) This section is subject to the Open Government Sunset  
2474 Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand  
2475 repealed on October 2, 2009, unless reviewed and saved from  
2476 repeal through reenactment by the Legislature.

2477 Reviser's note.--Amended to conform to the renaming of the  
2478 "Open Government Sunset Review Act of 1995" as the "Open  
2479 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws  
2480 of Florida.

2481 Section 61. Subsection (5) and paragraph (d) of subsection  
2482 (12) of section 288.975, Florida Statutes, are amended to read:

2483 288.975 Military base reuse plans.--

8-04063-08

20081678\_\_

2484 (5) At the discretion of the host local government, the  
2485 provisions of this act may be complied with through the adoption  
2486 of the military base reuse plan as a separate component of the  
2487 local government comprehensive plan or through simultaneous  
2488 amendments to all pertinent portions of the local government  
2489 comprehensive plan. Once adopted and approved in accordance with  
2490 this section, the military base reuse plan shall be considered to  
2491 be part of the host local government's comprehensive plan and  
2492 shall be thereafter implemented, amended, and reviewed in  
2493 accordance with the provisions of part II of chapter 163. Local  
2494 government comprehensive plan amendments necessary to initially  
2495 adopt the military base reuse plan shall be exempt from the  
2496 limitation on the frequency of plan amendments contained in s.  
2497 163.3187(1) ~~163.3187(2)~~.

2498 (12) Following receipt of a petition, the petitioning party  
2499 or parties and the host local government shall seek resolution of  
2500 the issues in dispute. The issues in dispute shall be resolved as  
2501 follows:

2502 (d) Within 45 days after receiving the report from the  
2503 state land planning agency, the Administration Commission shall  
2504 take action to resolve the issues in dispute. In deciding upon a  
2505 proper resolution, the Administration Commission shall consider  
2506 the nature of the issues in dispute, any requests for a formal  
2507 administrative hearing pursuant to chapter 120, the compliance of  
2508 the parties with this section, the extent of the conflict between  
2509 the parties, the comparative hardships and the public interest  
2510 involved. If the Administration Commission incorporates in its  
2511 final order a term or condition that requires any local  
2512 government to amend its local government comprehensive plan, the

8-04063-08

20081678\_\_

2513 local government shall amend its plan within 60 days after the  
2514 issuance of the order. Such amendment or amendments shall be  
2515 exempt from the limitation of the frequency of plan amendments  
2516 contained in s. 163.3187(1) ~~163.3187(2)~~, and a public hearing on  
2517 such amendment or amendments pursuant to s. 163.3184(15)(b)1.  
2518 shall not be required. The final order of the Administration  
2519 Commission is subject to appeal pursuant to s. 120.68. If the  
2520 order of the Administration Commission is appealed, the time for  
2521 the local government to amend its plan shall be tolled during the  
2522 pendency of any local, state, or federal administrative or  
2523 judicial proceeding relating to the military base reuse plan.

2524 Reviser's note.--Amended to substitute a reference to s.  
2525 163.3187(1), which relates to frequency of plan amendments,  
2526 for a reference to s. 163.3187(2), which relates to  
2527 amendments to preserve the internal consistency of the plan.

2528 Section 62. Subsection (69) of section 316.003, Florida  
2529 Statutes, is amended to read:

2530 316.003 Definitions.--The following words and phrases, when  
2531 used in this chapter, shall have the meanings respectively  
2532 ascribed to them in this section, except where the context  
2533 otherwise requires:

2534 (69) HAZARDOUS MATERIAL.--Any substance or material which  
2535 has been determined by the secretary of the United States  
2536 Department of Transportation to be capable of imposing an  
2537 unreasonable risk to health, safety, and property. This term  
2538 includes hazardous waste as defined in s. 403.703(13)  
2539 ~~403.703(21)~~.

8-04063-08

20081678\_\_

2540 Reviser's note.--Amended to conform to the relocation of the  
2541 referenced definition by the substantial rewording of s.  
2542 403.703 by s. 6, ch. 2007-184, Laws of Florida.

2543 Section 63. Paragraph (a) of subsection (8) of section  
2544 320.0805, Florida Statutes, is amended to read:

2545 320.0805 Personalized prestige license plates.--

2546 (8)(a) Personalized prestige license plates shall consist  
2547 of three ~~four~~ types of plates as follows:

2548 1. A plate imprinted with numerals only. Such plates shall  
2549 consist of numerals from 1 to 999, inclusive.

2550 2. A plate imprinted with capital letters only. Such plates  
2551 shall consist of capital letters "A" through "Z" and shall be  
2552 limited to a total of seven of the same or different capital  
2553 letters. A hyphen may be added in addition to the seven letters.

2554 3. A plate imprinted with both capital letters and  
2555 numerals. Such plates shall consist of no more than a total of  
2556 seven characters, including both numerals and capital letters, in  
2557 any combination, except that a hyphen may be added in addition to  
2558 the seven characters if desired or needed. However, on those  
2559 plates issued to, and bearing the names of, organizations, the  
2560 letters and numerals shall be of such size, if necessary, as to  
2561 accommodate a maximum of 18 digits for automobiles, trucks, and  
2562 recreational vehicles and 7 digits for motorcycles. Plates  
2563 consisting of the four capital letters "PRES" preceded or  
2564 followed by a hyphen and numerals of 1 to 999 shall be reserved  
2565 for issuance only to applicants who qualify as members of the  
2566 press and who are associated with, or are employees of, the  
2567 reporting media.

8-04063-08

20081678\_\_

2568 Reviser's note.--Amended to conform to the deletion of  
2569 subparagraph (8)(a)4. by s. 20, ch. 96-413, Laws of Florida.  
2570 Section 64. Paragraph (a) of subsection (9) of section  
2571 322.34, Florida Statutes, is amended to read:

2572 322.34 Driving while license suspended, revoked, canceled,  
2573 or disqualified.--

2574 (9)(a) A motor vehicle that is driven by a person under the  
2575 influence of alcohol or drugs in violation of s. 316.193 is  
2576 subject to seizure and forfeiture under ss. 932.701-932.706  
2577 ~~932.701-932.707~~ and is subject to liens for recovering, towing,  
2578 or storing vehicles under s. 713.78 if, at the time of the  
2579 offense, the person's driver's license is suspended, revoked, or  
2580 canceled as a result of a prior conviction for driving under the  
2581 influence.

2582 Reviser's note.--Amended to conform to the repeal of s.  
2583 932.707 by s. 21, ch. 2006-176, Laws of Florida.

2584 Section 65. Paragraph (a) of subsection (4) of section  
2585 323.001, Florida Statutes, is amended to read:

2586 323.001 Wrecker operator storage facilities; vehicle  
2587 holds.--

2588 (4) The requirements for a written hold apply when the  
2589 following conditions are present:

2590 (a) The officer has probable cause to believe the vehicle  
2591 should be seized and forfeited under the Florida Contraband  
2592 Forfeiture Act, ss. 932.701-932.706 ~~932.701-932.707~~;

2593 Reviser's note.--Amended to conform to the repeal of s.  
2594 932.707 by s. 21, ch. 2006-176, Laws of Florida.

2595 Section 66. Paragraph (b) of subsection (3) of section  
2596 328.07, Florida Statutes, is amended to read:

8-04063-08

20081678\_\_

2597 | 328.07 Hull identification number required.--

2598 | (3)

2599 | (b) If any of the hull identification numbers required by  
2600 | the United States Coast Guard for a vessel manufactured after  
2601 | October 31, 1972, do not exist or have been altered, removed,  
2602 | destroyed, covered, or defaced or the real identity of the vessel  
2603 | cannot be determined, the vessel may be seized as contraband  
2604 | property by a law enforcement agency or the division, and shall  
2605 | be subject to forfeiture pursuant to ss. 932.701-932.706 ~~932.701-~~  
2606 | ~~932.707~~. Such vessel may not be sold or operated on the waters of  
2607 | the state unless the division receives a request from a law  
2608 | enforcement agency providing adequate documentation or is  
2609 | directed by written order of a court of competent jurisdiction to  
2610 | issue to the vessel a replacement hull identification number  
2611 | which shall thereafter be used for identification purposes. No  
2612 | vessel shall be forfeited under the Florida Contraband Forfeiture  
2613 | Act when the owner unknowingly, inadvertently, or neglectfully  
2614 | altered, removed, destroyed, covered, or defaced the vessel hull  
2615 | identification number.

2616 | Reviser's note.--Amended to conform to the repeal of s.  
2617 | 932.707 by s. 21, ch. 2006-176, Laws of Florida.

2618 | Section 67. Subsection (1) of section 336.68, Florida  
2619 | Statutes, is amended to read:

2620 | 336.68 Special road and bridge district boundaries;  
2621 | property owner rights and options.--

2622 | (1) The owner of real property located within both the  
2623 | boundaries of a community development district created under  
2624 | chapter 190 and within the boundaries of a special road and  
2625 | bridge district created by the alternative method of establishing

8-04063-08

20081678\_\_

2626 special road and bridge districts previously authorized under  
2627 former ss. 336.61-336.67 shall have the option to select the  
2628 community development district to be the provider of the road and  
2629 drainage improvements to the property of the owner. Having made  
2630 the selection, the property owner shall further have the right to  
2631 withdraw the property from the boundaries of the special road and  
2632 bridge district under the procedures set forth in this section.

2633 Reviser's note.--Amended to conform to the repeal of ss.  
2634 336.61, 336.62, 336.63, 336.64, 336.65, and 336.67 by ss.  
2635 125-129, 132, ch. 84-309, Laws of Florida, respectively.

2636 Section 68. Subsection (4) of section 337.0261, Florida  
2637 Statutes, is amended to read:

2638 337.0261 Construction aggregate materials.--

2639 (4) EXPEDITED PERMITTING.--Due to the state's critical  
2640 infrastructure needs and the potential shortfall in available  
2641 construction aggregate materials, limerock environmental resource  
2642 permitting and reclamation applications filed after March 1,  
2643 2007, are eligible for the expedited permitting processes  
2644 contained in s. 403.973. Challenges to state agency action in the  
2645 expedited permitting process for establishment of a limerock mine  
2646 in this state under s. 403.973 are subject to the same  
2647 requirements as challenges brought under s. 403.973(14)(a)  
2648 ~~403.973(15)(a)~~, except that, notwithstanding s. 120.574, summary  
2649 proceedings must be conducted within 30 days after a party files  
2650 the motion for summary hearing, regardless of whether the parties  
2651 agree to the summary proceeding.

2652 Reviser's note.--Amended to conform to the repeal of s.  
2653 403.973(4) by s. 23, ch. 2007-105, Laws of Florida.

8-04063-08

20081678\_\_

2654 Section 69. Section 338.165, Florida Statutes, is reenacted  
2655 to read:

2656 338.165 Continuation of tolls.--

2657 (1) The department, any transportation or expressway  
2658 authority or, in the absence of an authority, a county or  
2659 counties may continue to collect the toll on a revenue-producing  
2660 project after the discharge of any bond indebtedness related to  
2661 such project and may increase such toll. All tolls so collected  
2662 shall first be used to pay the annual cost of the operation,  
2663 maintenance, and improvement of the toll project.

2664 (2) If the revenue-producing project is on the State  
2665 Highway System, any remaining toll revenue shall be used for the  
2666 construction, maintenance, or improvement of any road on the  
2667 State Highway System within the county or counties in which the  
2668 revenue-producing project is located, except as provided in s.  
2669 348.0004.

2670 (3) Notwithstanding any other provision of law, the  
2671 department, including the turnpike enterprise, shall index toll  
2672 rates on existing toll facilities to the annual Consumer Price  
2673 Index or similar inflation indicators. Toll rate adjustments for  
2674 inflation under this subsection may be made no more frequently  
2675 than once a year and must be made no less frequently than once  
2676 every 5 years as necessary to accommodate cash toll rate  
2677 schedules. Toll rates may be increased beyond these limits as  
2678 directed by bond documents, covenants, or governing body  
2679 authorization or pursuant to department administrative rule.

2680 (4) Notwithstanding any other law to the contrary, pursuant  
2681 to s. 11, Art. VII of the State Constitution, and subject to the  
2682 requirements of subsection (2), the Department of Transportation



8-04063-08

20081678\_\_

2683 | may request the Division of Bond Finance to issue bonds secured  
2684 | by toll revenues collected on the Alligator Alley, the Sunshine  
2685 | Skyway Bridge, the Beeline-East Expressway, the Navarre Bridge,  
2686 | and the Pinellas Bayway to fund transportation projects located  
2687 | within the county or counties in which the project is located and  
2688 | contained in the adopted work program of the department.

2689 |       (5) If the revenue-producing project is on the county road  
2690 | system, any remaining toll revenue shall be used for the  
2691 | construction, maintenance, or improvement of any other state or  
2692 | county road within the county or counties in which the revenue-  
2693 | producing project is located, except as provided in s. 348.0004.

2694 |       (6) Selection of projects on the State Highway System for  
2695 | construction, maintenance, or improvement with toll revenues  
2696 | shall be, with the concurrence of the department, consistent with  
2697 | the Florida Transportation Plan.

2698 |       (7) Notwithstanding the provisions of subsection (1), and  
2699 | not including high occupancy toll lanes or express lanes, no  
2700 | tolls may be charged for use of an interstate highway where tolls  
2701 | were not charged as of July 1, 1997.

2702 |       (8) With the exception of subsection (3), this section does  
2703 | not apply to the turnpike system as defined under the Florida  
2704 | Turnpike Enterprise Law.

2705 |       Reviser's note.--Section 51, ch. 2007-196, Laws of Florida,  
2706 | amended s. 338.165 without publishing existing subsection  
2707 | (6) and amended existing subsection (7) with coding  
2708 | indicating the material is newly numbered by that law as  
2709 | subsection (7) and with uncoded language at the beginning of  
2710 | the subsection reading "[w]ith the exception of subsection  
2711 | (3)." To conform to renumbering of subsections by s. 51, ch.

8-04063-08

20081678\_\_

2712 2007-196, and absent affirmative evidence of legislative  
2713 intent to repeal existing subsection (6), redesignated as  
2714 subsection (7) to conform to the addition of a new  
2715 subsection (3) by s. 51, ch. 2007-196, the section is  
2716 reenacted.

2717 Section 70. Subsection (4) of section 338.231, Florida  
2718 Statutes, is amended to read:

2719 338.231 Turnpike tolls, fixing; pledge of tolls and other  
2720 revenues.--The department shall at all times fix, adjust, charge,  
2721 and collect such tolls for the use of the turnpike system as are  
2722 required in order to provide a fund sufficient with other  
2723 revenues of the turnpike system to pay the cost of maintaining,  
2724 improving, repairing, and operating such turnpike system; to pay  
2725 the principal of and interest on all bonds issued to finance or  
2726 refinance any portion of the turnpike system as the same become  
2727 due and payable; and to create reserves for all such purposes.

2728 (4) For the period July 1, 1998, through June 30, 2017, the  
2729 department shall, to the maximum extent feasible, program  
2730 sufficient funds in the tentative work program such that the  
2731 percentage of turnpike toll and bond financed commitments in  
2732 Miami-Dade ~~Dade~~ County, Broward County, and Palm Beach County as  
2733 compared to total turnpike toll and bond financed commitments  
2734 shall be at least 90 percent of the share of net toll collections  
2735 attributable to users of the turnpike system in Miami-Dade ~~Dade~~  
2736 County, Broward County, and Palm Beach County as compared to  
2737 total net toll collections attributable to users of the turnpike  
2738 system. The requirements of this subsection do not apply when the  
2739 application of such requirements would violate any covenant

8-04063-08

20081678\_\_

2740 established in a resolution or trust indenture relating to the  
2741 issuance of turnpike bonds.

2742 Reviser's note.--Amended to conform to the redesignation of  
2743 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
2744 Dade County Code.

2745 Section 71. Paragraph (a) of subsection (3) of section  
2746 339.175, Florida Statutes, is amended to read:

2747 339.175 Metropolitan planning organization.--

2748 (3) VOTING MEMBERSHIP.--

2749 (a) The voting membership of an M.P.O. shall consist of not  
2750 fewer than 5 or more than 19 apportioned members, the exact  
2751 number to be determined on an equitable geographic-population  
2752 ratio basis by the Governor, based on an agreement among the  
2753 affected units of general-purpose local government as required by  
2754 federal rules and regulations. The Governor, in accordance with  
2755 23 U.S.C. s. 134, may also provide for M.P.O. members who  
2756 represent municipalities to alternate with representatives from  
2757 other municipalities within the metropolitan planning area that  
2758 do not have members on the M.P.O. County commission members shall  
2759 compose not less than one-third of the M.P.O. membership, except  
2760 for an M.P.O. with more than 15 members located in a county with  
2761 a 5-member county commission or an M.P.O. with 19 members located  
2762 in a county with no more than 6 county commissioners, in which  
2763 case county commission members may compose less than one-third  
2764 percent of the M.P.O. membership, but all county commissioners  
2765 must be members. All voting members shall be elected officials of  
2766 general-purpose local governments, except that an M.P.O. may  
2767 include, as part of its apportioned voting members, a member of a  
2768 statutorily authorized planning board, an official of an agency

8-04063-08

20081678\_\_

2769 that operates or administers a major mode of transportation, or  
2770 an official of Space Florida ~~the Florida Space Authority~~. As used  
2771 in this section, the term "elected officials of a general-purpose  
2772 local government" shall exclude constitutional officers,  
2773 including sheriffs, tax collectors, supervisors of elections,  
2774 property appraisers, clerks of the court, and similar types of  
2775 officials. County commissioners shall compose not less than 20  
2776 percent of the M.P.O. membership if an official of an agency that  
2777 operates or administers a major mode of transportation has been  
2778 appointed to an M.P.O.

2779 Reviser's note.--Amended to conform to the amendment to s.  
2780 331.302 by s. 3, ch. 2006-60, Laws of Florida, which  
2781 replaced the Florida Space Authority with Space Florida.  
2782 Section 72. Paragraph (a) of subsection (11) of section  
2783 343.92, Florida Statutes, is amended to read:

2784 343.92 Tampa Bay Area Regional Transportation Authority.--  
2785 (11) (a) The authority shall establish a Transit Management  
2786 Committee comprised of the executive directors or general  
2787 managers, or their designees, of each of the existing transit  
2788 providers and ~~Tampa~~ bay area commuter services.

2789 Reviser's note.--Amended to confirm the editorial deletion  
2790 of the word "Tampa" preceding the word "bay" to conform to  
2791 context.

2792 Section 73. Paragraph (1) of subsection (2) of section  
2793 348.243, Florida Statutes, is repealed.

2794 Reviser's note.--The cited paragraph, which relates to an  
2795 agreement to sell, transfer, and dispose of all property of  
2796 the Sawgrass Expressway to the Department of Transportation  
2797 as part of the Turnpike System, has served its purpose.

8-04063-08

20081678\_\_

2798 Section 74. Subsection (14) of section 364.02, Florida  
2799 Statutes, is amended to read:

2800 364.02 Definitions.--As used in this chapter:

2801 (14) "Telecommunications company" includes every  
2802 corporation, partnership, and person and their lessees, trustees,  
2803 or receivers appointed by any court whatsoever, and every  
2804 political subdivision in the state, offering two-way  
2805 telecommunications service to the public for hire within this  
2806 state by the use of a telecommunications facility. The term  
2807 "telecommunications company" does not include:

2808 (a) An entity which provides a telecommunications facility  
2809 exclusively to a certificated telecommunications company;

2810 (b) An entity which provides a telecommunications facility  
2811 exclusively to a company which is excluded from the definition of  
2812 a telecommunications company under this subsection;

2813 (c) A commercial mobile radio service provider;

2814 (d) A facsimile transmission service;

2815 (e) A private computer data network company not offering  
2816 service to the public for hire;

2817 (f) A cable television company providing cable service as  
2818 defined in 47 U.S.C. s. 522; or

2819 (g) An intrastate interexchange telecommunications company.

2820

2821 However, each commercial mobile radio service provider and each  
2822 intrastate interexchange telecommunications company shall  
2823 continue to be liable for any taxes imposed under chapters 202,  
2824 203, and 212 and any fees assessed under s. 364.025. Each  
2825 intrastate interexchange telecommunications company shall  
2826 continue to be subject to ss. 364.04, 364.10(3)(a) and (d),

8-04063-08

20081678\_\_

2827 | 364.163, 364.285, 364.336, 364.501, 364.603, and 364.604, shall  
2828 | provide the commission with the current information as the  
2829 | commission deems necessary to contact and communicate with the  
2830 | company, shall continue to pay intrastate switched network access  
2831 | rates or other intercarrier compensation to the local exchange  
2832 | telecommunications company or the competitive local exchange  
2833 | telecommunications company for the origination and termination of  
2834 | interexchange telecommunications service, and shall reduce its  
2835 | intrastate long distance toll rates in accordance with former s.  
2836 | 364.163(2).

2837 |       Reviser's note.--Amended to conform to the repeal of s.  
2838 |       364.163(2) by s. 12, ch. 2007-29, Laws of Florida.

2839 |       Section 75. Subsection (3) of section 367.171, Florida  
2840 | Statutes, is amended to read:

2841 |       367.171 Effectiveness of this chapter.--

2842 |       (3) In consideration of the variance of powers, duties,  
2843 | responsibilities, population, and size of municipalities of the  
2844 | several counties and in consideration of the fact that every  
2845 | county varies from every other county and thereby affects the  
2846 | functions, duties, and responsibilities required of its county  
2847 | officers and the scope of responsibilities which each county may,  
2848 | at this time, undertake, the Counties of Alachua, Baker,  
2849 | Bradford, Calhoun, Charlotte, Collier, ~~Dade~~, Dixie, Escambia,  
2850 | Flagler, Gadsden, Gilchrist, Glades, Hamilton, Hardee, Hendry,  
2851 | Hernando, Hillsborough, Holmes, Indian River, Jefferson,  
2852 | Lafayette, Leon, Liberty, Madison, Manatee, Miami-Dade, Okaloosa,  
2853 | Okeechobee, Polk, St. Lucie, Santa Rosa, Sarasota, Suwannee,  
2854 | Taylor, Union, Wakulla, and Walton are excluded from the  
2855 | provisions of this chapter until such time as the board of county

8-04063-08

20081678\_\_

2856 commissioners of any such county, acting pursuant to the  
2857 provisions of subsection (1), makes this chapter applicable to  
2858 such county or until the Legislature, by appropriate act, removes  
2859 one or more of such counties from this exclusion.

2860 Reviser's note.--Amended to conform to the redesignation of  
2861 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
2862 Dade County Code.

2863 Section 76. Subsection (2) of section 369.255, Florida  
2864 Statutes, is amended to read:

2865 369.255 Green utility ordinances for funding greenspace  
2866 management and exotic plant control.--

2867 (2) In addition to any other funding mechanisms legally  
2868 available to counties and municipalities to control invasive,  
2869 nonindigenous aquatic or upland plants and manage urban forest  
2870 resources, a county or municipality may create one or more green  
2871 utilities or adopt fees sufficient to plan, restore, and manage  
2872 urban forest resources, greenways, forest preserves, wetlands,  
2873 and other aquatic zones and create a stewardship grant program  
2874 for private natural areas. Counties or municipalities may create,  
2875 alone or in cooperation with other counties or municipalities  
2876 pursuant to the Florida Interlocal Cooperation Act of 1969, s.  
2877 163.01, one or more greenspace management districts to fund the  
2878 planning, management, operation, and administration of a  
2879 greenspace management program. The fees shall be collected on a  
2880 voluntary basis as set forth by the county or municipality and  
2881 calculated to generate sufficient funds to plan, manage, operate,  
2882 and administer a greenspace management program. Private natural  
2883 areas assessed according to s. 193.501 would qualify for  
2884 stewardship grants.

8-04063-08

20081678\_\_

2885 Reviser's note.--Amended to conform to the name of the  
2886 Florida Interlocal Cooperation Act of 1969 as referenced in  
2887 s. 163.01.

2888 Section 77. Paragraph (a) of subsection (4) of section  
2889 370.142, Florida Statutes, is amended to read:

2890 370.142 Spiny lobster trap certificate program.--

2891 (4) TRAP CERTIFICATE TECHNICAL ADVISORY AND APPEALS  
2892 BOARD.--There is hereby established the Trap Certificate  
2893 Technical Advisory and Appeals Board. Such board shall consider  
2894 and advise the commission on disputes and other problems arising  
2895 from the implementation of the spiny lobster trap certificate  
2896 program. The board may also provide information to the commission  
2897 on the operation of the trap certificate program.

2898 (a) The board shall consist of the executive director of  
2899 the commission or designee and nine other members appointed by  
2900 the executive director, according to the following criteria:

2901 1. All appointed members shall be certificateholders, but  
2902 two shall be holders of fewer than 100 certificates, two shall be  
2903 holders of at least 100 but no more than 750 certificates, three  
2904 shall be holders of more than 750 but not more than 2,000  
2905 certificates, and two shall be holders of more than 2,000  
2906 certificates.

2907 2. At least one member each shall come from Broward, Miami-  
2908 Dade ~~Dade~~, and Palm Beach Counties; and five members shall come  
2909 from the various regions of the Florida Keys.

2910 3. At least one appointed member shall be a person of  
2911 Hispanic origin capable of speaking English and Spanish.



8-04063-08

20081678\_\_

2912 Reviser's note.--Amended to conform to the redesignation of  
2913 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
2914 Dade County Code.

2915 Section 78. Paragraph (a) of subsection (2) of section  
2916 370.172, Florida Statutes, is amended to read:

2917 370.172 Spearfishing; definition; limitations; penalty.--

2918 (2) (a) Spearfishing is prohibited within the boundaries of  
2919 the John Pennekamp Coral Reef State Park, the waters of Collier  
2920 County, and the area in Monroe County known as Upper Keys, which  
2921 includes all salt waters under the jurisdiction of the Fish and  
2922 Wildlife Conservation Commission beginning at the county line  
2923 between Miami-Dade ~~Dade~~ and Monroe Counties and running south,  
2924 including all of the keys down to and including Long Key.

2925 Reviser's note.--Amended to conform to the redesignation of  
2926 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
2927 Dade County Code.

2928 Section 79. Section 372.09, Florida Statutes, is amended to  
2929 read:

2930 372.09 State Game Trust Fund.--The funds resulting from the  
2931 operation of the commission and from the administration of the  
2932 laws and regulations pertaining to birds, game, fur-bearing  
2933 animals, freshwater fish, reptiles, and amphibians, together with  
2934 any other funds specifically provided for such purposes shall  
2935 constitute the State Game Trust Fund and shall be used by the  
2936 commission as it shall deem fit in carrying out the provisions  
2937 hereof and for no other purposes, except that annual use fees  
2938 deposited into the trust fund from the sale of the Largemouth  
2939 Bass license plate may be expended for the purposes provided  
2940 under s. 320.08058(17) ~~320.08058(18)~~. The commission may not

8-04063-08

20081678\_\_

2941 obligate itself beyond the current resources of the State Game  
2942 Trust Fund unless specifically so authorized by the Legislature.

2943 Reviser's note.--Amended to conform to the repeal of s.  
2944 320.08058(15) by s. 2, ch. 2007-103, Laws of Florida, and  
2945 the subsequent redesignation of subsections.

2946 Section 80. Paragraph (b) of subsection (8) of section  
2947 373.026, Florida Statutes, is amended to read:

2948 373.026 General powers and duties of the department.--The  
2949 department, or its successor agency, shall be responsible for the  
2950 administration of this chapter at the state level. However, it is  
2951 the policy of the state that, to the greatest extent possible,  
2952 the department may enter into interagency or interlocal  
2953 agreements with any other state agency, any water management  
2954 district, or any local government conducting programs related to  
2955 or materially affecting the water resources of the state. All  
2956 such agreements shall be subject to the provisions of s. 373.046.  
2957 In addition to its other powers and duties, the department shall,  
2958 to the greatest extent possible:

2959 (8)

2960 (b) To ensure to the greatest extent possible that project  
2961 components will go forward as planned, the department shall  
2962 collaborate with the South Florida Water Management District in  
2963 implementing the comprehensive plan as defined in s.

2964 373.470(2)(b) ~~373.470(2)(a)~~, the Lake Okeechobee Watershed  
2965 Protection Plan as defined in s. 373.4595(2), and the River  
2966 Watershed Protection Plans as defined in s. 373.4595(2). Before  
2967 any project component is submitted to Congress for authorization  
2968 or receives an appropriation of state funds, the department must  
2969 approve, or approve with amendments, each project component

8-04063-08

20081678\_\_

2970 | within 60 days following formal submittal of the project  
2971 | component to the department. Prior to the release of state funds  
2972 | for the implementation of the comprehensive plan, department  
2973 | approval shall be based upon a determination of the South Florida  
2974 | Water Management District's compliance with s. 373.1501(5). Once  
2975 | a project component is approved, the South Florida Water  
2976 | Management District shall provide to the Joint Legislative  
2977 | Committee on Everglades Oversight a schedule for implementing the  
2978 | project component, the estimated total cost of the project  
2979 | component, any existing federal or nonfederal credits, the  
2980 | estimated remaining federal and nonfederal share of costs, and an  
2981 | estimate of the amount of state funds that will be needed to  
2982 | implement the project component. All requests for an  
2983 | appropriation of state funds needed to implement the project  
2984 | component shall be submitted to the department, and such requests  
2985 | shall be included in the department's annual request to the  
2986 | Governor. Prior to the release of state funds for the  
2987 | implementation of the Lake Okeechobee Watershed Protection Plan  
2988 | or the River Watershed Protection Plans, on an annual basis, the  
2989 | South Florida Water Management District shall prepare an annual  
2990 | work plan as part of the consolidated annual report required in  
2991 | s. 373.036(7). Upon a determination by the secretary of the  
2992 | annual work plan's consistency with the goals and objectives of  
2993 | s. 373.4595, the secretary may approve the release of state  
2994 | funds. Any modifications to the annual work plan shall be  
2995 | submitted to the secretary for review and approval.

2996 |       Reviser's note.--Amended to conform to the redesignation of  
2997 |       s. 373.470(2) (a) as s. 373.470(2) (b) by s. 4, ch. 2007-253,  
2998 |       Laws of Florida.

8-04063-08

20081678\_\_

2999 | Section 81. Paragraph (d) of subsection (2) of section  
3000 | 373.073, Florida Statutes, is amended to read:  
3001 | 373.073 Governing board.--  
3002 | (2) Membership on governing boards shall be selected from  
3003 | candidates who have significant experience in one or more of the  
3004 | following areas, including, but not limited to: agriculture, the  
3005 | development industry, local government, government-owned or  
3006 | privately owned water utilities, law, civil engineering,  
3007 | environmental science, hydrology, accounting, or financial  
3008 | businesses. Notwithstanding the provisions of any other general  
3009 | or special law to the contrary, vacancies in the governing boards  
3010 | of the water management districts shall be filled according to  
3011 | the following residency requirements, representing areas  
3012 | designated by the United States Water Resources Council in United  
3013 | States Geological Survey, River Basin and Hydrological Unit Map  
3014 | of Florida--1975, Map Series No. 72:  
3015 | (d) South Florida Water Management District:  
3016 | 1. Two members shall reside in Miami-Dade ~~Dade~~ County.  
3017 | 2. One member shall reside in Broward County.  
3018 | 3. One member shall reside in Palm Beach County.  
3019 | 4. One member shall reside in Collier County, Lee County,  
3020 | Hendry County, or Charlotte County.  
3021 | 5. One member shall reside in Glades County, Okeechobee  
3022 | County, Highlands County, Polk County, Orange County, or Osceola  
3023 | County.  
3024 | 6. Two members, appointed at large, shall reside in an area  
3025 | consisting of St. Lucie, Martin, Palm Beach, Broward, Miami-Dade  
3026 | ~~Dade~~, and Monroe Counties.

8-04063-08

20081678\_\_

3027 7. One member, appointed at large, shall reside in an area  
3028 consisting of Collier, Lee, Charlotte, Hendry, Glades, Osceola,  
3029 Okeechobee, Polk, Highlands, and Orange Counties.

3030 8. No county shall have more than three members on the  
3031 governing board.

3032 Reviser's note.--Amended to conform to the redesignation of  
3033 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
3034 Dade County Code.

3035 Section 82. Paragraph (a) of subsection (1) of section  
3036 373.1501, Florida Statutes, is amended to read:

3037 373.1501 South Florida Water Management District as local  
3038 sponsor.--

3039 (1) As used in this section and s. 373.026(8), the term:

3040 (a) "C-111 Project" means the project identified in the  
3041 Central and Southern Florida Flood Control Project, Real Estate  
3042 Design Memorandum, Canal 111, South Miami-Dade ~~Dade~~ County,  
3043 Florida.

3044 Reviser's note.--Amended to conform to the redesignation of  
3045 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
3046 Dade County Code.

3047 Section 83. Paragraph (a) of subsection (2) of section  
3048 373.1502, Florida Statutes, is amended to read:

3049 373.1502 Regulation of comprehensive plan project  
3050 components.--

3051 (2) FINDINGS; INTENT.--

3052 (a) The Legislature finds that implementation of the  
3053 comprehensive plan, as defined in s. 373.470(2)(b) ~~373.470(2)(a)~~,  
3054 is in the public interest and is necessary for restoring,  
3055 preserving, and protecting the South Florida ecosystem, providing

8-04063-08

20081678\_\_

3056 | for the protection of water quality in and the reduction of the  
3057 | loss of fresh water from the Everglades, and providing such  
3058 | features as are necessary to meet the other water-related needs  
3059 | of the region, including flood control, the enhancement of water  
3060 | supplies, and other objectives served by the project.

3061 |       Reviser's note.--Amended to conform to the redesignation of  
3062 |       s. 373.470(2) (a) as s. 373.470(2) (b) by s. 4, ch. 2007-253,  
3063 |       Laws of Florida.

3064 |       Section 84. Paragraph (b) of subsection (3) of section  
3065 | 373.1961, Florida Statutes, is amended to read:

3066 |       373.1961 Water production; general powers and duties;  
3067 | identification of needs; funding criteria; economic incentives;  
3068 | reuse funding.--

3069 |       (3) FUNDING.--

3070 |       (b) Beginning in fiscal year 2005-2006, the state shall  
3071 | annually provide a portion of those revenues deposited into the  
3072 | Water Protection and Sustainability Program Trust Fund for the  
3073 | purpose of providing funding assistance for the development of  
3074 | alternative water supplies pursuant to the Water Protection and  
3075 | Sustainability Program. At the beginning of each fiscal year,  
3076 | beginning with fiscal year 2005-2006, such revenues shall be  
3077 | distributed by the department into the alternative water supply  
3078 | trust fund accounts created by each district for the purpose of  
3079 | alternative water supply development under the following funding  
3080 | formula:

3081 |       1. Thirty percent to the South Florida Water Management  
3082 | District;

3083 |       2. Twenty-five percent to the Southwest Florida Water  
3084 | Management District;

8-04063-08

20081678\_\_

3085           3. Twenty-five percent to the St. Johns River Water  
3086 Management District;

3087           4. Ten percent to the Suwannee River Water Management  
3088 District; and

3089           5. Ten percent to the Northwest Florida Water Management  
3090 District.

3091           Reviser's note.--Amended to conform to the name of the trust  
3092 fund at s. 403.891, which creates the fund.

3093           Section 85. Subsection (16) of section 373.414, Florida  
3094 Statutes, is amended to read:

3095           373.414 Additional criteria for activities in surface  
3096 waters and wetlands.--

3097           (16) Until October 1, 2000, regulation under rules adopted  
3098 pursuant to this part of any sand, limerock, or limestone mining  
3099 activity which is located in Township 52 South, Range 39 East,  
3100 sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27,  
3101 34, 35, and 36; in Township 52 South, Range 40 East, sections 6,  
3102 7, 8, 18, and 19; in Township 53 South, Range 39 East, sections  
3103 1, 2, 13, 21, 22, 23, 24, 25, 26, 33, 34, 35, and 36; and in  
3104 Township 54 South, Range 38 East, sections 24, and 25, and 36,  
3105 shall not include the rules adopted pursuant to subsection (9).  
3106 In addition, until October 1, 2000, such activities shall  
3107 continue to be regulated under the rules adopted pursuant to ss.  
3108 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as  
3109 amended, as such rules existed prior to the effective date of the  
3110 rules adopted pursuant to subsection (9) and such dredge and fill  
3111 jurisdiction shall be that which existed prior to January 24,  
3112 1984. In addition, any such sand, limerock, or limestone mining  
3113 activity shall be approved by Miami-Dade ~~Dade~~ County and the

8-04063-08

20081678\_\_

3114 United States Army Corps of Engineers. This section shall only  
3115 apply to mining activities which are continuous and carried out  
3116 on land contiguous to mining operations that were in existence on  
3117 or before October 1, 1984.

3118 Reviser's note.--Amended to conform to the redesignation of  
3119 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
3120 Dade County Code.

3121 Section 86. Subsections (16) and (19) of section 373.4211,  
3122 Florida Statutes, are amended to read:

3123 373.4211 Ratification of chapter 17-340, Florida  
3124 Administrative Code, on the delineation of the landward extent of  
3125 wetlands and surface waters.--Pursuant to s. 373.421, the  
3126 Legislature ratifies chapter 17-340, Florida Administrative Code,  
3127 approved on January 13, 1994, by the Environmental Regulation  
3128 Commission, with the following changes:

3129 (16) Rule 17-340.450(2) is amended by adding, after the  
3130 species list, the following language:

3131 "Within Monroe County and the Key Largo portion of Miami-  
3132 Dade ~~Dade~~ County only, the following species shall be listed as  
3133 Facultative Wet: *Alternanthera maritima*, *Morinda royoc*, and  
3134 *Strumpfia maritima*."

3135 (19) Rule 17-340.450(3) is amended by adding, after the  
3136 species list, the following language:

3137 "Within Monroe County and the Key Largo portion of Miami-  
3138 Dade ~~Dade~~ County only, the following species shall be listed as  
3139 facultative: *Alternanthera paronychioides*, *Byrsonima lucida*,  
3140 *Ernodea littoralis*, *Guapira discolor*, *Marnilkara bahamensis*,  
3141 *Pisonis rotundata*, *Pithecellobium keyensis*, *Pithecellobium*



8-04063-08

20081678\_\_

3142 unquis-cati, Randia aculeata, Reynosia septentrionalis, and  
3143 Thrinax radiata."

3144 Reviser's note.--Amended to conform to the redesignation of  
3145 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
3146 Dade County Code.

3147 Section 87. Paragraph (f) of subsection (1) and paragraph  
3148 (b) of subsection (4) of section 373.4592, Florida Statutes, are  
3149 amended to read:

3150 373.4592 Everglades improvement and management.--

3151 (1) FINDINGS AND INTENT.--

3152 (f) The Legislature finds that improved water supply and  
3153 hydroperiod management are crucial elements to overall  
3154 revitalization of the Everglades ecosystem, including Florida  
3155 Bay. It is the intent of the Legislature to expedite plans and  
3156 programs for improving water quantity reaching the Everglades,  
3157 correcting long-standing hydroperiod problems, increasing the  
3158 total quantity of water flowing through the system, providing  
3159 water supply for the Everglades National Park, urban and  
3160 agricultural areas, and Florida Bay, and replacing water  
3161 previously available from the coastal ridge in areas of southern  
3162 Miami-Dade ~~Dade~~ County. Whenever possible, wasteful discharges of  
3163 fresh water to tide shall be reduced, and the water shall be  
3164 stored for delivery at more optimum times. Additionally, reuse  
3165 and conservation measures shall be implemented consistent with  
3166 law. The Legislature further recognizes that additional water  
3167 storage may be an appropriate use of Lake Okeechobee.

3168 (4) EVERGLADES PROGRAM.--

3169 (b) Everglades water supply and hydroperiod improvement and  
3170 restoration.--

8-04063-08

20081678\_\_

3171 1. A comprehensive program to revitalize the Everglades  
3172 shall include programs and projects to improve the water quantity  
3173 reaching the Everglades Protection Area at optimum times and  
3174 improve hydroperiod deficiencies in the Everglades ecosystem. To  
3175 the greatest extent possible, wasteful discharges of fresh water  
3176 to tide shall be reduced, and water conservation practices and  
3177 reuse measures shall be implemented by water users, consistent  
3178 with law. Water supply management must include improvement of  
3179 water quantity reaching the Everglades, correction of long-  
3180 standing hydroperiod problems, and an increase in the total  
3181 quantity of water flowing through the system. Water supply  
3182 management must provide water supply for the Everglades National  
3183 Park, the urban and agricultural areas, and the Florida Bay and  
3184 must replace water previously available from the coastal ridge  
3185 areas of southern Miami-Dade ~~Dade~~ County. The Everglades  
3186 Construction Project redirects some water currently lost to tide.  
3187 It is an important first step in completing hydroperiod  
3188 improvement.

3189 2. The district shall operate the Everglades Construction  
3190 Project as specified in the February 15, 1994, conceptual design  
3191 document, to provide additional inflows to the Everglades  
3192 Protection Area. The increased flow from the project shall be  
3193 directed to the Everglades Protection Area as needed to achieve  
3194 an average annual increase of 28 percent compared to the baseline  
3195 years of 1979 to 1988. Consistent with the design of the  
3196 Everglades Construction Project and without demonstratively  
3197 reducing water quality benefits, the regulatory releases will be  
3198 timed and distributed to the Everglades Protection Area to  
3199 maximize environmental benefits.

8-04063-08

20081678\_\_

3200           3. The district shall operate the Everglades Construction  
3201 Project in accordance with the February 15, 1994, conceptual  
3202 design document to maximize the water quantity benefits and  
3203 improve the hydroperiod of the Everglades Protection Area. All  
3204 reductions of flow to the Everglades Protection Area from BMP  
3205 implementation will be replaced. The district shall develop a  
3206 model to be used for quantifying the amount of water to be  
3207 replaced. The timing and distribution of this replaced water will  
3208 be directed to the Everglades Protection Area to maximize the  
3209 natural balance of the Everglades Protection Area.

3210           4. The Legislature recognizes the complexity of the  
3211 Everglades watershed, as well as legal mandates under Florida and  
3212 federal law. As local sponsor of the Central and Southern Florida  
3213 Flood Control Project, the district must coordinate its water  
3214 supply and hydroperiod programs with the Federal Government.  
3215 Federal planning, research, operating guidelines, and  
3216 restrictions for the Central and Southern Florida Flood Control  
3217 Project now under review by federal agencies will provide  
3218 important components of the district's Everglades Program. The  
3219 department and district shall use their best efforts to seek the  
3220 amendment of the authorized purposes of the project to include  
3221 water quality protection, hydroperiod restoration, and  
3222 environmental enhancement as authorized purposes of the Central  
3223 and Southern Florida Flood Control Project, in addition to the  
3224 existing purposes of water supply, flood protection, and allied  
3225 purposes. Further, the department and the district shall use  
3226 their best efforts to request that the Federal Government include  
3227 in the evaluation of the regulation schedule for Lake Okeechobee  
3228 a review of the regulatory releases, so as to facilitate releases

8-04063-08

20081678\_\_

3229 of water into the Everglades Protection Area which further  
3230 improve hydroperiod restoration.

3231 5. The district, through cooperation with the federal and  
3232 state agencies, shall develop other programs and methods to  
3233 increase the water flow and improve the hydroperiod of the  
3234 Everglades Protection Area.

3235 6. Nothing in this section is intended to provide an  
3236 allocation or reservation of water or to modify the provisions of  
3237 part II. All decisions regarding allocations and reservations of  
3238 water shall be governed by applicable law.

3239 7. The district shall proceed to expeditiously implement  
3240 the minimum flows and levels for the Everglades Protection Area  
3241 as required by s. 373.042 and shall expeditiously complete the  
3242 Lower East Coast Water Supply Plan.

3243 Reviser's note.--Amended to conform to the redesignation of  
3244 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
3245 Dade County Code.

3246 Section 88. Paragraph (c) of subsection (3) of section  
3247 373.4595, Florida Statutes, is amended to read:

3248 373.4595 Northern Everglades and Estuaries Protection  
3249 Program.--

3250 (3) LAKE OKEECHOBEE WATERSHED PROTECTION PROGRAM.--A  
3251 protection program for Lake Okeechobee that achieves phosphorus  
3252 load reductions for Lake Okeechobee shall be immediately  
3253 implemented as specified in this subsection. The program shall  
3254 address the reduction of phosphorus loading to the lake from both  
3255 internal and external sources. Phosphorus load reductions shall  
3256 be achieved through a phased program of implementation. Initial  
3257 implementation actions shall be technology-based, based upon a

8-04063-08

20081678\_\_

3258 consideration of both the availability of appropriate technology  
3259 and the cost of such technology, and shall include phosphorus  
3260 reduction measures at both the source and the regional level. The  
3261 initial phase of phosphorus load reductions shall be based upon  
3262 the district's Technical Publication 81-2 and the district's WOD  
3263 program, with subsequent phases of phosphorus load reductions  
3264 based upon the total maximum daily loads established in  
3265 accordance with s. 403.067. In the development and administration  
3266 of the Lake Okeechobee Watershed Protection Program, the  
3267 coordinating agencies shall maximize opportunities provided by  
3268 federal cost-sharing programs and opportunities for partnerships  
3269 with the private sector.

3270 (c) Lake Okeechobee Watershed Phosphorus Control  
3271 Program.--The Lake Okeechobee Watershed Phosphorus Control  
3272 Program is designed to be a multifaceted approach to reducing  
3273 phosphorus loads by improving the management of phosphorus  
3274 sources within the Lake Okeechobee watershed through  
3275 implementation of regulations and best management practices,  
3276 development and implementation of improved best management  
3277 practices, improvement and restoration of the hydrologic function  
3278 of natural and managed systems, and utilization of alternative  
3279 technologies for nutrient reduction. The coordinating agencies  
3280 shall facilitate the application of federal programs that offer  
3281 opportunities for water quality treatment, including  
3282 preservation, restoration, or creation of wetlands on  
3283 agricultural lands.

3284 1. Agricultural nonpoint source best management practices,  
3285 developed in accordance with s. 403.067 and designed to achieve  
3286 the objectives of the Lake Okeechobee Watershed Protection

8-04063-08

20081678\_\_

3287 Program, shall be implemented on an expedited basis. The  
3288 coordinating agencies shall develop an interagency agreement  
3289 pursuant to ss. 373.046 and 373.406(5) that assures the  
3290 development of best management practices that complement existing  
3291 regulatory programs and specifies how those best management  
3292 practices are implemented and verified. The interagency agreement  
3293 shall address measures to be taken by the coordinating agencies  
3294 during any best management practice reevaluation performed  
3295 pursuant to sub-subparagraph d. The department shall use best  
3296 professional judgment in making the initial determination of best  
3297 management practice effectiveness.

3298 a. As provided in s. 403.067(7)(c), the Department of  
3299 Agriculture and Consumer Services, in consultation with the  
3300 department, the district, and affected parties, shall initiate  
3301 rule development for interim measures, best management practices,  
3302 conservation plans, nutrient management plans, or other measures  
3303 necessary for Lake Okeechobee watershed total maximum daily load  
3304 reduction. The rule shall include thresholds for requiring  
3305 conservation and nutrient management plans and criteria for the  
3306 contents of such plans. Development of agricultural nonpoint  
3307 source best management practices shall initially focus on those  
3308 priority basins listed in subparagraph (b)1. The Department of  
3309 Agriculture and Consumer Services, in consultation with the  
3310 department, the district, and affected parties, shall conduct an  
3311 ongoing program for improvement of existing and development of  
3312 new interim measures or best management practices for the purpose  
3313 of adoption of such practices by rule. The Department of  
3314 Agriculture and Consumer Services shall work with the University  
3315 of Florida's Institute of Food and Agriculture Sciences to review

8-04063-08

20081678\_\_

3316 and, where appropriate, develop revised nutrient application  
3317 rates for all agricultural soil amendments in the watershed.

3318 b. Where agricultural nonpoint source best management  
3319 practices or interim measures have been adopted by rule of the  
3320 Department of Agriculture and Consumer Services, the owner or  
3321 operator of an agricultural nonpoint source addressed by such  
3322 rule shall either implement interim measures or best management  
3323 practices or demonstrate compliance with the district's WOD  
3324 program by conducting monitoring prescribed by the department or  
3325 the district. Owners or operators of agricultural nonpoint  
3326 sources who implement interim measures or best management  
3327 practices adopted by rule of the Department of Agriculture and  
3328 Consumer Services shall be subject to the provisions of s.  
3329 403.067(7). The Department of Agriculture and Consumer Services,  
3330 in cooperation with the department and the district, shall  
3331 provide technical and financial assistance for implementation of  
3332 agricultural best management practices, subject to the  
3333 availability of funds.

3334 c. The district or department shall conduct monitoring at  
3335 representative sites to verify the effectiveness of agricultural  
3336 nonpoint source best management practices.

3337 d. Where water quality problems are detected for  
3338 agricultural nonpoint sources despite the appropriate  
3339 implementation of adopted best management practices, the  
3340 Department of Agriculture and Consumer Services, in consultation  
3341 with the other coordinating agencies and affected parties, shall  
3342 institute a reevaluation of the best management practices and  
3343 make appropriate changes to the rule adopting best management  
3344 practices.

8-04063-08

20081678\_\_

3345           2. Nonagricultural nonpoint source best management  
3346 practices, developed in accordance with s. 403.067 and designed  
3347 to achieve the objectives of the Lake Okeechobee Watershed  
3348 Protection Program, shall be implemented on an expedited basis.  
3349 The department and the district shall develop an interagency  
3350 agreement pursuant to ss. 373.046 and 373.406(5) that assures the  
3351 development of best management practices that complement existing  
3352 regulatory programs and specifies how those best management  
3353 practices are implemented and verified. The interagency agreement  
3354 shall address measures to be taken by the department and the  
3355 district during any best management practice reevaluation  
3356 performed pursuant to sub-subparagraph d.

3357           a. The department and the district are directed to work  
3358 with the University of Florida's Institute of Food and  
3359 Agricultural Sciences to develop appropriate nutrient application  
3360 rates for all nonagricultural soil amendments in the watershed.  
3361 As provided in s. 403.067(7)(c), the department, in consultation  
3362 with the district and affected parties, shall develop interim  
3363 measures, best management practices, or other measures necessary  
3364 for Lake Okeechobee watershed total maximum daily load reduction.  
3365 Development of nonagricultural nonpoint source best management  
3366 practices shall initially focus on those priority basins listed  
3367 in subparagraph (b)1. The department, the district, and affected  
3368 parties shall conduct an ongoing program for improvement of  
3369 existing and development of new interim measures or best  
3370 management practices. The district shall adopt technology-based  
3371 standards under the district's WOD program for nonagricultural  
3372 nonpoint sources of phosphorus. Nothing in this sub-subparagraph  
3373 shall affect the authority of the department or the district to



8-04063-08

20081678\_\_

3374 adopt basin-specific criteria under this part to prevent harm to  
3375 the water resources of the district.

3376 b. Where nonagricultural nonpoint source best management  
3377 practices or interim measures have been developed by the  
3378 department and adopted by the district, the owner or operator of  
3379 a nonagricultural nonpoint source shall implement interim  
3380 measures or best management practices and be subject to the  
3381 provisions of s. 403.067(7). The department and district shall  
3382 provide technical and financial assistance for implementation of  
3383 nonagricultural nonpoint source best management practices,  
3384 subject to the availability of funds.

3385 c. The district or the department shall conduct monitoring  
3386 at representative sites to verify the effectiveness of  
3387 nonagricultural nonpoint source best management practices.

3388 d. Where water quality problems are detected for  
3389 nonagricultural nonpoint sources despite the appropriate  
3390 implementation of adopted best management practices, the  
3391 department and the district shall institute a reevaluation of the  
3392 best management practices.

3393 3. The provisions of subparagraphs 1. and 2. shall not  
3394 preclude the department or the district from requiring compliance  
3395 with water quality standards or with current best management  
3396 practices requirements set forth in any applicable regulatory  
3397 program authorized by law for the purpose of protecting water  
3398 quality. Additionally, subparagraphs 1. and 2. are applicable  
3399 only to the extent that they do not conflict with any rules  
3400 promulgated by the department that are necessary to maintain a  
3401 federally delegated or approved program.

8-04063-08

20081678\_\_

3402 4. Projects that reduce the phosphorus load originating  
3403 from domestic wastewater systems within the Lake Okeechobee  
3404 watershed shall be given funding priority in the department's  
3405 revolving loan program under s. 403.1835. The department shall  
3406 coordinate and provide assistance to those local governments  
3407 seeking financial assistance for such priority projects.

3408 5. Projects that make use of private lands, or lands held  
3409 in trust for Indian tribes, to reduce nutrient loadings or  
3410 concentrations within a basin by one or more of the following  
3411 methods: restoring the natural hydrology of the basin, restoring  
3412 wildlife habitat or impacted wetlands, reducing peak flows after  
3413 storm events, increasing aquifer recharge, or protecting range  
3414 and timberland from conversion to development, are eligible for  
3415 grants available under this section from the coordinating  
3416 agencies. For projects of otherwise equal priority, special  
3417 funding priority will be given to those projects that make best  
3418 use of the methods outlined above that involve public-private  
3419 partnerships or that obtain federal match money. Preference  
3420 ranking above the special funding priority will be given to  
3421 projects located in a rural area of critical economic concern  
3422 designated by the Governor. Grant applications may be submitted  
3423 by any person or tribal entity, and eligible projects may  
3424 include, but are not limited to, the purchase of conservation and  
3425 flowage easements, hydrologic restoration of wetlands, creating  
3426 treatment wetlands, development of a management plan for natural  
3427 resources, and financial support to implement a management plan.

3428 6.a. The department shall require all entities disposing of  
3429 domestic wastewater residuals within the Lake Okeechobee  
3430 watershed and the remaining areas of Okeechobee, Glades, and

8-04063-08

20081678\_\_

3431 | Hendry Counties to develop and submit to the department an  
3432 | agricultural use plan that limits applications based upon  
3433 | phosphorus loading. By July 1, 2005, phosphorus concentrations  
3434 | originating from these application sites shall not exceed the  
3435 | limits established in the district's WOD program. After December  
3436 | 31, 2007, the department may not authorize the disposal of  
3437 | domestic wastewater residuals within the Lake Okeechobee  
3438 | watershed unless the applicant can affirmatively demonstrate that  
3439 | the phosphorus in the residuals will not add to phosphorus  
3440 | loadings in Lake Okeechobee or its tributaries. This  
3441 | demonstration shall be based on achieving a net balance between  
3442 | phosphorus imports relative to exports on the permitted  
3443 | application site. Exports shall include only phosphorus removed  
3444 | from the Lake Okeechobee watershed through products generated on  
3445 | the permitted application site. This prohibition does not apply  
3446 | to Class AA residuals that are marketed and distributed as  
3447 | fertilizer products in accordance with department rule.

3448 |       b. Private and government-owned utilities within Monroe,  
3449 | Miami-Dade ~~Dade~~, Broward, Palm Beach, Martin, St. Lucie, Indian  
3450 | River, Okeechobee, Highlands, Hendry, and Glades Counties that  
3451 | dispose of wastewater residual sludge from utility operations and  
3452 | septic removal by land spreading in the Lake Okeechobee watershed  
3453 | may use a line item on local sewer rates to cover wastewater  
3454 | residual treatment and disposal if such disposal and treatment is  
3455 | done by approved alternative treatment methodology at a facility  
3456 | located within the areas designated by the Governor as rural  
3457 | areas of critical economic concern pursuant to s. 288.0656. This  
3458 | additional line item is an environmental protection disposal fee  
3459 | above the present sewer rate and shall not be considered a part

8-04063-08

20081678\_\_

3460 of the present sewer rate to customers, notwithstanding  
3461 provisions to the contrary in chapter 367. The fee shall be  
3462 established by the county commission or its designated assignee  
3463 in the county in which the alternative method treatment facility  
3464 is located. The fee shall be calculated to be no higher than that  
3465 necessary to recover the facility's prudent cost of providing the  
3466 service. Upon request by an affected county commission, the  
3467 Florida Public Service Commission will provide assistance in  
3468 establishing the fee. Further, for utilities and utility  
3469 authorities that use the additional line item environmental  
3470 protection disposal fee, such fee shall not be considered a rate  
3471 increase under the rules of the Public Service Commission and  
3472 shall be exempt from such rules. Utilities using the provisions  
3473 of this section may immediately include in their sewer invoicing  
3474 the new environmental protection disposal fee. Proceeds from this  
3475 environmental protection disposal fee shall be used for treatment  
3476 and disposal of wastewater residuals, including any treatment  
3477 technology that helps reduce the volume of residuals that require  
3478 final disposal, but such proceeds shall not be used for  
3479 transportation or shipment costs for disposal or any costs  
3480 relating to the land application of residuals in the Lake  
3481 Okeechobee watershed.

3482 c. No less frequently than once every 3 years, the Florida  
3483 Public Service Commission or the county commission through the  
3484 services of an independent auditor shall perform a financial  
3485 audit of all facilities receiving compensation from an  
3486 environmental protection disposal fee. The Florida Public Service  
3487 Commission or the county commission through the services of an  
3488 independent auditor shall also perform an audit of the

8-04063-08

20081678\_\_

3489 methodology used in establishing the environmental protection  
3490 disposal fee. The Florida Public Service Commission or the county  
3491 commission shall, within 120 days after completion of an audit,  
3492 file the audit report with the President of the Senate and the  
3493 Speaker of the House of Representatives and shall provide copies  
3494 to the county commissions of the counties set forth in sub-  
3495 subparagraph b. The books and records of any facilities receiving  
3496 compensation from an environmental protection disposal fee shall  
3497 be open to the Florida Public Service Commission and the Auditor  
3498 General for review upon request.

3499         7. The Department of Health shall require all entities  
3500 disposing of septage within the Lake Okeechobee watershed to  
3501 develop and submit to that agency an agricultural use plan that  
3502 limits applications based upon phosphorus loading. By July 1,  
3503 2005, phosphorus concentrations originating from these  
3504 application sites shall not exceed the limits established in the  
3505 district's WOD program.

3506         8. The Department of Agriculture and Consumer Services  
3507 shall initiate rulemaking requiring entities within the Lake  
3508 Okeechobee watershed which land-apply animal manure to develop  
3509 resource management system level conservation plans, according to  
3510 United States Department of Agriculture criteria, which limit  
3511 such application. Such rules may include criteria and thresholds  
3512 for the requirement to develop a conservation or nutrient  
3513 management plan, requirements for plan approval, and  
3514 recordkeeping requirements.

3515         9. The district, the department, or the Department of  
3516 Agriculture and Consumer Services, as appropriate, shall

8-04063-08

20081678\_\_

3517 | implement those alternative nutrient reduction technologies  
 3518 | determined to be feasible pursuant to subparagraph (d)6.

3519 |       Reviser's note.--Amended to conform to the redesignation of  
 3520 |       Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
 3521 |       Dade County Code.

3522 |       Section 89. Paragraph (e) of subsection (2) of section  
 3523 | 373.470, Florida Statutes, is amended to read:

3524 |       373.470 Everglades restoration.--

3525 |       (2) DEFINITIONS.--As used in this section, the term:

3526 |       (e) "Lake Okeechobee Watershed Protection Plan" means the  
 3527 | plan developed pursuant to ss. 373.4595(3)(a) ~~375.4595~~ and  
 3528 | 373.451-373.459.

3529 |       Reviser's note.--Amended to conform to the fact that s.  
 3530 |       375.4595 does not exist. Section 373.4595(3)(a) provides for  
 3531 |       the Lake Okeechobee Watershed Protection Plan.

3532 |       Section 90. Subsection (1) of section 373.472, Florida  
 3533 | Statutes, is amended to read:

3534 |       373.472 Save Our Everglades Trust Fund.--

3535 |       (1) There is created within the Department of Environmental  
 3536 | Protection the Save Our Everglades Trust Fund. Funds in the trust  
 3537 | fund shall be expended to implement the comprehensive plan  
 3538 | defined in s. 373.470(2)(b) ~~373.470(2)(a)~~, the Lake Okeechobee  
 3539 | Watershed Protection Plan defined in s. 373.4595(2), the  
 3540 | Caloosahatchee River Watershed Protection Plan defined in s.  
 3541 | 373.4595(2), and the St. Lucie River Watershed Protection Plan  
 3542 | defined in s. 373.4595(2), and to pay debt service for Everglades  
 3543 | restoration bonds issued pursuant to s. 215.619. The trust fund  
 3544 | shall serve as the repository for state, local, and federal  
 3545 | project contributions in accordance with s. 373.470(4).

8-04063-08

20081678\_\_

3546 Reviser's note.--Amended to conform to the redesignation of  
3547 s. 373.470(2) (a) as s. 373.470(2) (b) by s. 4, ch. 2007-253,  
3548 Laws of Florida.

3549 Section 91. Paragraph (c) of subsection (3) of section  
3550 376.308, Florida Statutes, is amended to read:

3551 376.308 Liabilities and defenses of facilities.--

3552 (3) For purposes of this section, the following additional  
3553 defenses shall apply to sites contaminated with petroleum or  
3554 petroleum products:

3555 (c) The defendant is a lender which held a security  
3556 interest in the site and has foreclosed or otherwise acted to  
3557 acquire title primarily to protect its security interest, and  
3558 seeks to sell, transfer, or otherwise divest the assets for  
3559 subsequent sale at the earliest possible time, taking all  
3560 relevant facts and circumstances into account, and has not  
3561 undertaken management activities beyond those necessary to  
3562 protect its financial interest, to effectuate compliance with  
3563 environmental statutes and rules, or to prevent or abate a  
3564 discharge; however, if the facility is not eligible for cleanup  
3565 pursuant to s. 376.305(6) ~~376.305(7)~~, s. 376.3071, or s.  
3566 376.3072, any funds expended by the department for cleanup of the  
3567 property shall constitute a lien on the property against any  
3568 subsequent sale after the amount of the former security interest  
3569 (including the cost of collection, management, and sale) is  
3570 satisfied.

3571 Reviser's note.--Amended to conform to the redesignation of  
3572 s. 376.305(7) as s. 376.305(6) by s. 4, ch. 96-277, Laws of  
3573 Florida.

8-04063-08

20081678\_\_

3574 Section 92. Subsection (1) of section 377.42, Florida  
3575 Statutes, is amended to read:

3576 377.42 Big Cypress Swamp Advisory Committee.--

3577 (1) For purposes of this section, the Big Cypress watershed  
3578 is defined as the area in Collier County and the adjoining  
3579 portions of Hendry, Broward, Miami-Dade ~~Dade~~, and Monroe Counties  
3580 which is designated as the Big Cypress Swamp in U.S. Geological  
3581 Survey Open-File Report No. 70003.

3582 Reviser's note.--Amended to conform to the redesignation of  
3583 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
3584 Dade County Code.

3585 Section 93. Paragraph (c) of subsection (1), paragraph (c)  
3586 of subsection (2), and paragraph (c) of subsection (3) of section  
3587 381.0273, Florida Statutes, are amended to read:

3588 381.0273 Public records exemption for patient safety  
3589 data.--

3590 (1) Information that identifies a patient and that is  
3591 contained in patient safety data, as defined in s. 766.1016, or  
3592 in other records held by the Florida Patient Safety Corporation  
3593 and its subsidiaries, advisory committees, or contractors  
3594 pursuant to s. 381.0271 is confidential and exempt from s.  
3595 119.07(1) and s. 24(a), Art. I of the State Constitution.  
3596 Personal identifying information made confidential and exempt  
3597 from disclosure by this subsection may be disclosed only:

3598 (c) To a health research entity if the entity seeks the  
3599 records or data pursuant to a research protocol approved by the  
3600 corporation, maintains the records or data in accordance with the  
3601 approved protocol, and enters into a purchase and data-use  
3602 agreement with the corporation, the fee provisions of which are



8-04063-08

20081678\_\_

3603 consistent with s. 119.07(4) ~~119.07(1)(a)~~. The corporation may  
3604 deny a request for records or data that identify the patient if  
3605 the protocol provides for intrusive follow-back contacts, has not  
3606 been approved by a human studies institutional review board, does  
3607 not plan for the destruction of confidential records after the  
3608 research is concluded, or does not have scientific merit. The  
3609 agreement must prohibit the release of any information that would  
3610 permit the identification of any patient, must limit the use of  
3611 records or data in conformance with the approved research  
3612 protocol, and must prohibit any other use of the records or data.  
3613 Copies of records or data issued pursuant to this paragraph  
3614 remain the property of the corporation.

3615 (2) Information that identifies the person or entity that  
3616 reports patient safety data, as defined in s. 766.1016, to the  
3617 corporation and that is contained in patient safety data or in  
3618 other records held by the Florida Patient Safety Corporation and  
3619 its subsidiaries, advisory committees, or contractors pursuant to  
3620 s. 381.0271 is confidential and exempt from s. 119.07(1) and s.  
3621 24(a), Art. I of the State Constitution. Information that  
3622 identifies a person or entity reporting patient safety data made  
3623 confidential and exempt from disclosure by this subsection may be  
3624 disclosed only:

3625 (c) To a health research entity if the entity seeks the  
3626 records or data pursuant to a research protocol approved by the  
3627 corporation, maintains the records or data in accordance with the  
3628 approved protocol, and enters into a purchase and data-use  
3629 agreement with the corporation, the fee provisions of which are  
3630 consistent with s. 119.07(4) ~~119.07(1)(a)~~. The corporation may  
3631 deny a request for records or data that identify the person or

8-04063-08

20081678\_\_

3632 entity reporting patient safety data if the protocol provides for  
3633 intrusive follow-back contacts, has not been approved by a human  
3634 studies institutional review board, does not plan for the  
3635 destruction of confidential records after the research is  
3636 concluded, or does not have scientific merit. The agreement must  
3637 prohibit the release of any information that would permit the  
3638 identification of persons or entities that report patient safety  
3639 data, must limit the use of records or data in conformance with  
3640 the approved research protocol, and must prohibit any other use  
3641 of the records or data. Copies of records or data issued pursuant  
3642 to this paragraph remain the property of the corporation.

3643 (3) Information that identifies a health care practitioner  
3644 or health care facility which is held by the Florida Patient  
3645 Safety Corporation and its subsidiaries, advisory committees, or  
3646 contractors pursuant to s. 381.0271, is confidential and exempt  
3647 from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.  
3648 Information that identifies a health care practitioner or health  
3649 care facility and that is contained in patient safety data made  
3650 confidential and exempt from disclosure by this subsection may be  
3651 disclosed only:

3652 (c) To a health research entity if the entity seeks the  
3653 records or data pursuant to a research protocol approved by the  
3654 corporation, maintains the records or data in accordance with the  
3655 approved protocol, and enters into a purchase and data-use  
3656 agreement with the corporation, the fee provisions of which are  
3657 consistent with s. 119.07(4) ~~119.07(1)(a)~~. The corporation may  
3658 deny a request for records or data that identify the person or  
3659 entity reporting patient safety data if the protocol provides for  
3660 intrusive follow-back contacts, has not been approved by a human

8-04063-08

20081678\_\_

3661 studies institutional review board, does not plan for the  
3662 destruction of confidential records after the research is  
3663 concluded, or does not have scientific merit. The agreement must  
3664 prohibit the release of any information that would permit the  
3665 identification of persons or entities that report patient safety  
3666 data, must limit the use of records or data in conformance with  
3667 the approved research protocol, and must prohibit any other use  
3668 of the records or data. Copies of records or data issued under  
3669 this paragraph remain the property of the corporation.

3670 Reviser's note.--Amended to conform to the redesignation of  
3671 material regarding fees for copies of public records in s.  
3672 119.07(1)(a) as s. 119.07(4) by s. 7, ch. 2004-335, Laws of  
3673 Florida.

3674 Section 94. Paragraph (a) of subsection (1) of section  
3675 381.0404, Florida Statutes, is amended to read:

3676 381.0404 Center for Health Technologies.--

3677 (1)(a) There is hereby established the Center for Health  
3678 Technologies, to be located at and administered by a statutory  
3679 teaching hospital located in Miami-Dade ~~Dade~~ County and hereafter  
3680 referred to as the administrator.

3681 Reviser's note.--Amended to conform to the redesignation of  
3682 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
3683 Dade County Code.

3684 Section 95. Paragraph (c) of subsection (2) of section  
3685 381.92, Florida Statutes, is amended to read:

3686 381.92 Florida Cancer Council.--

3687 (2)

3688 (c) The members of the council shall consist of:

8-04063-08

20081678\_\_

- 3689           1. The chair of the Florida Dialogue on Cancer, who shall  
3690 serve as the chair of the council;
- 3691           2. The State Surgeon General or his or her designee;
- 3692           3. The chief executive officer of the H. Lee Moffitt Cancer  
3693 Center or his or her designee;
- 3694           4. The director of the University of Florida Shands Cancer  
3695 Center or his or her designee;
- 3696           5. The chief executive officer of the University of Miami  
3697 Sylvester Comprehensive Cancer Center or his or her designee;
- 3698           6. The chief executive officer of the Mayo Clinic,  
3699 Jacksonville, or his or her designee;
- 3700           7. The chief executive officer of the American Cancer  
3701 Society, Florida Division, Inc., or his or her designee;
- 3702           8. The president of the American Cancer Society, Florida  
3703 Division, Inc., Board of Directors or his or her designee;
- 3704           9. The president of the Florida Society of Clinical  
3705 Oncology or his or her designee;
- 3706           10. The president of the American College of Surgeons,  
3707 Florida Chapter, or his or her designee;
- 3708           11. The chief executive officer of Enterprise Florida,  
3709 Inc., or his or her designee;
- 3710           12. Five representatives from cancer programs approved by  
3711 the American College of Surgeons. Three shall be appointed by the  
3712 Governor, one shall be appointed by the Speaker of the House of  
3713 Representatives, and one shall be appointed by the President of  
3714 the Senate;
- 3715           13. One member of the House of Representatives, to be  
3716 appointed by the Speaker of the House of Representatives; and

8-04063-08

20081678\_\_

3717 14. One member of the Senate, to be appointed by the  
3718 President of the Senate.

3719 Reviser's note.--Amended to improve clarity and correct  
3720 sentence construction.

3721 Section 96. Subsection (5) of section 383.412, Florida  
3722 Statutes, is amended to read:

3723 383.412 Public records and public meetings exemptions.--

3724 (5) This section is subject to the Open Government Sunset  
3725 Review Act ~~of 1995~~ in accordance with s. 119.15, and shall stand  
3726 repealed on October 2, 2010, unless reviewed and saved from  
3727 repeal through reenactment by the Legislature.

3728 Reviser's note.--Amended to conform to the renaming of the  
3729 "Open Government Sunset Review Act of 1995" as the "Open  
3730 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws  
3731 of Florida.

3732 Section 97. Subsection (1) of section 390.012, Florida  
3733 Statutes, is amended to read:

3734 390.012 Powers of agency; rules; disposal of fetal  
3735 remains.--

3736 (1) The agency may develop and enforce rules pursuant to  
3737 ss. 390.011-390.018 ~~390.001-390.018~~ and part II of chapter 408  
3738 for the health, care, and treatment of persons in abortion  
3739 clinics and for the safe operation of such clinics.

3740 (a) The rules shall be reasonably related to the  
3741 preservation of maternal health of the clients.

3742 (b) The rules shall be in accordance with s. 797.03 and may  
3743 not impose an unconstitutional burden on a woman's freedom to  
3744 decide whether to terminate her pregnancy.

3745 (c) The rules shall provide for:

8-04063-08

20081678\_\_

3746 1. The performance of pregnancy termination procedures only  
3747 by a licensed physician.

3748 2. The making, protection, and preservation of patient  
3749 records, which shall be treated as medical records under chapter  
3750 458.

3751 Reviser's note.--Amended to correct an erroneous reference  
3752 added by s. 15, ch. 2007-230, Laws of Florida. Section  
3753 390.001 was redesignated as s. 390.0111 by s. 2, ch. 97-151,  
3754 Laws of Florida. Section 390.011 provides definitions for  
3755 the range of sections in the cross-reference.

3756 Section 98. Subsection (3) of section 390.014, Florida  
3757 Statutes, is amended to read:

3758 390.014 Licenses; fees.--

3759 (3) In accordance with s. 408.805, an applicant or licensee  
3760 shall pay a fee for each license application submitted under this  
3761 chapter part and part II of chapter 408. The amount of the fee  
3762 shall be established by rule and may not be less than \$70 or more  
3763 than \$500.

3764 Reviser's note.--Amended to correct an erroneous reference;  
3765 chapter 390 is not divided into parts.

3766 Section 99. Section 390.018, Florida Statutes, is amended  
3767 to read:

3768 390.018 Administrative fine.--In addition to the  
3769 requirements of part II of chapter 408, the agency may impose a  
3770 fine upon the clinic in an amount not to exceed \$1,000 for each  
3771 violation of any provision of this chapter part, part II of  
3772 chapter 408, or applicable rules.

3773 Reviser's note.--Amended to correct an erroneous reference;  
3774 chapter 390 is not divided into parts.

8-04063-08

20081678\_\_

3775 Section 100. Section 393.23, Florida Statutes, is amended  
3776 to read:

3777 393.23 Developmental disabilities institutions; trust  
3778 accounts.--All receipts from the operation of canteens, vending  
3779 machines, hobby shops, sheltered workshops, activity centers,  
3780 farming projects, and other like activities operated in a  
3781 developmental disabilities institution, and moneys donated to the  
3782 institution, must be deposited in a trust account in any bank,  
3783 credit union, or savings and loan association authorized by the  
3784 State Treasury as a qualified depository ~~depositor~~ to do business  
3785 in this state, if the moneys are available on demand.

3786 (1) Moneys in the trust account must be expended for the  
3787 benefit, education, and welfare of clients. However, if  
3788 specified, moneys that are donated to the institution must be  
3789 expended in accordance with the intentions of the donor. Trust  
3790 account money may not be used for the benefit of employees of the  
3791 agency or to pay the wages of such employees. The welfare of the  
3792 clients includes the expenditure of funds for the purchase of  
3793 items for resale at canteens or vending machines, and for the  
3794 establishment of, maintenance of, and operation of canteens,  
3795 hobby shops, recreational or entertainment facilities, sheltered  
3796 workshops, activity centers, farming projects, or other like  
3797 facilities or programs established at the institutions for the  
3798 benefit of clients.

3799 (2) The institution may invest, in the manner authorized by  
3800 law for fiduciaries, any money in a trust account which is not  
3801 necessary for immediate use. The interest earned and other  
3802 increments derived from the investments of the money must be  
3803 deposited into the trust account for the benefit of clients.

8-04063-08

20081678\_\_

3804 (3) The accounting system of an institution must account  
3805 separately for revenues and expenses for each activity. The  
3806 institution shall reconcile the trust account to the  
3807 institution's accounting system and check registers and to the  
3808 accounting system of the Chief Financial Officer.

3809 (4) All sales taxes collected by the institution as a  
3810 result of sales shall be deposited into the trust account and  
3811 remitted to the Department of Revenue.

3812 (5) Funds shall be expended in accordance with requirements  
3813 and guidelines established by the Chief Financial Officer.

3814 Reviser's note.--Amended to confirm the editorial  
3815 substitution of the word "depository" for the word  
3816 "depositor" to correct an apparent error and facilitate  
3817 correct interpretation.

3818 Section 101. Paragraph (a) of subsection (4) of section  
3819 395.402, Florida Statutes, is amended to read:

3820 395.402 Trauma service areas; number and location of trauma  
3821 centers.--

3822 (4) Annually thereafter, the department shall review the  
3823 assignment of the 67 counties to trauma service areas, in  
3824 addition to the requirements of paragraphs (2) (b)-(g) and  
3825 subsection (3). County assignments are made for the purpose of  
3826 developing a system of trauma centers. Revisions made by the  
3827 department shall take into consideration the recommendations made  
3828 as part of the regional trauma system plans approved by the  
3829 department and the recommendations made as part of the state  
3830 trauma system plan. In cases where a trauma service area is  
3831 located within the boundaries of more than one trauma region, the  
3832 trauma service area's needs, response capability, and system



8-04063-08

20081678\_\_

3833 requirements shall be considered by each trauma region served by  
3834 that trauma service area in its regional system plan. Until the  
3835 department completes the February 2005 assessment, the assignment  
3836 of counties shall remain as established in this section.

3837 (a) The following trauma service areas are hereby  
3838 established:

3839 1. Trauma service area 1 shall consist of Escambia,  
3840 Okaloosa, Santa Rosa, and Walton Counties.

3841 2. Trauma service area 2 shall consist of Bay, Gulf,  
3842 Holmes, and Washington Counties.

3843 3. Trauma service area 3 shall consist of Calhoun,  
3844 Franklin, Gadsden, Jackson, Jefferson, Leon, Liberty, Madison,  
3845 Taylor, and Wakulla Counties.

3846 4. Trauma service area 4 shall consist of Alachua,  
3847 Bradford, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Levy,  
3848 Putnam, Suwannee, and Union Counties.

3849 5. Trauma service area 5 shall consist of Baker, Clay,  
3850 Duval, Nassau, and St. Johns Counties.

3851 6. Trauma service area 6 shall consist of Citrus, Hernando,  
3852 and Marion Counties.

3853 7. Trauma service area 7 shall consist of Flagler and  
3854 Volusia Counties.

3855 8. Trauma service area 8 shall consist of Lake, Orange,  
3856 Osceola, Seminole, and Sumter Counties.

3857 9. Trauma service area 9 shall consist of Pasco and  
3858 Pinellas Counties.

3859 10. Trauma service area 10 shall consist of Hillsborough  
3860 County.

8-04063-08

20081678\_\_

3861 | 11. Trauma service area 11 shall consist of Hardee,  
3862 | Highlands, and Polk Counties.

3863 | 12. Trauma service area 12 shall consist of Brevard and  
3864 | Indian River Counties.

3865 | 13. Trauma service area 13 shall consist of DeSoto,  
3866 | Manatee, and Sarasota Counties.

3867 | 14. Trauma service area 14 shall consist of Martin,  
3868 | Okeechobee, and St. Lucie Counties.

3869 | 15. Trauma service area 15 shall consist of Charlotte,  
3870 | Glades, Hendry, and Lee Counties.

3871 | 16. Trauma service area 16 shall consist of Palm Beach  
3872 | County.

3873 | 17. Trauma service area 17 shall consist of Collier County.

3874 | 18. Trauma service area 18 shall consist of Broward County.

3875 | 19. Trauma service area 19 shall consist of Miami-Dade ~~Dade~~  
3876 | and Monroe Counties.

3877 | Reviser's note.--Amended to conform to the redesignation of  
3878 | Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
3879 | Dade County Code.

3880 | Section 102. Subsection (1) of section 400.063, Florida  
3881 | Statutes, is amended to read:

3882 | 400.063 Resident Protection Trust Fund.--

3883 | (1) A Resident Protection Trust Fund shall be established  
3884 | for the purpose of collecting and disbursing funds generated from  
3885 | the license fees and administrative fines as provided for in ss.  
3886 | 393.0673(3) ~~393.0673(2)~~, 400.062(3), 400.121(2), and 400.23(8).  
3887 | Such funds shall be for the sole purpose of paying for the  
3888 | appropriate alternate placement, care, and treatment of residents  
3889 | who are removed from a facility licensed under this part or a

8-04063-08

20081678\_\_

3890 facility specified in s. 393.0678(1) in which the agency  
3891 determines that existing conditions or practices constitute an  
3892 immediate danger to the health, safety, or security of the  
3893 residents. If the agency determines that it is in the best  
3894 interest of the health, safety, or security of the residents to  
3895 provide for an orderly removal of the residents from the  
3896 facility, the agency may utilize such funds to maintain and care  
3897 for the residents in the facility pending removal and alternative  
3898 placement. The maintenance and care of the residents shall be  
3899 under the direction and control of a receiver appointed pursuant  
3900 to s. 393.0678(1) or s. 400.126(1). However, funds may be  
3901 expended in an emergency upon a filing of a petition for a  
3902 receiver, upon the declaration of a state of local emergency  
3903 pursuant to s. 252.38(3)(a)5., or upon a duly authorized local  
3904 order of evacuation of a facility by emergency personnel to  
3905 protect the health and safety of the residents.

3906 Reviser's note.--Amended to conform to the redesignation of  
3907 s. 393.0673(2) as s. 393.0673(3) by s. 20, ch. 2006-227,  
3908 Laws of Florida.

3909 Section 103. Subsection (1) of section 400.0712, Florida  
3910 Statutes, is amended to read:

3911 400.0712 Application for inactive license.--

3912 (1) As specified in s. 408.831(4) ~~408.321(4)~~ and this  
3913 section, the agency may issue an inactive license to a nursing  
3914 home facility for all or a portion of its beds. Any request by a  
3915 licensee that a nursing home or portion of a nursing home become  
3916 inactive must be submitted to the agency in the approved format.  
3917 The facility may not initiate any suspension of services, notify  
3918 residents, or initiate inactivity before receiving approval from

8-04063-08

20081678\_\_

3919 | the agency; and a licensee that violates this provision may not  
3920 | be issued an inactive license.

3921 |       Reviser's note.--Amended to confirm the editorial  
3922 |       substitution of a reference to s. 408.831(4) for a reference  
3923 |       to nonexistent s. 408.321(4); s. 408.831(4) relates to  
3924 |       issuance of inactive licenses.

3925 |       Section 104. Subsections (3) and (12) of section 400.506,  
3926 | Florida Statutes, are amended to read:

3927 |       400.506 Licensure of nurse registries; requirements;  
3928 | penalties.--

3929 |       (3) In accordance with s. 408.805, an applicant or licensee  
3930 | shall pay a fee for each license application submitted under ss.  
3931 | 400.506-400.518 ~~400.508-400.518~~, part II of chapter 408, and  
3932 | applicable rules. The amount of the fee shall be established by  
3933 | rule and may not exceed \$2,000 per biennium.

3934 |       (12) Each nurse registry shall prepare and maintain a  
3935 | comprehensive emergency management plan that is consistent with  
3936 | the criteria in this subsection and with the local special needs  
3937 | plan. The plan shall be updated annually. The plan shall include  
3938 | the means by which the nurse registry will continue to provide  
3939 | the same type and quantity of services to its patients who  
3940 | evacuate to special needs shelters which were being provided to  
3941 | those patients prior to evacuation. The plan shall specify how  
3942 | the nurse registry shall facilitate the provision of continuous  
3943 | care by persons referred for contract to persons who are  
3944 | registered pursuant to s. 252.355 during an emergency that  
3945 | interrupts the provision of care or services in private  
3946 | residences. Nurse registries may establish links to local  
3947 | emergency operations centers to determine a mechanism by which to

8-04063-08

20081678\_\_

3948 approach specific areas within a disaster area in order for a  
3949 provider to reach its clients. Nurse registries shall demonstrate  
3950 a good faith effort to comply with the requirements of this  
3951 subsection by documenting attempts of staff to follow procedures  
3952 outlined in the nurse registry's comprehensive emergency  
3953 management plan which support a finding that the provision of  
3954 continuing care has been attempted for patients identified as  
3955 needing care by the nurse registry and registered under s.  
3956 252.355 in the event of an emergency under this subsection ~~(1)~~.

3957 (a) All persons referred for contract who care for persons  
3958 registered pursuant to s. 252.355 must include in the patient  
3959 record a description of how care will be continued during a  
3960 disaster or emergency that interrupts the provision of care in  
3961 the patient's home. It shall be the responsibility of the person  
3962 referred for contract to ensure that continuous care is provided.

3963 (b) Each nurse registry shall maintain a current  
3964 prioritized list of patients in private residences who are  
3965 registered pursuant to s. 252.355 and are under the care of  
3966 persons referred for contract and who need continued services  
3967 during an emergency. This list shall indicate, for each patient,  
3968 if the client is to be transported to a special needs shelter and  
3969 if the patient is receiving skilled nursing services. Nurse  
3970 registries shall make this list available to county health  
3971 departments and to local emergency management agencies upon  
3972 request.

3973 (c) Each person referred for contract who is caring for a  
3974 patient who is registered pursuant to s. 252.355 shall provide a  
3975 list of the patient's medication and equipment needs to the nurse  
3976 registry. Each person referred for contract shall make this

8-04063-08

20081678\_\_

3977 information available to county health departments and to local  
3978 emergency management agencies upon request.

3979 (d) Each person referred for contract shall not be required  
3980 to continue to provide care to patients in emergency situations  
3981 that are beyond the person's control and that make it impossible  
3982 to provide services, such as when roads are impassable or when  
3983 patients do not go to the location specified in their patient  
3984 records.

3985 (e) The comprehensive emergency management plan required by  
3986 this subsection is subject to review and approval by the county  
3987 health department. During its review, the county health  
3988 department shall contact state and local health and medical  
3989 stakeholders when necessary. The county health department shall  
3990 complete its review to ensure that the plan complies with the  
3991 criteria in the Agency for Health Care Administration rules  
3992 within 90 days after receipt of the plan and shall either approve  
3993 the plan or advise the nurse registry of necessary revisions. If  
3994 a nurse registry fails to submit a plan or fails to submit  
3995 requested information or revisions to the county health  
3996 department within 30 days after written notification from the  
3997 county health department, the county health department shall  
3998 notify the Agency for Health Care Administration. The agency  
3999 shall notify the nurse registry that its failure constitutes a  
4000 deficiency, subject to a fine of \$5,000 per occurrence. If the  
4001 plan is not submitted, information is not provided, or revisions  
4002 are not made as requested, the agency may impose the fine.

4003 (f) The Agency for Health Care Administration shall adopt  
4004 rules establishing minimum criteria for the comprehensive  
4005 emergency management plan and plan updates required by this

8-04063-08

20081678\_\_

4006 subsection, with the concurrence of the Department of Health and  
4007 in consultation with the Department of Community Affairs.

4008 Reviser's note.--Subsection (3) is amended to correct an  
4009 erroneous reference. Section 400.508 does not exist; ss.  
4010 400.506-400.518 relate to licensing requirements, and the  
4011 range appears elsewhere in the section as amended by s. 80,  
4012 ch. 2007-230, Laws of Florida. Subsection (12) is amended to  
4013 correct an erroneous reference. Subsection (1) does not  
4014 reference emergencies; subsection (12) provides for a  
4015 comprehensive emergency management plan.

4016 Section 105. Subsection (5) of section 400.995, Florida  
4017 Statutes, is amended to read:

4018 400.995 Agency administrative penalties.--

4019 (5) Any clinic whose owner fails to apply for a change-of-  
4020 ownership license ~~in accordance with s. 400.992~~ and operates the  
4021 clinic under the new ownership is subject to a fine of \$5,000.

4022 Reviser's note.--Amended to conform to the repeal of s.  
4023 400.992 by s. 125, ch. 2007-230, Laws of Florida.

4024 Section 106. Paragraph (a) of subsection (13) of section  
4025 403.031, Florida Statutes, is amended to read:

4026 403.031 Definitions.--In construing this chapter, or rules  
4027 and regulations adopted pursuant hereto, the following words,  
4028 phrases, or terms, unless the context otherwise indicates, have  
4029 the following meanings:

4030 (13) "Waters" include, but are not limited to, rivers,  
4031 lakes, streams, springs, impoundments, wetlands, and all other  
4032 waters or bodies of water, including fresh, brackish, saline,  
4033 tidal, surface, or underground waters. Waters owned entirely by  
4034 one person other than the state are included only in regard to

8-04063-08

20081678\_\_

4035 possible discharge on other property or water. Underground waters  
4036 include, but are not limited to, all underground waters passing  
4037 through pores of rock or soils or flowing through in channels,  
4038 whether manmade or natural. Solely for purposes of s. 403.0885,  
4039 waters of the state also include navigable waters or waters of  
4040 the contiguous zone as used in s. 502 of the Clean Water Act, as  
4041 amended, 33 U.S.C. ss. 1251 et seq., as in existence on January  
4042 1, 1993, except for those navigable waters seaward of the  
4043 boundaries of the state set forth in s. 1, Art. II of the State  
4044 Constitution. Solely for purposes of this chapter, waters of the  
4045 state also include the area bounded by the following:

4046 (a) Commence at the intersection of State Road (SRD) 5  
4047 (U.S. 1) and the county line dividing Miami-Dade ~~Dade~~ and Monroe  
4048 Counties, said point also being the mean high-water line of  
4049 Florida Bay, located in section 4, township 60 south, range 39  
4050 east of the Tallahassee Meridian for the point of beginning. From  
4051 said point of beginning, thence run northwesterly along said SRD  
4052 5 to an intersection with the north line of section 18, township  
4053 58 south, range 39 east; thence run westerly to a point marking  
4054 the southeast corner of section 12, township 58 south, range 37  
4055 east, said point also lying on the east boundary of the  
4056 Everglades National Park; thence run north along the east  
4057 boundary of the aforementioned Everglades National Park to a  
4058 point marking the northeast corner of section 1, township 58  
4059 south, range 37 east; thence run west along said park to a point  
4060 marking the northwest corner of said section 1; thence run  
4061 northerly along said park to a point marking the northwest corner  
4062 of section 24, township 57 south, range 37 east; thence run  
4063 westerly along the south lines of sections 14, 15, and 16 to the



8-04063-08

20081678\_\_

4064 southwest corner of section 16; thence leaving the Everglades  
4065 National Park boundary run northerly along the west line of  
4066 section 16 to the northwest corner of section 16; thence east  
4067 along the northerly line of section 16 to a point at the  
4068 intersection of the east one-half and west one-half of section 9;  
4069 thence northerly along the line separating the east one-half and  
4070 the west one-half of sections 9, 4, 33, and 28; thence run  
4071 easterly along the north line of section 28 to the northeast  
4072 corner of section 28; thence run northerly along the west line of  
4073 section 22 to the northwest corner of section 22; thence easterly  
4074 along the north line of section 22 to a point at the intersection  
4075 of the east one-half and west one-half of section 15; thence run  
4076 northerly along said line to the point of intersection with the  
4077 north line of section 15; thence easterly along the north line of  
4078 section 15 to the northeast corner of section 15; thence run  
4079 northerly along the west lines of sections 11 and 2 to the  
4080 northwest corner of section 2; thence run easterly along the  
4081 north lines of sections 2 and 1 to the northeast corner of  
4082 section 1, township 56 south, range 37 east; thence run north  
4083 along the east line of section 36, township 55 south, range 37  
4084 east to the northeast corner of section 36; thence run west along  
4085 the north line of section 36 to the northwest corner of section  
4086 36; thence run north along the west line of section 25 to the  
4087 northwest corner of section 25; thence run west along the north  
4088 line of section 26 to the northwest corner of section 26; thence  
4089 run north along the west line of section 23 to the northwest  
4090 corner of section 23; thence run easterly along the north line of  
4091 section 23 to the northeast corner of section 23; thence run  
4092 north along the west line of section 13 to the northwest corner

8-04063-08

20081678\_\_

4093 of section 13; thence run east along the north line of section 13  
4094 to a point of intersection with the west line of the southeast  
4095 one-quarter of section 12; thence run north along the west line  
4096 of the southeast one-quarter of section 12 to the northwest  
4097 corner of the southeast one-quarter of section 12; thence run  
4098 east along the north line of the southeast one-quarter of section  
4099 12 to the point of intersection with the east line of section 12;  
4100 thence run east along the south line of the northwest one-quarter  
4101 of section 7 to the southeast corner of the northwest one-quarter  
4102 of section 7; thence run north along the east line of the  
4103 northwest one-quarter of section 7 to the point of intersection  
4104 with the north line of section 7; thence run northerly along the  
4105 west line of the southeast one-quarter of section 6 to the  
4106 northwest corner of the southeast one-quarter of section 6;  
4107 thence run east along the north lines of the southeast one-  
4108 quarter of section 6 and the southwest one-quarter of section 5  
4109 to the northeast corner of the southwest one-quarter of section  
4110 5; thence run northerly along the east line of the northwest one-  
4111 quarter of section 5 to the point of intersection with the north  
4112 line of section 5; thence run northerly along the line dividing  
4113 the east one-half and the west one-half of Lot 5 to a point  
4114 intersecting the north line of Lot 5; thence run east along the  
4115 north line of Lot 5 to the northeast corner of Lot 5, township 54  
4116 1/2 south, range 38 east; thence run north along the west line of  
4117 section 33, township 54 south, range 38 east to a point  
4118 intersecting the northwest corner of the southwest one-quarter of  
4119 section 33; thence run easterly along the north line of the  
4120 southwest one-quarter of section 33 to the northeast corner of  
4121 the southwest one-quarter of section 33; thence run north along

8-04063-08

20081678\_\_

4122 | the west line of the northeast one-quarter of section 33 to a  
4123 | point intersecting the north line of section 33; thence run  
4124 | easterly along the north line of section 33 to the northeast  
4125 | corner of section 33; thence run northerly along the west line of  
4126 | section 27 to a point intersecting the northwest corner of the  
4127 | southwest one-quarter of section 27; thence run easterly to the  
4128 | northeast corner of the southwest one-quarter of section 27;  
4129 | thence run northerly along the west line of the northeast one-  
4130 | quarter of section 27 to a point intersecting the north line of  
4131 | section 27; thence run west along the north line of section 27 to  
4132 | the northwest corner of section 27; thence run north along the  
4133 | west lines of sections 22 and 15 to the northwest corner of  
4134 | section 15; thence run easterly along the north lines of sections  
4135 | 15 and 14 to the point of intersection with the L-31N Levee, said  
4136 | intersection located near the southeast corner of section 11,  
4137 | township 54 south, range 38 east; thence run northerly along  
4138 | Levee L-31N crossing SRD 90 (U.S. 41 Tamiami Trail) to an  
4139 | intersection common to Levees L-31N, L-29, and L-30, said  
4140 | intersection located near the southeast corner of section 2,  
4141 | township 54 south, range 38 east; thence run northeasterly,  
4142 | northerly, and northeasterly along Levee L-30 to a point of  
4143 | intersection with the Miami-Dade/Broward ~~Dade/Broward~~ Levee, said  
4144 | intersection located near the northeast corner of section 17,  
4145 | township 52 south, range 39 east; thence run due east to a point  
4146 | of intersection with SRD 27 (Krome Ave.); thence run  
4147 | northeasterly along SRD 27 to an intersection with SRD 25 (U.S.  
4148 | 27), said intersection located in section 3, township 52 south,  
4149 | range 39 east; thence run northerly along said SRD 25, entering  
4150 | into Broward County, to an intersection with SRD 84 at Andytown;

8-04063-08

20081678\_\_

4151 | thence run southeasterly along the aforementioned SRD 84 to an  
4152 | intersection with the southwesterly prolongation of Levee L-35A,  
4153 | said intersection being located in the northeast one-quarter of  
4154 | section 5, township 50 south, range 40 east; thence run  
4155 | northeasterly along Levee L-35A to an intersection of Levee L-36,  
4156 | said intersection located near the southeast corner of section  
4157 | 12, township 49 south, range 40 east; thence run northerly along  
4158 | Levee L-36, entering into Palm Beach County, to an intersection  
4159 | common to said Levees L-36, L-39, and L-40, said intersection  
4160 | located near the west quarter corner of section 19, township 47  
4161 | south, range 41 east; thence run northeasterly, easterly, and  
4162 | northerly along Levee L-40, said Levee L-40 being the easterly  
4163 | boundary of the Loxahatchee National Wildlife Refuge, to an  
4164 | intersection with SRD 80 (U.S. 441), said intersection located  
4165 | near the southeast corner of section 32, township 43 south, range  
4166 | 40 east; thence run westerly along the aforementioned SRD 80 to a  
4167 | point marking the intersection of said road and the northeasterly  
4168 | prolongation of Levee L-7, said Levee L-7 being the westerly  
4169 | boundary of the Loxahatchee National Wildlife Refuge; thence run  
4170 | southwesterly and southerly along said Levee L-7 to an  
4171 | intersection common to Levees L-7, L-15 (Hillsborough Canal), and  
4172 | L-6; thence run southwesterly along Levee L-6 to an intersection  
4173 | common to Levee L-6, SRD 25 (U.S. 27), and Levee L-5, said  
4174 | intersection being located near the northwest corner of section  
4175 | 27, township 47 south, range 38 east; thence run westerly along  
4176 | the aforementioned Levee L-5 to a point intersecting the east  
4177 | line of range 36 east; thence run northerly along said range line  
4178 | to a point marking the northeast corner of section 1, township 47  
4179 | south, range 36 east; thence run westerly along the north line of

8-04063-08

20081678\_\_

4180 township 47 south, to an intersection with Levee L-23/24 (Miami  
4181 Canal); thence run northwesterly along the Miami Canal Levee to a  
4182 point intersecting the north line of section 22, township 46  
4183 south, range 35 east; thence run westerly to a point marking the  
4184 northwest corner of section 21, township 46 south, range 35 east;  
4185 thence run southerly to the southwest corner of said section 21;  
4186 thence run westerly to a point marking the northwest corner of  
4187 section 30, township 46 south, range 35 east, said point also  
4188 being on the line dividing Palm Beach and Hendry Counties; from  
4189 said point, thence run southerly along said county line to a  
4190 point marking the intersection of Broward, Hendry, and Collier  
4191 Counties, said point also being the northeast corner of section  
4192 1, township 49 south, range 34 east; thence run westerly along  
4193 the line dividing Hendry and Collier Counties and continuing  
4194 along the prolongation thereof to a point marking the southwest  
4195 corner of section 36, township 48 south, range 29 east; thence  
4196 run southerly to a point marking the southwest corner of section  
4197 12, township 49 south, range 29 east; thence run westerly to a  
4198 point marking the southwest corner of section 10, township 49  
4199 south, range 29 east; thence run southerly to a point marking the  
4200 southwest corner of section 15, township 49 south, range 29 east;  
4201 thence run westerly to a point marking the northwest corner of  
4202 section 24, township 49 south, range 28 east, said point lying on  
4203 the west boundary of the Big Cypress Area of Critical State  
4204 Concern as described in rule 28-25.001, Florida Administrative  
4205 Code; thence run southerly along said boundary crossing SRD 84  
4206 (Alligator Alley) to a point marking the southwest corner of  
4207 section 24, township 50 south, range 28 east; thence leaving the  
4208 aforementioned west boundary of the Big Cypress Area of Critical

8-04063-08

20081678\_\_

4209 State Concern run easterly to a point marking the northeast  
4210 corner of section 25, township 50 south, range 28 east; thence  
4211 run southerly along the east line of range 28 east to a point  
4212 lying approximately 0.15 miles south of the northeast corner of  
4213 section 1, township 52 south, range 28 east; thence run  
4214 southwesterly 2.4 miles more or less to an intersection with SRD  
4215 90 (U.S. 41 Tamiami Trail), said intersection lying 1.1 miles  
4216 more or less west of the east line of range 28 east; thence run  
4217 northwesterly and westerly along SRD 90 to an intersection with  
4218 the west line of section 10, township 52 south, range 28 east;  
4219 thence leaving SRD 90 run southerly to a point marking the  
4220 southwest corner of section 15, township 52 south, range 28 east;  
4221 thence run westerly crossing the Faka Union Canal 0.6 miles more  
4222 or less to a point; thence run southerly and parallel to the Faka  
4223 Union Canal to a point located on the mean high-water line of  
4224 Faka Union Bay; thence run southeasterly along the mean high-  
4225 water line of the various bays, rivers, inlets, and streams to  
4226 the point of beginning.

4227 Reviser's note.--Amended to conform to the redesignation of  
4228 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
4229 Dade County Code.

4230 Section 107. Subsection (2) of section 403.201, Florida  
4231 Statutes, is amended to read:

4232 403.201 Variances.--

4233 (2) No variance shall be granted from any provision or  
4234 requirement concerning discharges of waste into waters of the  
4235 state or hazardous waste management which would result in the  
4236 provision or requirement being less stringent than a comparable

8-04063-08

20081678\_\_

4237 federal provision or requirement, except as provided in s.  
4238 403.70715 ~~403.7221~~.

4239 Reviser's note.--Amended to conform to the redesignation of  
4240 s. 403.7221 as s. 403.70715 by s. 20, ch. 2007-184, Laws of  
4241 Florida.

4242 Section 108. Paragraph (a) of subsection (6) of section  
4243 403.707, Florida Statutes, is amended to read:

4244 403.707 Permits.--

4245 (6) The department may issue a construction permit pursuant  
4246 to this part only to a solid waste management facility that  
4247 provides the conditions necessary to control the safe movement of  
4248 wastes or waste constituents into surface or ground waters or the  
4249 atmosphere and that will be operated, maintained, and closed by  
4250 qualified and properly trained personnel. Such facility must if  
4251 necessary:

4252 (a) Use natural or artificial barriers that ~~which~~ are  
4253 capable of controlling lateral or vertical movement of wastes or  
4254 waste constituents into surface or ground waters.

4255

4256 Open fires, air-curtain incinerators, or trench burning may not  
4257 be used as a means of disposal at a solid waste management  
4258 facility, unless permitted by the department under s. 403.087.

4259 Reviser's note.--Amended to confirm the editorial deletion  
4260 of the word "which" following the word "that" to correct a  
4261 drafting error that occurred in the amendment to the section  
4262 by s. 12, ch. 2007-184, Laws of Florida.

4263 Section 109. Subsections (1), (2), and (3) of section  
4264 403.890, Florida Statutes, as amended by section 2 of chapter  
4265 2007-335, Laws of Florida, are amended to read:

8-04063-08

20081678\_\_

4266 403.890 Water Protection and Sustainability Program;  
4267 intent; goals; purposes.--

4268 (1) Effective July 1, 2006, revenues transferred from the  
4269 Department of Revenue pursuant to s. 201.15(1)(d)2. shall be  
4270 deposited into the Water Protection and Sustainability Program  
4271 Trust Fund in the Department of Environmental Protection. These  
4272 revenues and any other additional revenues deposited into or  
4273 appropriated to the Water Protection and Sustainability Program  
4274 Trust Fund shall be distributed by the Department of  
4275 Environmental Protection in the following manner:

4276 (a) Sixty percent to the Department of Environmental  
4277 Protection for the implementation of an alternative water supply  
4278 program as provided in s. 373.1961.

4279 (b) Twenty percent for the implementation of best  
4280 management practices and capital project expenditures necessary  
4281 for the implementation of the goals of the total maximum daily  
4282 load program established in s. 403.067. Of these funds, 85  
4283 percent shall be transferred to the credit of the Department of  
4284 Environmental Protection Water Quality Assurance Trust Fund to  
4285 address water quality impacts associated with nonagricultural  
4286 nonpoint sources. Fifteen percent of these funds shall be  
4287 transferred to the Department of Agriculture and Consumer  
4288 Services General Inspection Trust Fund to address water quality  
4289 impacts associated with agricultural nonpoint sources. These  
4290 funds shall be used for research, development, demonstration, and  
4291 implementation of the total maximum daily load program under s.  
4292 403.067, suitable best management practices or other measures  
4293 used to achieve water quality standards in surface waters and  
4294 water segments identified pursuant to s. 303(d) of the Clean



8-04063-08

20081678\_\_

4295 Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.  
4296 Implementation of best management practices and other measures  
4297 may include cost-share grants, technical assistance,  
4298 implementation tracking, and conservation leases or other  
4299 agreements for water quality improvement. The Department of  
4300 Environmental Protection and the Department of Agriculture and  
4301 Consumer Services may adopt rules governing the distribution of  
4302 funds for implementation of capital projects, best management  
4303 practices, and other measures. These funds shall not be used to  
4304 abrogate the financial responsibility of those point and nonpoint  
4305 sources that have contributed to the degradation of water or land  
4306 areas. Increased priority shall be given by the department and  
4307 the water management district governing boards to those projects  
4308 that have secured a cost-sharing agreement allocating  
4309 responsibility for the cleanup of point and nonpoint sources.

4310 (c) Ten percent shall be disbursed for the purposes of  
4311 funding projects pursuant to ss. 373.451-373.459 or surface water  
4312 restoration activities in water-management-district-designated  
4313 priority water bodies. The Secretary of Environmental Protection  
4314 shall ensure that each water management district receives the  
4315 following percentage of funds annually:

4316 1. Thirty-five percent to the South Florida Water  
4317 Management District;

4318 2. Twenty-five percent to the Southwest Florida Water  
4319 Management District;

4320 3. Twenty-five percent to the St. Johns River Water  
4321 Management District;

4322 4. Seven and one-half percent to the Suwannee River Water  
4323 Management District; and

8-04063-08

20081678\_\_

4324 5. Seven and one-half percent to the Northwest Florida  
4325 Water Management District.

4326 (d) Ten percent to the Department of Environmental  
4327 Protection for the Disadvantaged Small Community Wastewater Grant  
4328 Program as provided in s. 403.1838.

4329 (2) Applicable beginning in the 2007-2008 fiscal year,  
4330 revenues transferred from the Department of Revenue pursuant to  
4331 s. 201.15(1)(d)2. shall be deposited into the Water Protection  
4332 and Sustainability Program Trust Fund in the Department of  
4333 Environmental Protection. These revenues and any other additional  
4334 revenues deposited into or appropriated to the Water Protection  
4335 and Sustainability Program Trust Fund shall be distributed by the  
4336 Department of Environmental Protection in the following manner:

4337 (a) Sixty-five percent to the Department of Environmental  
4338 Protection for the implementation of an alternative water supply  
4339 program as provided in s. 373.1961.

4340 (b) Twenty-two and five-tenths percent for the  
4341 implementation of best management practices and capital project  
4342 expenditures necessary for the implementation of the goals of the  
4343 total maximum daily load program established in s. 403.067. Of  
4344 these funds, 83.33 percent shall be transferred to the credit of  
4345 the Department of Environmental Protection Water Quality  
4346 Assurance Trust Fund to address water quality impacts associated  
4347 with nonagricultural nonpoint sources. Sixteen and sixty-seven  
4348 hundredths percent of these funds shall be transferred to the  
4349 Department of Agriculture and Consumer Services General  
4350 Inspection Trust Fund to address water quality impacts associated  
4351 with agricultural nonpoint sources. These funds shall be used for  
4352 research, development, demonstration, and implementation of the

8-04063-08

20081678\_\_

4353 total maximum daily load program under s. 403.067, suitable best  
4354 management practices or other measures used to achieve water  
4355 quality standards in surface waters and water segments identified  
4356 pursuant to s. 303(d) of the Clean Water Act, Pub. L. No. 92-500,  
4357 33 U.S.C. ss. 1251 et seq. Implementation of best management  
4358 practices and other measures may include cost-share grants,  
4359 technical assistance, implementation tracking, and conservation  
4360 leases or other agreements for water quality improvement. The  
4361 Department of Environmental Protection and the Department of  
4362 Agriculture and Consumer Services may adopt rules governing the  
4363 distribution of funds for implementation of capital projects,  
4364 best management practices, and other measures. These funds shall  
4365 not be used to abrogate the financial responsibility of those  
4366 point and nonpoint sources that have contributed to the  
4367 degradation of water or land areas. Increased priority shall be  
4368 given by the department and the water management district  
4369 governing boards to those projects that have secured a cost-  
4370 sharing agreement allocating responsibility for the cleanup of  
4371 point and nonpoint sources.

4372 (c) Twelve and five-tenths percent to the Department of  
4373 Environmental Protection for the Disadvantaged Small Community  
4374 Wastewater Grant Program as provided in s. 403.1838.

4375 (d) On June 30, 2009, and every 24 months thereafter, the  
4376 Department of Environmental Protection shall request the return  
4377 of all unencumbered funds distributed pursuant to this section.  
4378 These funds shall be deposited into the Water Protection and  
4379 Sustainability Program Trust Fund and redistributed pursuant to  
4380 the provisions of this section.

8-04063-08

20081678\_\_

4381 (3) For fiscal year 2005-2006, funds deposited or  
4382 appropriated into the Water Protection and Sustainability Program  
4383 Trust Fund shall be distributed as follows:

4384 (a) One hundred million dollars to the Department of  
4385 Environmental Protection for the implementation of an alternative  
4386 water supply program as provided in s. 373.1961.

4387 (b) Funds remaining after the distribution provided for in  
4388 subsection (1) shall be distributed as follows:

4389 1. Fifty percent for the implementation of best management  
4390 practices and capital project expenditures necessary for the  
4391 implementation of the goals of the total maximum daily load  
4392 program established in s. 403.067. Of these funds, 85 percent  
4393 shall be transferred to the credit of the Department of  
4394 Environmental Protection Water Quality Assurance Trust Fund to  
4395 address water quality impacts associated with nonagricultural  
4396 nonpoint sources. Fifteen percent of these funds shall be  
4397 transferred to the Department of Agriculture and Consumer  
4398 Services General Inspection Trust Fund to address water quality  
4399 impacts associated with agricultural nonpoint sources. These  
4400 funds shall be used for research, development, demonstration, and  
4401 implementation of suitable best management practices or other  
4402 measures used to achieve water quality standards in surface  
4403 waters and water segments identified pursuant to s. 303(d) of the  
4404 Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.  
4405 Implementation of best management practices and other measures  
4406 may include cost-share grants, technical assistance,  
4407 implementation tracking, and conservation leases or other  
4408 agreements for water quality improvement. The Department of  
4409 Environmental Protection and the Department of Agriculture and

8-04063-08

20081678\_\_

4410 Consumer Services may adopt rules governing the distribution of  
4411 funds for implementation of best management practices. These  
4412 funds shall not be used to abrogate the financial responsibility  
4413 of those point and nonpoint sources that have contributed to the  
4414 degradation of water or land areas. Increased priority shall be  
4415 given by the department and the water management district  
4416 governing boards to those projects that have secured a cost-  
4417 sharing agreement allocating responsibility for the cleanup of  
4418 point and nonpoint sources.

4419         2. Twenty-five percent for the purposes of funding projects  
4420 pursuant to ss. 373.451-373.459 or surface water restoration  
4421 activities in water-management-district-designated priority water  
4422 bodies. The Secretary of Environmental Protection shall ensure  
4423 that each water management district receives the following  
4424 percentage of funds annually:

4425             a. Thirty-five percent to the South Florida Water  
4426 Management District;

4427             b. Twenty-five percent to the Southwest Florida Water  
4428 Management District;

4429             c. Twenty-five percent to the St. Johns River Water  
4430 Management District;

4431             d. Seven and one-half percent to the Suwannee River Water  
4432 Management District; and

4433             e. Seven and one-half percent to the Northwest Florida  
4434 Water Management District.

4435         3. Twenty-five percent to the Department of Environmental  
4436 Protection for the Disadvantaged Small Community Wastewater Grant  
4437 Program as provided in s. 403.1838.

4438

8-04063-08

20081678\_\_

4439 Prior to the end of the 2008 Regular Session, the Legislature  
4440 must review the distribution of funds under the Water Protection  
4441 and Sustainability Program to determine if revisions to the  
4442 funding formula are required. At the discretion of the President  
4443 of the Senate and the Speaker of the House of Representatives,  
4444 the appropriate substantive committees of the Legislature may  
4445 conduct an interim project to review the Water Protection and  
4446 Sustainability Program and the funding formula and make written  
4447 recommendations to the Legislature proposing necessary changes,  
4448 if any.

4449 Reviser's note.--Amended to confirm the insertion of the  
4450 word "Program" by the editors to conform to the name of the  
4451 trust fund at s. 403.891, which creates the fund.

4452 Section 110. Section 403.8911, Florida Statutes, is amended  
4453 to read:

4454 403.8911 Annual appropriation from the Water Protection and  
4455 Sustainability Program Trust Fund.--

4456 (1) Funds paid into the Water Protection and Sustainability  
4457 Program Trust Fund pursuant to s. 201.15(1)(d) are hereby  
4458 annually appropriated for expenditure for the purposes for which  
4459 the Water Protection and Sustainability Program Trust Fund is  
4460 established.

4461 (2) If the Water Protection and Sustainability Program  
4462 Trust Fund is not created, such funds are hereby annually  
4463 appropriated for expenditure from the Ecosystem Management and  
4464 Restoration Trust Fund solely for the purposes established in s.  
4465 403.890.

4466 Reviser's note.--Amended to conform to the name of the trust  
4467 fund at s. 403.891, which creates the fund.

8-04063-08

20081678\_\_

4468 Section 111. Subsections (6), (7), and (12) and paragraph  
4469 (b) of subsection (13) of section 403.973, Florida Statutes, are  
4470 amended to read:

4471 403.973 Expedited permitting; comprehensive plan  
4472 amendments.--

4473 (6) The local government shall hold a duly noticed public  
4474 hearing to execute a memorandum of agreement for each qualified  
4475 project. Notwithstanding any other provision of law, and at the  
4476 option of the local government, the workshop provided for in  
4477 subsection (5) ~~(6)~~ may be conducted on the same date as the  
4478 public hearing held under this subsection. The memorandum of  
4479 agreement that a local government signs shall include a provision  
4480 identifying necessary local government procedures and time limits  
4481 that will be modified to allow for the local government decision  
4482 on the project within 90 days. The memorandum of agreement  
4483 applies to projects, on a case-by-case basis, that qualify for  
4484 special review and approval as specified in this section. The  
4485 memorandum of agreement must make it clear that this expedited  
4486 permitting and review process does not modify, qualify, or  
4487 otherwise alter existing local government nonprocedural standards  
4488 for permit applications, unless expressly authorized by law.

4489 (7) At the option of the participating local government,  
4490 appeals of its final approval for a project may be pursuant to  
4491 the summary hearing provisions of s. 120.574, pursuant to  
4492 subsection (14) ~~(15)~~, or pursuant to other appellate processes  
4493 available to the local government. The local government's  
4494 decision to enter into a summary hearing must be made as provided  
4495 in s. 120.574 or in the memorandum of agreement.

8-04063-08

20081678\_\_

4496 (12) The applicant, the regional permit action team, and  
4497 participating local governments may agree to incorporate into a  
4498 single document the permits, licenses, and approvals that are  
4499 obtained through the expedited permit process. This consolidated  
4500 permit is subject to the summary hearing provisions set forth in  
4501 subsection (14) ~~(15)~~.

4502 (13) Notwithstanding any other provisions of law:

4503 (b) Projects qualified under this section are not subject  
4504 to interstate highway level-of-service standards adopted by the  
4505 Department of Transportation for concurrency purposes. The  
4506 memorandum of agreement specified in subsection (5) ~~(6)~~ must  
4507 include a process by which the applicant will be assessed a fair  
4508 share of the cost of mitigating the project's significant traffic  
4509 impacts, as defined in chapter 380 and related rules. The  
4510 agreement must also specify whether the significant traffic  
4511 impacts on the interstate system will be mitigated through the  
4512 implementation of a project or payment of funds to the Department  
4513 of Transportation. Where funds are paid, the Department of  
4514 Transportation must include in the 5-year work program  
4515 transportation projects or project phases, in an amount equal to  
4516 the funds received, to mitigate the traffic impacts associated  
4517 with the proposed project.

4518 Reviser's note.--Amended to conform to the repeal of former  
4519 subsection (4) by s. 23, ch. 2007-105, Laws Of Florida.

4520 Section 112. Subsection (5) of section 408.032, Florida  
4521 Statutes, is amended to read:

4522 408.032 Definitions relating to Health Facility and  
4523 Services Development Act.--As used in ss. 408.031-408.045, the  
4524 term:



8-04063-08

20081678\_\_

4525 (5) "District" means a health service planning district  
4526 composed of the following counties:  
4527 District 1.--Escambia, Santa Rosa, Okaloosa, and Walton  
4528 Counties.  
4529 District 2.--Holmes, Washington, Bay, Jackson, Franklin,  
4530 Gulf, Gadsden, Liberty, Calhoun, Leon, Wakulla, Jefferson,  
4531 Madison, and Taylor Counties.  
4532 District 3.--Hamilton, Suwannee, Lafayette, Dixie, Columbia,  
4533 Gilchrist, Levy, Union, Bradford, Putnam, Alachua, Marion,  
4534 Citrus, Hernando, Sumter, and Lake Counties.  
4535 District 4.--Baker, Nassau, Duval, Clay, St. Johns, Flagler,  
4536 and Volusia Counties.  
4537 District 5.--Pasco and Pinellas Counties.  
4538 District 6.--Hillsborough, Manatee, Polk, Hardee, and  
4539 Highlands Counties.  
4540 District 7.--Seminole, Orange, Osceola, and Brevard  
4541 Counties.  
4542 District 8.--Sarasota, DeSoto, Charlotte, Lee, Glades,  
4543 Hendry, and Collier Counties.  
4544 District 9.--Indian River, Okeechobee, St. Lucie, Martin,  
4545 and Palm Beach Counties.  
4546 District 10.--Broward County.  
4547 District 11.--Miami-Dade ~~Dade~~ and Monroe Counties.  
4548 Reviser's note.--Amended to conform to the redesignation of  
4549 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
4550 Dade County Code.  
4551 Section 113. Paragraph (b) of subsection (2) of section  
4552 409.166, Florida Statutes, is amended to read:

8-04063-08

20081678\_\_

4553 409.166 Children within the child welfare system; adoption  
4554 assistance program.--

4555 (2) DEFINITIONS.--As used in this section, the term:

4556 (b) "Adoption assistance" means financial assistance and  
4557 services provided to a child and his or her adoptive family. Such  
4558 assistance may include a maintenance subsidy, medical assistance,  
4559 Medicaid assistance, and reimbursement of nonrecurring expenses  
4560 associated with the legal adoption. The term also includes a  
4561 tuition exemption at a postsecondary career program, community  
4562 college, or state university, and a state employee adoption  
4563 benefit under s. 409.1663 ~~110.152~~.

4564 Reviser's note.--Amended to conform to the repeal of s.  
4565 110.152 by s. 3, ch. 2007-119, Laws of Florida, and the  
4566 enactment of similar provisions in s. 409.1663 by s. 1, ch.  
4567 2007-119.

4568 Section 114. Subsection (2) of section 409.1677, Florida  
4569 Statutes, is amended to read:

4570 409.1677 Model comprehensive residential services  
4571 programs.--

4572 (2) The department shall establish a model comprehensive  
4573 residential services program in ~~Dade and Manatee~~ and Miami-Dade  
4574 Counties through a contract with the designated lead agency  
4575 established in accordance with s. 409.1671 or with a private  
4576 entity capable of providing residential group care and home-based  
4577 care and experienced in the delivery of a range of services to  
4578 foster children, if no lead agency exists. These model programs  
4579 are to serve that portion of eligible children within each county  
4580 which is specified in the contract, based on funds appropriated,  
4581 to include a full array of services for a fixed price. The

8-04063-08

20081678\_\_

4582 private entity or lead agency is responsible for all programmatic  
4583 functions necessary to carry out the intent of this section.

4584 Reviser's note.--Amended to conform to the redesignation of  
4585 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
4586 Dade County Code.

4587 Section 115. Subsection (2) of section 409.25661, Florida  
4588 Statutes, is amended to read:

4589 409.25661 Public records exemption for insurance claim data  
4590 exchange information.--

4591 (2) This section is subject to the Open Government Sunset  
4592 Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand  
4593 repealed on October 2, 2009, unless reviewed and saved from  
4594 repeal through reenactment by the Legislature.

4595 Reviser's note.--Amended to conform to the renaming of the  
4596 "Open Government Sunset Review Act of 1995" as the "Open  
4597 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws  
4598 of Florida.

4599 Section 116. Subsection (4) of section 413.271, Florida  
4600 Statutes, is repealed.

4601 Reviser's note.--Repealed to delete obsolete provisions. The  
4602 cited subsection provided that the Florida Coordinating  
4603 Council for the Deaf and Hard of Hearing provide reports and  
4604 recommendations by January 1, 2005, and January 1, 2006.

4605 Section 117. Paragraph (d) of subsection (12) of section  
4606 420.5095, Florida Statutes, is amended to read:

4607 420.5095 Community Workforce Housing Innovation Pilot  
4608 Program.--

4609 (12) All eligible applications shall:

8-04063-08

20081678\_\_

4610 (d) Have grants, donations of land, or contributions from  
4611 the public-private partnership or other sources collectively  
4612 totaling at least 10 percent of the total development cost or \$2  
4613 million, whichever is less. Such grants, donations of land, or  
4614 contributions must be evidenced by a letter of commitment, ~~an~~  
4615 agreement, contract, deed, memorandum of understanding, or other  
4616 written instrument at the time of application. Grants, donations  
4617 of land, or contributions in excess of 10 percent of the  
4618 development cost shall increase the application score.

4619 Reviser's note.--Amended to confirm the editorial deletion  
4620 of the word "an" following the word "commitment" to correct  
4621 sentence construction.

4622 Section 118. Subsection (2) of section 420.9076, Florida  
4623 Statutes, is amended to read:

4624 420.9076 Adoption of affordable housing incentive  
4625 strategies; committees.--

4626 (2) The governing board of a county or municipality shall  
4627 appoint the members of the affordable housing advisory committee  
4628 by resolution. Pursuant to the terms of any interlocal agreement,  
4629 a county and municipality may create and jointly appoint an  
4630 advisory committee to prepare a joint plan. The ordinance adopted  
4631 pursuant to s. 420.9072 which creates the advisory committee or  
4632 the resolution appointing the advisory committee members must  
4633 provide for 11 committee members and their terms. The committee  
4634 must include:

4635 (a) One citizen who is actively engaged in the residential  
4636 home building industry in connection with affordable housing.

4637 (b) One citizen who is actively engaged in the banking or  
4638 mortgage banking industry in connection with affordable housing.

8-04063-08

20081678\_\_

4639 (c) One citizen who is a representative of those areas of  
4640 labor actively engaged in home building in connection with  
4641 affordable housing.

4642 (d) One citizen who is actively engaged as an advocate for  
4643 low-income persons in connection with affordable housing.

4644 (e) One citizen who is actively engaged as a for-profit  
4645 provider of affordable housing.

4646 (f) One citizen who is actively engaged as a not-for-profit  
4647 provider of affordable housing.

4648 (g) One citizen who is actively engaged as a real estate  
4649 professional in connection with affordable housing.

4650 (h) One citizen who actively serves on the local planning  
4651 agency pursuant to s. 163.3174.

4652 (i) One citizen who resides within the jurisdiction of the  
4653 local governing body making the appointments.

4654 (j) One citizen who represents employers within the  
4655 jurisdiction.

4656 (k) One citizen who represents essential services  
4657 personnel, as defined in the local housing assistance plan.

4658

4659 If a county or eligible municipality whether due to its small  
4660 size, the presence of a conflict of interest by prospective  
4661 appointees, or other reasonable factor, is unable to appoint a  
4662 citizen actively engaged in these activities in connection with  
4663 affordable housing, a citizen engaged in the activity without  
4664 regard to affordable housing may be appointed. Local governments  
4665 that receive the minimum allocation under the State Housing  
4666 Initiatives Partnership Program may elect to appoint an  
4667 affordable housing advisory committee with fewer than 11

8-04063-08

20081678\_\_

4668 representatives if they are unable to find representatives who  
4669 ~~that~~ meet the criteria of paragraphs (a)-(k).

4670 Reviser's note.--Amended to confirm the editorial  
4671 substitution of the word "who" for the word "that" to  
4672 improve clarity and facilitate correct interpretation.

4673 Section 119. Subsection (2) of section 429.35, Florida  
4674 Statutes, is amended to read:

4675 429.35 Maintenance of records; reports.--

4676 (2) Within 60 days after the date of the biennial  
4677 inspection visit required under s. 408.811 or within 30 days  
4678 after the date of any interim visit, the agency shall forward the  
4679 results of the inspection to the local ombudsman council in whose  
4680 planning and service area, as defined in part II † of chapter  
4681 400, the facility is located; to at least one public library or,  
4682 in the absence of a public library, the county seat in the county  
4683 in which the inspected assisted living facility is located; and,  
4684 when appropriate, to the district Adult Services and Mental  
4685 Health Program Offices.

4686 Reviser's note.--Amended to correct an erroneous reference.

4687 "Planning and service area" is defined in part II of chapter  
4688 400.

4689 Section 120. Subsection (1) of section 429.907, Florida  
4690 Statutes, is amended to read:

4691 429.907 License requirement; fee; exemption; display.--

4692 (1) The requirements of part II of chapter 408 apply to the  
4693 provision of services that require licensure pursuant to this  
4694 part and part II of chapter 408 and to entities licensed by or  
4695 applying for such licensure from the Agency for Health Care  
4696 Administration pursuant to this part. A license issued by the

8-04063-08

20081678\_\_

4697 agency is required in order to operate an adult day care center  
4698 in this state.

4699 Reviser's note.--Amended to confirm the editorial insertion  
4700 of the word "center" to improve clarity and facilitate  
4701 correct interpretation.

4702 Section 121. Subsection (4) of section 440.3851, Florida  
4703 Statutes, is amended to read:

4704 440.3851 Public records and public meetings exemptions.--

4705 (4) This section is subject to the Open Government Sunset  
4706 Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand  
4707 repealed on October 2, 2010, unless reviewed and saved from  
4708 repeal through reenactment by the Legislature.

4709 Reviser's note.--Amended to conform to the renaming of the  
4710 "Open Government Sunset Review Act of 1995" as the "Open  
4711 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws  
4712 of Florida.

4713 Section 122. Paragraph (i) of subsection (5) of section  
4714 445.004, Florida Statutes, is repealed.

4715 Reviser's note.--The referenced subsection, which relates to  
4716 Enterprise Florida, Inc., working with the Department of  
4717 Education and Workforce Florida, Inc., in designating  
4718 districts to participate in the CHOICE project under  
4719 repealed s. 1003.494, has served its purpose.

4720 Section 123. Section 446.43, Florida Statutes, is amended  
4721 to read:

4722 446.43 Scope and coverage of Rural Workforce Services  
4723 Program.--The scope of the area to be covered by the Rural  
4724 Workforce Services Program will include all counties of the state  
4725 not classified as standard metropolitan statistical areas (SMSA)

8-04063-08

20081678\_\_

4726 by the United States Department of Labor Manpower Administration.  
4727 Florida's designated SMSA labor areas include: Broward, Miami-  
4728 Dade ~~Dade~~, Duval, Escambia, Hillsborough, Pinellas, Leon, Orange,  
4729 and Palm Beach Counties.

4730 Reviser's note.--Amended to conform to the redesignation of  
4731 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
4732 Dade County Code.

4733 Section 124. Paragraph (g) of subsection (1) of section  
4734 468.832, Florida Statutes, is amended to read:

4735 468.832 Disciplinary proceedings.--

4736 (1) The following acts constitute grounds for which the  
4737 disciplinary actions in subsection (2) may be taken:

4738 (g) Engaging in fraud or deceit, or ~~of~~ negligence,  
4739 incompetency, or misconduct, in the practice of home inspection  
4740 services;

4741 Reviser's note.--Amended to confirm the editorial deletion  
4742 of the word "of" preceding the word "negligence" to correct  
4743 sentence structure and facilitate correct interpretation.

4744 Section 125. Paragraph (c) of subsection (1) of section  
4745 468.8419, Florida Statutes, is amended to read:

4746 468.8419 Prohibitions; penalties.--

4747 (1) A mold assessor, a company that employs a mold  
4748 assessor, or a company that is controlled by a company that also  
4749 has a financial interest in a company employing a mold assessor  
4750 may not:

4751 (c) Use the name or title "certified mold assessor,"  
4752 "registered mold assessor," "licensed mold assessor," "mold  
4753 assessor," "professional mold assessor," or any combination



8-04063-08

20081678\_\_

4754 | thereof unless the person has complied with the provisions of  
4755 | this part.

4756 |       Reviser's note.--Amended to confirm the editorial insertion  
4757 |       of the word "of" to correct sentence structure.

4758 |       Section 126. Paragraph (g) of subsection (1) of section  
4759 | 468.842, Florida Statutes, is amended to read:

4760 |       468.842 Disciplinary proceedings.--

4761 |       (1) The following acts constitute grounds for which the  
4762 | disciplinary actions in subsection (2) may be taken:

4763 |       (g) Engaging in fraud or deceit, or ~~of~~ negligence,  
4764 | incompetency, or misconduct, in the practice of mold assessment  
4765 | or mold remediation;

4766 |       Reviser's note.--Amended to confirm the editorial deletion  
4767 |       of the word "of" preceding the word "negligence" to correct  
4768 | sentence structure and facilitate correct interpretation.

4769 |       Section 127. Subsection (5) of section 477.0135, Florida  
4770 | Statutes, is amended to read:

4771 |       477.0135 Exemptions.--

4772 |       (5) A license is not required of any individual providing  
4773 | makeup, special effects, or cosmetology services to an actor,  
4774 | stunt person, musician, extra, or other talent during a  
4775 | production recognized by the Office of Film and Entertainment as  
4776 | a qualified production as defined in s. 288.1254(1) ~~288.1254(2)~~.  
4777 | Such services are not required to be performed in a licensed  
4778 | salon. Individuals exempt under this subsection may not provide  
4779 | such services to the general public.

4780 |       Reviser's note.--Amended to conform to the substantial  
4781 | rewording of s. 288.1254 by s. 2, ch. 2007-125, Laws of  
4782 | Florida; s. 288.1254(1) now defines a qualified production.

8-04063-08

20081678\_\_

4783           Section 128. Subsection (6) of section 481.215, Florida  
4784 Statutes, is amended to read:

4785           481.215 Renewal of license.--

4786           (6) The board shall require, by rule adopted pursuant to  
4787 ss. 120.536(1) and 120.54, a specified number of hours in  
4788 specialized or advanced courses, approved by the Florida Building  
4789 Commission, on any portion of the Florida Building Code, adopted  
4790 pursuant to part IV ~~VII~~ of chapter 553, relating to the  
4791 licensee's respective area of practice.

4792           Reviser's note.--Amended to correct an erroneous reference.

4793           Part VII of chapter 553 relates to standards for radon-  
4794 resistant buildings; part IV of chapter 553 relates to the  
4795 Florida Building Code.

4796           Section 129. Subsection (6) of section 481.313, Florida  
4797 Statutes, is amended to read:

4798           481.313 Renewal of license.--

4799           (6) The board shall require, by rule adopted pursuant to  
4800 ss. 120.536(1) and 120.54, a specified number of hours in  
4801 specialized or advanced courses, approved by the Florida Building  
4802 Commission, on any portion of the Florida Building Code, adopted  
4803 pursuant to part IV ~~VII~~ of chapter 553, relating to the  
4804 licensee's respective area of practice.

4805           Reviser's note.--Amended to correct an erroneous reference.

4806           Part VII of chapter 553 relates to standards for radon-  
4807 resistant buildings; part IV of chapter 553 relates to the  
4808 Florida Building Code.

4809           Section 130. Subsection (1) of section 487.048, Florida  
4810 Statutes, is amended to read:

4811           487.048 Dealer's license; records.--

8-04063-08

20081678\_\_

4812 (1) Each person holding or offering for sale, selling, or  
4813 distributing restricted-use pesticides shall obtain a dealer's  
4814 license from the department. Application for the license shall be  
4815 made on a form prescribed by the department. The license must be  
4816 obtained before entering into business or transferring ownership  
4817 of a business. The department may require examination or other  
4818 proof of competency of individuals to whom licenses are issued or  
4819 of individuals employed by persons to whom licenses are issued.  
4820 Demonstration of continued competency may be required for license  
4821 renewal, as set by rule. The license shall be renewed annually as  
4822 provided by rule. An annual license fee not exceeding \$250 shall  
4823 be established by rule. However, a user of a restricted-use  
4824 pesticide may distribute unopened containers of a properly  
4825 labeled pesticide to another user who is legally entitled to use  
4826 that restricted-use pesticide without obtaining a pesticide  
4827 dealer's license. The exclusive purpose of distribution of the  
4828 restricted-use pesticide is to keep it from becoming a hazardous  
4829 waste as defined in s. 403.703(13) ~~403.703(21)~~.

4830 Reviser's note.--Amended to conform to the substantial  
4831 rewording of s. 403.703 by s. 6, ch. 2007-184, Laws of  
4832 Florida; s. 403.703(13) now defines hazardous waste.

4833 Section 131. Paragraph (b) of subsection (4) and subsection  
4834 (9) of section 489.115, Florida Statutes, are amended to read:

4835 489.115 Certification and registration; endorsement;  
4836 reciprocity; renewals; continuing education.--

4837 (4)

4838 (b)1. Each certificateholder or registrant shall provide  
4839 proof, in a form established by rule of the board, that the  
4840 certificateholder or registrant has completed at least 14

8-04063-08

20081678\_\_

4841 | classroom hours of at least 50 minutes each of continuing  
4842 | education courses during each biennium since the issuance or  
4843 | renewal of the certificate or registration. The board shall  
4844 | establish by rule that a portion of the required 14 hours must  
4845 | deal with the subject of workers' compensation, business  
4846 | practices, workplace safety, and, for applicable licensure  
4847 | categories, wind mitigation methodologies, and 1 hour of which  
4848 | must deal with laws and rules. The board shall by rule establish  
4849 | criteria for the approval of continuing education courses and  
4850 | providers, including requirements relating to the content of  
4851 | courses and standards for approval of providers, and may by rule  
4852 | establish criteria for accepting alternative nonclassroom  
4853 | continuing education on an hour-for-hour basis. The board shall  
4854 | prescribe by rule the continuing education, if any, which is  
4855 | required during the first biennium of initial licensure. A person  
4856 | who has been licensed for less than an entire biennium must not  
4857 | be required to complete the full 14 hours of continuing  
4858 | education.

4859 |       2. In addition, the board may approve specialized  
4860 | continuing education courses on compliance with the wind  
4861 | resistance provisions for one and two family dwellings contained  
4862 | in the Florida Building Code and any alternate methodologies for  
4863 | providing such wind resistance which have been approved for use  
4864 | by the Florida Building Commission. Division I certificateholders  
4865 | or registrants who demonstrate proficiency upon completion of  
4866 | such specialized courses may certify plans and specifications for  
4867 | one and two family dwellings to be in compliance with the code or  
4868 | alternate methodologies, as appropriate, except for dwellings

8-04063-08

20081678\_\_

4869 | located in floodways or coastal hazard areas as defined in ss.  
4870 | 60.3D and E of the National Flood Insurance Program.

4871 |         3. Each certificateholder or registrant shall provide to  
4872 | the board proof of completion of the core curriculum courses, or  
4873 | passing the equivalency test of the Building Code Training  
4874 | Program established under s. 553.841, specific to the licensing  
4875 | category sought, within 2 years after commencement of the program  
4876 | or of initial certification or registration, whichever is later.  
4877 | Classroom hours spent taking core curriculum courses shall count  
4878 | toward the number required for renewal of certificates or  
4879 | registration. A certificateholder or registrant who passes the  
4880 | equivalency test in lieu of taking the core curriculum courses  
4881 | shall receive full credit for core curriculum course hours.

4882 |         4. The board shall require, by rule adopted pursuant to ss.  
4883 | 120.536(1) and 120.54, a specified number of hours in specialized  
4884 | or advanced module courses, approved by the Florida Building  
4885 | Commission, on any portion of the Florida Building Code, adopted  
4886 | pursuant to part IV ~~VII~~ of chapter 553, relating to the  
4887 | contractor's respective discipline.

4888 |         (9) An initial applicant shall submit, along with the  
4889 | application, a complete set of fingerprints in a form and manner  
4890 | required by the department. The fingerprints shall be submitted  
4891 | to the Department of Law Enforcement for state processing, and  
4892 | the Department of Law Enforcement shall forward them to the  
4893 | Federal Bureau of Investigation for the purpose of conducting a  
4894 | level 2 background check pursuant to s. 435.04. The department  
4895 | shall and the board may review the background results to  
4896 | determine if an applicant meets licensure requirements. The cost  
4897 | for the fingerprint processing shall be borne by the person

8-04063-08

20081678\_\_

4898 subject to the background screening. These fees are to be  
4899 collected by the authorized agencies or vendors. The authorized  
4900 agencies or vendors are responsible for paying the processing  
4901 costs to the Department of Law Enforcement.

4902 Reviser's note.--Paragraph (4) (b) is amended to correct an  
4903 erroneous reference. Part VII of chapter 553 relates to  
4904 standards for radon-resistant buildings; part IV of chapter  
4905 553 relates to the Florida Building Code. Subsection (9) is  
4906 amended to confirm the editorial insertion of the word "of"  
4907 to correct sentence construction.

4908 Section 132. Paragraph (h) of subsection (1) of section  
4909 489.127, Florida Statutes, is amended to read:

4910 489.127 Prohibitions; penalties.--

4911 (1) No person shall:

4912 (h) Commence or perform work for which a building permit is  
4913 required pursuant to part IV ~~VII~~ of chapter 553 without such  
4914 building permit being in effect; or

4915  
4916 For purposes of this subsection, a person or business  
4917 organization operating on an inactive or suspended certificate,  
4918 registration, or certificate of authority is not duly certified  
4919 or registered and is considered unlicensed. A business tax  
4920 receipt issued under the authority of chapter 205 is not a  
4921 license for purposes of this part.

4922 Reviser's note.--Amended to correct an erroneous reference.  
4923 Part VII of chapter 553 relates to standards for radon-  
4924 resistant buildings; part IV of chapter 553 relates to the  
4925 Florida Building Code and required building permits.

8-04063-08

20081678\_\_

4926 Section 133. Subsection (6) of section 489.517, Florida  
4927 Statutes, is amended to read:

4928 489.517 Renewal of certificate or registration; continuing  
4929 education.--

4930 (6) The board shall require, by rule adopted pursuant to  
4931 ss. 120.536(1) and 120.54, a specialized number of hours in  
4932 specialized or advanced module courses, approved by the Florida  
4933 Building Commission, on any portion of the Florida Building Code,  
4934 adopted pursuant to part IV ~~VII~~ of chapter 553, relating to the  
4935 contractor's respective discipline.

4936 Reviser's note.--Amended to correct an erroneous reference.  
4937 Part VII of chapter 553 relates to standards for radon-  
4938 resistant buildings; part IV of chapter 553 relates to the  
4939 Florida Building Code.

4940 Section 134. Paragraph (i) of subsection (1) of section  
4941 489.531, Florida Statutes, is amended to read:

4942 489.531 Prohibitions; penalties.--

4943 (1) A person may not:

4944 (i) Commence or perform work for which a building permit is  
4945 required pursuant to part IV ~~VII~~ of chapter 553 without the  
4946 building permit being in effect; or

4947 Reviser's note.--Amended to correct an erroneous reference.  
4948 Part VII of chapter 553 relates to standards for radon-  
4949 resistant buildings; part IV of chapter 553 relates to the  
4950 Florida Building Code.

4951 Section 135. Subsection (5) of section 497.172, Florida  
4952 Statutes, is amended to read:

4953 497.172 Public records exemptions; public meetings  
4954 exemptions.--

8-04063-08

20081678\_\_

4955 (5) REVIEW AND REPEAL.--This section is subject to the Open  
4956 Government Sunset Review Act ~~of 1995~~ in accordance with s.  
4957 119.15, and shall stand repealed on October 2, 2010, unless  
4958 reviewed and saved from repeal through reenactment by the  
4959 Legislature.

4960 Reviser's note.--Amended to conform to the renaming of the  
4961 "Open Government Sunset Review Act of 1995" as the "Open  
4962 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws  
4963 of Florida.

4964 Section 136. Subsection (3) of section 497.271, Florida  
4965 Statutes, is amended to read:

4966 497.271 Standards for construction and significant  
4967 alteration or renovation of mausoleums and columbaria.--

4968 (3) The licensing authority shall transmit the rules as  
4969 adopted under subsection (2), hereinafter referred to as the  
4970 "mausoleum standards," to the Florida Building Commission, which  
4971 shall initiate rulemaking under chapter 120 to consider such  
4972 mausoleum standards. If such mausoleum standards are not deemed  
4973 acceptable, they shall be returned by the Florida Building  
4974 Commission to the licensing authority with details of changes  
4975 needed to make them acceptable. If such mausoleum standards are  
4976 acceptable, the Florida Building Commission shall adopt a rule  
4977 designating the mausoleum standards as an approved revision to  
4978 the State Minimum Building Codes under part IV ~~VII~~ of chapter  
4979 553. When so designated by the Florida Building Commission, such  
4980 mausoleum standards shall become a required element of the State  
4981 Minimum Building Codes under s. 553.73(2) and shall be  
4982 transmitted to each local enforcement agency, as defined in s.  
4983 553.71(5). Such local enforcement agency shall consider and



8-04063-08

20081678\_\_

4984 inspect for compliance with such mausoleum standards as if they  
4985 were part of the local building code, but shall have no  
4986 continuing duty to inspect after final approval of the  
4987 construction pursuant to the local building code. Any further  
4988 amendments to the mausoleum standards shall be accomplished by  
4989 the same procedure. Such designated mausoleum standards, as from  
4990 time to time amended, shall be a part of the State Minimum  
4991 Building Codes under s. 553.73 until the adoption and effective  
4992 date of a new statewide uniform minimum building code, which may  
4993 supersede the mausoleum standards as provided by the law enacting  
4994 the new statewide uniform minimum building code.

4995 Reviser's note.--Amended to correct an erroneous reference.  
4996 Part VII of chapter 553 relates to standards for radon-  
4997 resistant buildings; part IV of chapter 553 relates to the  
4998 Florida Building Code.

4999 Section 137. Paragraph (b) of subsection (8) of section  
5000 497.466, Florida Statutes, is repealed.

5001 Reviser's note.--The cited paragraph, which provided that  
5002 persons holding preneed sales agent licenses in good  
5003 standing under former s. 497.439 as of September 30, 2005,  
5004 were deemed to hold permanent preneed sales agent licenses  
5005 or licenses by appointment by preneed licensees as of  
5006 October 1, 2005, has served its purpose. Section 497.439 was  
5007 redesignated as s. 497.466, effective October 1, 2005, by s.  
5008 115, ch. 2004-301, Laws of Florida.

5009 Section 138. Subsection (3) of section 500.148, Florida  
5010 Statutes, is amended to read:

5011 500.148 Reports and dissemination of information;  
5012 confidentiality.--

8-04063-08

20081678\_\_

5013 (3) Information deemed confidential under 21 C.F.R. part  
5014 20.61, part 20.62, or part 20.88, or 5 U.S.C. s. 552(b), and  
5015 which is provided to the department during a joint food safety or  
5016 food illness investigation, as a requirement for conducting a  
5017 federal-state contract or partnership activity, or for regulatory  
5018 review, is confidential and exempt from s. 119.07(1) and s.  
5019 24(a), Art. I of the State Constitution. Such information may not  
5020 be disclosed except under a final determination by the  
5021 appropriate federal agencies that such records are no longer  
5022 entitled to protection, or pursuant to an order of the court.  
5023 This section is subject to the Open Government Sunset Review Act  
5024 ~~of 1995~~ in accordance with s. 119.15, and shall stand repealed on  
5025 October 2, 2008, unless reviewed and saved from repeal through  
5026 reenactment by the Legislature.

5027 Reviser's note.--Amended to conform to the renaming of the  
5028 "Open Government Sunset Review Act of 1995" as the "Open  
5029 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws  
5030 of Florida.

5031 Section 139. Paragraph (b) of subsection (1) of section  
5032 501.022, Florida Statutes, is amended to read:

5033 501.022 Home solicitation sale; permit required.--

5034 (1)

5035 (b) The following are excluded from the operation of this  
5036 section:

5037 1. Bona fide agents, business representatives, or  
5038 salespersons making calls or soliciting orders at the usual place  
5039 of business of a customer regarding products or services for use  
5040 in connection with the customer's business.

8-04063-08

20081678\_\_

5041           2. Solicitors, salespersons, or agents making a call or  
5042 business visit upon the express invitation, oral or written, of  
5043 an inhabitant of the premises or her or his agent.

5044           3. Telephone solicitors, salespersons, or agents making  
5045 calls which involve transactions that are unsolicited by the  
5046 consumer and consummated by telephone and without any other  
5047 contact between the buyer and the seller or its representative  
5048 prior to delivery of the goods or performance of the services.

5049           4. Solicitors, salespersons, or agents conducting a sale,  
5050 lease, or rental of consumer goods or services by sample,  
5051 catalog, or brochure for future delivery.

5052           5. Minors, as defined in s. 1.01(13), conducting home  
5053 solicitation sales under the supervision of an adult supervisor  
5054 who holds a valid home solicitation sale permit. Minors excluded  
5055 from operation of this section must, however, carry personal  
5056 identification which includes their full name, date of birth,  
5057 residence address, and employer and the name and permit number of  
5058 their adult supervisor.

5059           6. Those sellers or their representatives that are  
5060 currently regulated as to the sale of goods and services by  
5061 chapter 475 or chapter 497.

5062           7. Solicitors, salespersons, or agents making calls or  
5063 soliciting orders on behalf of a religious, charitable,  
5064 scientific, educational, or veterans' institution or organization  
5065 holding a sales tax exemption certificate under s. 212.08(7)  
5066 ~~212.08(7)(a)~~.

5067           Reviser's note.--Amended to correct an erroneous reference.

5068           Section 140. Subsection (11) of section 501.976, Florida  
5069 Statutes, is amended to read:

8-04063-08

20081678\_\_

5070           501.976 Actionable, unfair, or deceptive acts or  
5071 practices.--It is an unfair or deceptive act or practice,  
5072 actionable under the Florida Deceptive and Unfair Trade Practices  
5073 Act, for a dealer to:

5074           (11) Add to the cash price of a vehicle as defined in s.  
5075 520.02(2) any fee or charge other than those provided in that  
5076 section and in rule 69V-50.001 ~~3D-50.001~~, Florida Administrative  
5077 Code. All fees or charges permitted to be added to the cash price  
5078 by rule 69V-50.001 ~~3D-50.001~~, Florida Administrative Code, must  
5079 be fully disclosed to customers in all binding contracts  
5080 concerning the vehicle's selling price.

5081  
5082 In any civil litigation resulting from a violation of this  
5083 section, when evaluating the reasonableness of an award of  
5084 attorney's fees to a private person, the trial court shall  
5085 consider the amount of actual damages in relation to the time  
5086 spent.

5087           Reviser's note.--Amended to conform to the redesignation of  
5088 rule 3D-50.001 as rule 69V-50.001, Florida Administrative  
5089 Code.

5090           Section 141. Paragraph (f) of subsection (10) of section  
5091 553.73, Florida Statutes, is amended to read:

5092           553.73 Florida Building Code.--

5093           (10)

5094           (f) All decisions of the local building official and local  
5095 fire official and all decisions of the administrative board shall  
5096 be in writing and shall be binding upon all persons but shall not  
5097 limit the authority of the State Fire Marshal or the Florida  
5098 Building Commission pursuant to paragraph (1)(d) and ss. 633.01

8-04063-08

20081678\_\_

5099 | ~~663.01~~ and 633.161. Decisions of general application shall be  
5100 | indexed by building and fire code sections and shall be available  
5101 | for inspection during normal business hours.

5102 |       Reviser's note.--Amended to correct a reference and conform  
5103 |       to context. Section 663.01 provides definitions relating to  
5104 |       international banking corporations; s. 633.01 provides for  
5105 |       powers and duties of the State Fire Marshal.

5106 |       Section 142. Paragraph (b) of subsection (15) of section  
5107 | 553.791, Florida Statutes, is amended to read:

5108 |       553.791 Alternative plans review and inspection.--  
5109 |       (15)

5110 |       (b) A local enforcement agency, local building official, or  
5111 |       local government may establish, for private providers and duly  
5112 |       authorized representatives working within that jurisdiction, a  
5113 |       system of registration to verify compliance with the licensure  
5114 |       requirements of paragraph (1) (i) ~~(1) (g)~~ and the insurance  
5115 |       requirements of subsection (16).

5116 |       Reviser's note.--Amended to conform to the redesignation of  
5117 |       paragraph (1) (g) as paragraph (1) (i) by s. 6, ch. 2007-187,  
5118 |       Laws of Florida.

5119 |       Section 143. Subsection (11) of section 610.104, Florida  
5120 | Statutes, is amended to read:

5121 |       610.104 State authorization to provide cable or video  
5122 |       service.--

5123 |       (11) The application shall be accompanied by a one-time fee  
5124 |       of \$10,000. A parent company may file a single application  
5125 |       covering itself and all of its subsidiaries and affiliates  
5126 |       intending to provide cable or video service in the service areas  
5127 |       throughout the state as described in subparagraph (2) (e)5.

8-04063-08

20081678\_\_

5128 ~~paragraph (3)(d)~~, but the entity actually providing such service  
5129 in a given area shall otherwise be considered the  
5130 certificateholder under this act.

5131 Reviser's note.--Amended to correct a reference. Subsection  
5132 (3) is not divided into paragraphs; subparagraph (2)(e)5.  
5133 describes service areas.

5134 Section 144. Subsection (2) of section 617.0802, Florida  
5135 Statutes, is amended to read:

5136 617.0802 Qualifications of directors.--

5137 (2) In the event that the eligibility to serve as a member  
5138 of the board of directors of a condominium association,  
5139 cooperative association, homeowners' association, or mobile home  
5140 owners' association is restricted to membership in such  
5141 association and membership is appurtenant to ownership of a unit,  
5142 parcel, or mobile home, a grantor of a trust described in s.  
5143 733.707(3), or a beneficiary as defined in former s.  
5144 737.303(4)(b) of a trust which owns a unit, parcel, or mobile  
5145 home shall be deemed a member of the association and eligible to  
5146 serve as a director of the condominium association, cooperative  
5147 association, homeowners' association, or mobile home owners'  
5148 association, provided that said beneficiary occupies the unit,  
5149 parcel, or mobile home.

5150 Reviser's note.--Amended to clarify the status of s.  
5151 737.303, which was repealed by s. 48, ch. 2006-217, Laws of  
5152 Florida.

5153 Section 145. Paragraph (e) of subsection (2) of section  
5154 624.316, Florida Statutes, is amended to read:

5155 624.316 Examination of insurers.--

5156 (2)

8-04063-08

20081678\_\_

5157 (e) The commission shall adopt rules providing that an  
5158 examination under this section may be conducted by independent  
5159 certified public accountants, actuaries, investment specialists,  
5160 information technology specialists, and reinsurance specialists  
5161 meeting criteria specified by rule. The rules shall provide:

5162 1. That the rates charged to the insurer being examined are  
5163 consistent with rates charged by other firms in a similar  
5164 profession and are comparable with the rates charged for  
5165 comparable examinations.

5166 2. That the firm selected by the office to perform the  
5167 examination has no conflicts of interest that might affect its  
5168 ability to independently perform its responsibilities on the  
5169 examination.

5170 3. That the insurer being examined must make payment for  
5171 the examination pursuant to s. 624.320(1) ~~624.320(2)~~ in  
5172 accordance with the rates and terms established by the office and  
5173 the firm performing the examination.

5174 Reviser's note.--Amended to correct a reference and conform  
5175 to context. Section 624.320(2) relates to deposit of the  
5176 collected moneys into a specified trust fund; s. 624.320(1)  
5177 relates to insurer payment for examination.

5178 Section 146. Paragraph (e) of subsection (3) of section  
5179 627.0628, Florida Statutes, is amended to read:

5180 627.0628 Florida Commission on Hurricane Loss Projection  
5181 Methodology; public records exemption; public meetings  
5182 exemption.--

5183 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

5184 (e)1. A trade secret, as defined in s. 812.081, that is  
5185 used in designing and constructing a hurricane loss model and

8-04063-08

20081678\_\_

5186 that is provided pursuant to this section, by a private company,  
5187 to the commission, office, or consumer advocate appointed  
5188 pursuant to s. 627.0613, is confidential and exempt from s.  
5189 119.07(1) and s. 24(a), Art. I of the State Constitution.

5190 2. That portion of a meeting of the commission or of a rate  
5191 proceeding on an insurer's rate filing at which a trade secret  
5192 made confidential and exempt by this paragraph is discussed is  
5193 exempt from s. 286.011 and s. 24(b), Art. I of the State  
5194 Constitution.

5195 3. This paragraph is subject to the Open Government Sunset  
5196 Review Act ~~of 1995~~ in accordance with s. 119.15, and shall stand  
5197 repealed on October 2, 2010, unless reviewed and saved from  
5198 repeal through reenactment by the Legislature.

5199 Reviser's note.--Amended to conform to the renaming of the  
5200 "Open Government Sunset Review Act of 1995" as the "Open  
5201 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws  
5202 of Florida.

5203 Section 147. Subsection (3) of section 627.06292, Florida  
5204 Statutes, is amended to read:

5205 627.06292 Reports of hurricane loss data and associated  
5206 exposure data; public records exemption.--

5207 (3) This section is subject to the Open Government Sunset  
5208 Review Act ~~of 1995~~ in accordance with s. 119.15, and shall stand  
5209 repealed on October 2, 2010, unless reviewed and saved from  
5210 repeal through reenactment by the Legislature.

5211 Reviser's note.--Amended to conform to the renaming of the  
5212 "Open Government Sunset Review Act of 1995" as the "Open  
5213 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws  
5214 of Florida.



8-04063-08

20081678\_\_

5215 Section 148. Paragraph (b) of subsection (4) and paragraph  
5216 (m) of subsection (5) of section 627.311, Florida Statutes, are  
5217 amended to read:

5218 627.311 Joint underwriters and joint reinsurers; public  
5219 records and public meetings exemptions.--

5220 (4) The Florida Automobile Joint Underwriting Association:

5221 (b) Shall keep portions of association meetings during  
5222 which confidential and exempt underwriting files or confidential  
5223 and exempt claims files are discussed exempt from the provisions  
5224 of s. 286.011 and s. 24(b), Art. I of the State Constitution. All  
5225 closed portions of association meetings shall be recorded by a  
5226 court reporter. The court reporter shall record the times of  
5227 commencement and termination of the meeting, all discussion and  
5228 proceedings, the names of all persons present at any time, and  
5229 the names of all persons speaking. No portion of any closed  
5230 meeting shall be off the record. Subject to the provisions of  
5231 this paragraph and s. 119.07(1)(d)-(f) ~~119.07(1)(e)-(g)~~, the  
5232 court reporter's notes of any closed meeting shall be retained by  
5233 the association for a minimum of 5 years. A copy of the  
5234 transcript, less any confidential and exempt information, of any  
5235 closed meeting during which confidential and exempt claims files  
5236 are discussed shall become public as to individual claims files  
5237 after settlement of that claim.

5238 (5)

5239 (m) Senior managers and officers, as defined in the plan of  
5240 operation, and members of the board of governors are subject to  
5241 the provisions of ss. 112.313, 112.3135, 112.3143, 112.3145,  
5242 112.316, and 112.317. Senior managers, officers, and board  
5243 members are also required to file such disclosures with the

8-04063-08

20081678\_\_

5244 Commission on Ethics and the Office of Insurance Regulation. The  
5245 executive director of the plan or his or her designee shall  
5246 notify each newly appointed and existing appointed member of the  
5247 board of governors, senior manager, and officer of his or her  
5248 duty to comply with the reporting requirements of s. 112.3145  
5249 ~~112.345~~. At least quarterly, the executive director of the plan  
5250 or his or her designee shall submit to the Commission on Ethics a  
5251 list of names of the senior managers, officers, and members of  
5252 the board of governors who are subject to the public disclosure  
5253 requirements under s. 112.3145. Notwithstanding s. 112.313, an  
5254 employee, officer, owner, or director of an insurance agency,  
5255 insurance company, or other insurance entity may be a member of  
5256 the board of governors unless such employee, officer, owner, or  
5257 director of an insurance agency, insurance company, other  
5258 insurance entity, or an affiliate provides policy issuance,  
5259 policy administration, underwriting, claims handling, or payroll  
5260 audit services. Notwithstanding s. 112.3143, such board member  
5261 may not participate in or vote on a matter if the insurance  
5262 agency, insurance company, or other insurance entity would obtain  
5263 a special or unique benefit that would not apply to other  
5264 similarly situated insurance entities.

5265 Reviser's note.--Paragraph (4) (b) is amended to conform to  
5266 the redesignation of s. 119.07(1) (b)-(d) as s. 119.07(1) (d)-  
5267 (f) by s. 1, ch. 2007-39, Laws of Florida, and to correct  
5268 the reference by s. 3, ch. 2007-39. Paragraph (5) (m) is  
5269 amended to correct a reference and conform to context.  
5270 Section 112.345 does not exist; s. 112.3145 relates to  
5271 reporting requirements.

8-04063-08

20081678\_\_

5272 Section 149. Paragraph (b) of subsection (2) and paragraphs  
5273 (c), (n), (v), and (w) of subsection (6) of section 627.351,  
5274 Florida Statutes, are amended to read:

5275 627.351 Insurance risk apportionment plans.--

5276 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--

5277 (b) The department shall require all insurers holding a  
5278 certificate of authority to transact property insurance on a  
5279 direct basis in this state, other than joint underwriting  
5280 associations and other entities formed pursuant to this section,  
5281 to provide windstorm coverage to applicants from areas determined  
5282 to be eligible pursuant to paragraph (c) who in good faith are  
5283 entitled to, but are unable to procure, such coverage through  
5284 ordinary means; or it shall adopt a reasonable plan or plans for  
5285 the equitable apportionment or sharing among such insurers of  
5286 windstorm coverage, which may include formation of an association  
5287 for this purpose. As used in this subsection, the term "property  
5288 insurance" means insurance on real or personal property, as  
5289 defined in s. 624.604, including insurance for fire, industrial  
5290 fire, allied lines, farmowners multiperil, homeowners'  
5291 multiperil, commercial multiperil, and mobile homes, and  
5292 including liability coverages on all such insurance, but  
5293 excluding inland marine as defined in s. 624.607(3) and excluding  
5294 vehicle insurance as defined in s. 624.605(1)(a) other than  
5295 insurance on mobile homes used as permanent dwellings. The  
5296 department shall adopt rules that provide a formula for the  
5297 recovery and repayment of any deferred assessments.

5298 1. For the purpose of this section, properties eligible for  
5299 such windstorm coverage are defined as dwellings, buildings, and  
5300 other structures, including mobile homes which are used as

8-04063-08

20081678\_\_

5301 dwellings and which are tied down in compliance with mobile home  
5302 tie-down requirements prescribed by the Department of Highway  
5303 Safety and Motor Vehicles pursuant to s. 320.8325, and the  
5304 contents of all such properties. An applicant or policyholder is  
5305 eligible for coverage only if an offer of coverage cannot be  
5306 obtained by or for the applicant or policyholder from an admitted  
5307 insurer at approved rates.

5308       2.a.(I) All insurers required to be members of such  
5309 association shall participate in its writings, expenses, and  
5310 losses. Surplus of the association shall be retained for the  
5311 payment of claims and shall not be distributed to the member  
5312 insurers. Such participation by member insurers shall be in the  
5313 proportion that the net direct premiums of each member insurer  
5314 written for property insurance in this state during the preceding  
5315 calendar year bear to the aggregate net direct premiums for  
5316 property insurance of all member insurers, as reduced by any  
5317 credits for voluntary writings, in this state during the  
5318 preceding calendar year. For the purposes of this subsection, the  
5319 term "net direct premiums" means direct written premiums for  
5320 property insurance, reduced by premium for liability coverage and  
5321 for the following if included in allied lines: rain and hail on  
5322 growing crops; livestock; association direct premiums booked;  
5323 National Flood Insurance Program direct premiums; and similar  
5324 deductions specifically authorized by the plan of operation and  
5325 approved by the department. A member's participation shall begin  
5326 on the first day of the calendar year following the year in which  
5327 it is issued a certificate of authority to transact property  
5328 insurance in the state and shall terminate 1 year after the end  
5329 of the calendar year during which it no longer holds a

8-04063-08

20081678\_\_

5330 certificate of authority to transact property insurance in the  
5331 state. The commissioner, after review of annual statements, other  
5332 reports, and any other statistics that the commissioner deems  
5333 necessary, shall certify to the association the aggregate direct  
5334 premiums written for property insurance in this state by all  
5335 member insurers.

5336 (II) Effective July 1, 2002, the association shall operate  
5337 subject to the supervision and approval of a board of governors  
5338 who are the same individuals that have been appointed by the  
5339 Treasurer to serve on the board of governors of the Citizens  
5340 Property Insurance Corporation.

5341 (III) The plan of operation shall provide a formula whereby  
5342 a company voluntarily providing windstorm coverage in affected  
5343 areas will be relieved wholly or partially from apportionment of  
5344 a regular assessment pursuant to sub-sub-subparagraph d.(I) or  
5345 sub-sub-subparagraph d.(II).

5346 (IV) A company which is a member of a group of companies  
5347 under common management may elect to have its credits applied on  
5348 a group basis, and any company or group may elect to have its  
5349 credits applied to any other company or group.

5350 (V) There shall be no credits or relief from apportionment  
5351 to a company for emergency assessments collected from its  
5352 policyholders under sub-sub-subparagraph d.(III).

5353 (VI) The plan of operation may also provide for the award  
5354 of credits, for a period not to exceed 3 years, from a regular  
5355 assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-  
5356 subparagraph d.(II) as an incentive for taking policies out of  
5357 the Residential Property and Casualty Joint Underwriting  
5358 Association. In order to qualify for the exemption under this

8-04063-08

20081678\_\_

5359 | sub-sub-subparagraph, the take-out plan must provide that at  
5360 | least 40 percent of the policies removed from the Residential  
5361 | Property and Casualty Joint Underwriting Association cover risks  
5362 | located in Miami-Dade ~~Dade~~, Broward, and Palm Beach Counties or  
5363 | at least 30 percent of the policies so removed cover risks  
5364 | located in Miami-Dade ~~Dade~~, Broward, and Palm Beach Counties and  
5365 | an additional 50 percent of the policies so removed cover risks  
5366 | located in other coastal counties, and must also provide that no  
5367 | more than 15 percent of the policies so removed may exclude  
5368 | windstorm coverage. With the approval of the department, the  
5369 | association may waive these geographic criteria for a take-out  
5370 | plan that removes at least the lesser of 100,000 Residential  
5371 | Property and Casualty Joint Underwriting Association policies or  
5372 | 15 percent of the total number of Residential Property and  
5373 | Casualty Joint Underwriting Association policies, provided the  
5374 | governing board of the Residential Property and Casualty Joint  
5375 | Underwriting Association certifies that the take-out plan will  
5376 | materially reduce the Residential Property and Casualty Joint  
5377 | Underwriting Association's 100-year probable maximum loss from  
5378 | hurricanes. With the approval of the department, the board may  
5379 | extend such credits for an additional year if the insurer  
5380 | guarantees an additional year of renewability for all policies  
5381 | removed from the Residential Property and Casualty Joint  
5382 | Underwriting Association, or for 2 additional years if the  
5383 | insurer guarantees 2 additional years of renewability for all  
5384 | policies removed from the Residential Property and Casualty Joint  
5385 | Underwriting Association.

8-04063-08

20081678\_\_

5386           b. Assessments to pay deficits in the association under  
5387 this subparagraph shall be included as an appropriate factor in  
5388 the making of rates as provided in s. 627.3512.

5389           c. The Legislature finds that the potential for unlimited  
5390 deficit assessments under this subparagraph may induce insurers  
5391 to attempt to reduce their writings in the voluntary market, and  
5392 that such actions would worsen the availability problems that the  
5393 association was created to remedy. It is the intent of the  
5394 Legislature that insurers remain fully responsible for paying  
5395 regular assessments and collecting emergency assessments for any  
5396 deficits of the association; however, it is also the intent of  
5397 the Legislature to provide a means by which assessment  
5398 liabilities may be amortized over a period of years.

5399           d.(I) When the deficit incurred in a particular calendar  
5400 year is 10 percent or less of the aggregate statewide direct  
5401 written premium for property insurance for the prior calendar  
5402 year for all member insurers, the association shall levy an  
5403 assessment on member insurers in an amount equal to the deficit.

5404           (II) When the deficit incurred in a particular calendar  
5405 year exceeds 10 percent of the aggregate statewide direct written  
5406 premium for property insurance for the prior calendar year for  
5407 all member insurers, the association shall levy an assessment on  
5408 member insurers in an amount equal to the greater of 10 percent  
5409 of the deficit or 10 percent of the aggregate statewide direct  
5410 written premium for property insurance for the prior calendar  
5411 year for member insurers. Any remaining deficit shall be  
5412 recovered through emergency assessments under sub-sub-  
5413 subparagraph (III).

8-04063-08

20081678\_\_

5414 (III) Upon a determination by the board of directors that a  
5415 deficit exceeds the amount that will be recovered through regular  
5416 assessments on member insurers, pursuant to sub-sub-subparagraph  
5417 (I) or sub-sub-subparagraph (II), the board shall levy, after  
5418 verification by the department, emergency assessments to be  
5419 collected by member insurers and by underwriting associations  
5420 created pursuant to this section which write property insurance,  
5421 upon issuance or renewal of property insurance policies other  
5422 than National Flood Insurance policies in the year or years  
5423 following levy of the regular assessments. The amount of the  
5424 emergency assessment collected in a particular year shall be a  
5425 uniform percentage of that year's direct written premium for  
5426 property insurance for all member insurers and underwriting  
5427 associations, excluding National Flood Insurance policy premiums,  
5428 as annually determined by the board and verified by the  
5429 department. The department shall verify the arithmetic  
5430 calculations involved in the board's determination within 30 days  
5431 after receipt of the information on which the determination was  
5432 based. Notwithstanding any other provision of law, each member  
5433 insurer and each underwriting association created pursuant to  
5434 this section shall collect emergency assessments from its  
5435 policyholders without such obligation being affected by any  
5436 credit, limitation, exemption, or deferment. The emergency  
5437 assessments so collected shall be transferred directly to the  
5438 association on a periodic basis as determined by the association.  
5439 The aggregate amount of emergency assessments levied under this  
5440 sub-sub-subparagraph in any calendar year may not exceed the  
5441 greater of 10 percent of the amount needed to cover the original  
5442 deficit, plus interest, fees, commissions, required reserves, and



8-04063-08

20081678\_\_

5443 other costs associated with financing of the original deficit, or  
5444 10 percent of the aggregate statewide direct written premium for  
5445 property insurance written by member insurers and underwriting  
5446 associations for the prior year, plus interest, fees,  
5447 commissions, required reserves, and other costs associated with  
5448 financing the original deficit. The board may pledge the proceeds  
5449 of the emergency assessments under this sub-sub-subparagraph as  
5450 the source of revenue for bonds, to retire any other debt  
5451 incurred as a result of the deficit or events giving rise to the  
5452 deficit, or in any other way that the board determines will  
5453 efficiently recover the deficit. The emergency assessments under  
5454 this sub-sub-subparagraph shall continue as long as any bonds  
5455 issued or other indebtedness incurred with respect to a deficit  
5456 for which the assessment was imposed remain outstanding, unless  
5457 adequate provision has been made for the payment of such bonds or  
5458 other indebtedness pursuant to the document governing such bonds  
5459 or other indebtedness. Emergency assessments collected under this  
5460 sub-sub-subparagraph are not part of an insurer's rates, are not  
5461 premium, and are not subject to premium tax, fees, or  
5462 commissions; however, failure to pay the emergency assessment  
5463 shall be treated as failure to pay premium.

5464 (IV) Each member insurer's share of the total regular  
5465 assessments under sub-sub-subparagraph (I) or sub-sub-  
5466 subparagraph (II) shall be in the proportion that the insurer's  
5467 net direct premium for property insurance in this state, for the  
5468 year preceding the assessment bears to the aggregate statewide  
5469 net direct premium for property insurance of all member insurers,  
5470 as reduced by any credits for voluntary writings for that year.

8-04063-08

20081678\_\_

5471 (V) If regular deficit assessments are made under sub-sub-  
5472 subparagraph (I) or sub-sub-subparagraph (II), or by the  
5473 Residential Property and Casualty Joint Underwriting Association  
5474 under sub-subparagraph (6)(b)3.a. or sub-subparagraph (6)(b)3.b.,  
5475 the association shall levy upon the association's policyholders,  
5476 as part of its next rate filing, or by a separate rate filing  
5477 solely for this purpose, a market equalization surcharge in a  
5478 percentage equal to the total amount of such regular assessments  
5479 divided by the aggregate statewide direct written premium for  
5480 property insurance for member insurers for the prior calendar  
5481 year. Market equalization surcharges under this sub-sub-  
5482 subparagraph are not considered premium and are not subject to  
5483 commissions, fees, or premium taxes; however, failure to pay a  
5484 market equalization surcharge shall be treated as failure to pay  
5485 premium.

5486 e. The governing body of any unit of local government, any  
5487 residents of which are insured under the plan, may issue bonds as  
5488 defined in s. 125.013 or s. 166.101 to fund an assistance  
5489 program, in conjunction with the association, for the purpose of  
5490 defraying deficits of the association. In order to avoid needless  
5491 and indiscriminate proliferation, duplication, and fragmentation  
5492 of such assistance programs, any unit of local government, any  
5493 residents of which are insured by the association, may provide  
5494 for the payment of losses, regardless of whether or not the  
5495 losses occurred within or outside of the territorial jurisdiction  
5496 of the local government. Revenue bonds may not be issued until  
5497 validated pursuant to chapter 75, unless a state of emergency is  
5498 declared by executive order or proclamation of the Governor  
5499 pursuant to s. 252.36 making such findings as are necessary to

8-04063-08

20081678\_\_

5500 determine that it is in the best interests of, and necessary for,  
5501 the protection of the public health, safety, and general welfare  
5502 of residents of this state and the protection and preservation of  
5503 the economic stability of insurers operating in this state, and  
5504 declaring it an essential public purpose to permit certain  
5505 municipalities or counties to issue bonds as will provide relief  
5506 to claimants and policyholders of the association and insurers  
5507 responsible for apportionment of plan losses. Any such unit of  
5508 local government may enter into such contracts with the  
5509 association and with any other entity created pursuant to this  
5510 subsection as are necessary to carry out this paragraph. Any  
5511 bonds issued under this sub-subparagraph shall be payable from  
5512 and secured by moneys received by the association from  
5513 assessments under this subparagraph, and assigned and pledged to  
5514 or on behalf of the unit of local government for the benefit of  
5515 the holders of such bonds. The funds, credit, property, and  
5516 taxing power of the state or of the unit of local government  
5517 shall not be pledged for the payment of such bonds. If any of the  
5518 bonds remain unsold 60 days after issuance, the department shall  
5519 require all insurers subject to assessment to purchase the bonds,  
5520 which shall be treated as admitted assets; each insurer shall be  
5521 required to purchase that percentage of the unsold portion of the  
5522 bond issue that equals the insurer's relative share of assessment  
5523 liability under this subsection. An insurer shall not be required  
5524 to purchase the bonds to the extent that the department  
5525 determines that the purchase would endanger or impair the  
5526 solvency of the insurer. The authority granted by this sub-  
5527 subparagraph is additional to any bonding authority granted by  
5528 subparagraph 6.

8-04063-08

20081678\_\_

5529           3. The plan shall also provide that any member with a  
5530 surplus as to policyholders of \$20 million or less writing 25  
5531 percent or more of its total countrywide property insurance  
5532 premiums in this state may petition the department, within the  
5533 first 90 days of each calendar year, to qualify as a limited  
5534 apportionment company. The apportionment of such a member company  
5535 in any calendar year for which it is qualified shall not exceed  
5536 its gross participation, which shall not be affected by the  
5537 formula for voluntary writings. In no event shall a limited  
5538 apportionment company be required to participate in any  
5539 apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)  
5540 or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds  
5541 \$50 million after payment of available plan funds in any calendar  
5542 year. However, a limited apportionment company shall collect from  
5543 its policyholders any emergency assessment imposed under sub-sub-  
5544 subparagraph 2.d.(III). The plan shall provide that, if the  
5545 department determines that any regular assessment will result in  
5546 an impairment of the surplus of a limited apportionment company,  
5547 the department may direct that all or part of such assessment be  
5548 deferred. However, there shall be no limitation or deferment of  
5549 an emergency assessment to be collected from policyholders under  
5550 sub-sub-subparagraph 2.d.(III).

5551           4. The plan shall provide for the deferment, in whole or in  
5552 part, of a regular assessment of a member insurer under sub-sub-  
5553 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but not  
5554 for an emergency assessment collected from policyholders under  
5555 sub-sub-subparagraph 2.d.(III), if, in the opinion of the  
5556 commissioner, payment of such regular assessment would endanger  
5557 or impair the solvency of the member insurer. In the event a

8-04063-08

20081678\_\_

5558 regular assessment against a member insurer is deferred in whole  
5559 or in part, the amount by which such assessment is deferred may  
5560 be assessed against the other member insurers in a manner  
5561 consistent with the basis for assessments set forth in sub-sub-  
5562 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

5563 5.a. The plan of operation may include deductibles and  
5564 rules for classification of risks and rate modifications  
5565 consistent with the objective of providing and maintaining funds  
5566 sufficient to pay catastrophe losses.

5567 b. The association may require arbitration of a rate filing  
5568 under s. 627.062(6). It is the intent of the Legislature that the  
5569 rates for coverage provided by the association be actuarially  
5570 sound and not competitive with approved rates charged in the  
5571 admitted voluntary market such that the association functions as  
5572 a residual market mechanism to provide insurance only when the  
5573 insurance cannot be procured in the voluntary market. The plan of  
5574 operation shall provide a mechanism to assure that, beginning no  
5575 later than January 1, 1999, the rates charged by the association  
5576 for each line of business are reflective of approved rates in the  
5577 voluntary market for hurricane coverage for each line of business  
5578 in the various areas eligible for association coverage.

5579 c. The association shall provide for windstorm coverage on  
5580 residential properties in limits up to \$10 million for commercial  
5581 lines residential risks and up to \$1 million for personal lines  
5582 residential risks. If coverage with the association is sought for  
5583 a residential risk valued in excess of these limits, coverage  
5584 shall be available to the risk up to the replacement cost or  
5585 actual cash value of the property, at the option of the insured,  
5586 if coverage for the risk cannot be located in the authorized

8-04063-08

20081678\_\_

5587 market. The association must accept a commercial lines  
5588 residential risk with limits above \$10 million or a personal  
5589 lines residential risk with limits above \$1 million if coverage  
5590 is not available in the authorized market. The association may  
5591 write coverage above the limits specified in this subparagraph  
5592 with or without facultative or other reinsurance coverage, as the  
5593 association determines appropriate.

5594 d. The plan of operation must provide objective criteria  
5595 and procedures, approved by the department, to be uniformly  
5596 applied for all applicants in determining whether an individual  
5597 risk is so hazardous as to be uninsurable. In making this  
5598 determination and in establishing the criteria and procedures,  
5599 the following shall be considered:

5600 (I) Whether the likelihood of a loss for the individual  
5601 risk is substantially higher than for other risks of the same  
5602 class; and

5603 (II) Whether the uncertainty associated with the individual  
5604 risk is such that an appropriate premium cannot be determined.

5605  
5606 The acceptance or rejection of a risk by the association pursuant  
5607 to such criteria and procedures must be construed as the private  
5608 placement of insurance, and the provisions of chapter 120 do not  
5609 apply.

5610 e. If the risk accepts an offer of coverage through the  
5611 market assistance program or through a mechanism established by  
5612 the association, either before the policy is issued by the  
5613 association or during the first 30 days of coverage by the  
5614 association, and the producing agent who submitted the

8-04063-08

20081678\_\_

5615 application to the association is not currently appointed by the  
5616 insurer, the insurer shall:

5617 (I) Pay to the producing agent of record of the policy, for  
5618 the first year, an amount that is the greater of the insurer's  
5619 usual and customary commission for the type of policy written or  
5620 a fee equal to the usual and customary commission of the  
5621 association; or

5622 (II) Offer to allow the producing agent of record of the  
5623 policy to continue servicing the policy for a period of not less  
5624 than 1 year and offer to pay the agent the greater of the  
5625 insurer's or the association's usual and customary commission for  
5626 the type of policy written.

5627  
5628 If the producing agent is unwilling or unable to accept  
5629 appointment, the new insurer shall pay the agent in accordance  
5630 with sub-sub-subparagraph (I). Subject to the provisions of s.  
5631 627.3517, the policies issued by the association must provide  
5632 that if the association obtains an offer from an authorized  
5633 insurer to cover the risk at its approved rates under either a  
5634 standard policy including wind coverage or, if consistent with  
5635 the insurer's underwriting rules as filed with the department, a  
5636 basic policy including wind coverage, the risk is no longer  
5637 eligible for coverage through the association. Upon termination  
5638 of eligibility, the association shall provide written notice to  
5639 the policyholder and agent of record stating that the association  
5640 policy must be canceled as of 60 days after the date of the  
5641 notice because of the offer of coverage from an authorized  
5642 insurer. Other provisions of the insurance code relating to

8-04063-08

20081678\_\_

5643 cancellation and notice of cancellation do not apply to actions  
5644 under this sub-subparagraph.

5645 f. When the association enters into a contractual agreement  
5646 for a take-out plan, the producing agent of record of the  
5647 association policy is entitled to retain any unearned commission  
5648 on the policy, and the insurer shall:

5649 (I) Pay to the producing agent of record of the association  
5650 policy, for the first year, an amount that is the greater of the  
5651 insurer's usual and customary commission for the type of policy  
5652 written or a fee equal to the usual and customary commission of  
5653 the association; or

5654 (II) Offer to allow the producing agent of record of the  
5655 association policy to continue servicing the policy for a period  
5656 of not less than 1 year and offer to pay the agent the greater of  
5657 the insurer's or the association's usual and customary commission  
5658 for the type of policy written.

5659  
5660 If the producing agent is unwilling or unable to accept  
5661 appointment, the new insurer shall pay the agent in accordance  
5662 with sub-sub-subparagraph (I).

5663 6.a. The plan of operation may authorize the formation of a  
5664 private nonprofit corporation, a private nonprofit unincorporated  
5665 association, a partnership, a trust, a limited liability company,  
5666 or a nonprofit mutual company which may be empowered, among other  
5667 things, to borrow money by issuing bonds or by incurring other  
5668 indebtedness and to accumulate reserves or funds to be used for  
5669 the payment of insured catastrophe losses. The plan may authorize  
5670 all actions necessary to facilitate the issuance of bonds,  
5671 including the pledging of assessments or other revenues.



8-04063-08

20081678\_\_

5672           b. Any entity created under this subsection, or any entity  
5673 formed for the purposes of this subsection, may sue and be sued,  
5674 may borrow money; issue bonds, notes, or debt instruments; pledge  
5675 or sell assessments, market equalization surcharges and other  
5676 surcharges, rights, premiums, contractual rights, projected  
5677 recoveries from the Florida Hurricane Catastrophe Fund, other  
5678 reinsurance recoverables, and other assets as security for such  
5679 bonds, notes, or debt instruments; enter into any contracts or  
5680 agreements necessary or proper to accomplish such borrowings; and  
5681 take other actions necessary to carry out the purposes of this  
5682 subsection. The association may issue bonds or incur other  
5683 indebtedness, or have bonds issued on its behalf by a unit of  
5684 local government pursuant to subparagraph (6)(p)2., in the  
5685 absence of a hurricane or other weather-related event, upon a  
5686 determination by the association subject to approval by the  
5687 department that such action would enable it to efficiently meet  
5688 the financial obligations of the association and that such  
5689 financings are reasonably necessary to effectuate the  
5690 requirements of this subsection. Any such entity may accumulate  
5691 reserves and retain surpluses as of the end of any association  
5692 year to provide for the payment of losses incurred by the  
5693 association during that year or any future year. The association  
5694 shall incorporate and continue the plan of operation and articles  
5695 of agreement in effect on the effective date of chapter 76-96,  
5696 Laws of Florida, to the extent that it is not inconsistent with  
5697 chapter 76-96, and as subsequently modified consistent with  
5698 chapter 76-96. The board of directors and officers currently  
5699 serving shall continue to serve until their successors are duly  
5700 qualified as provided under the plan. The assets and obligations

8-04063-08

20081678\_\_

5701 of the plan in effect immediately prior to the effective date of  
5702 chapter 76-96 shall be construed to be the assets and obligations  
5703 of the successor plan created herein.

5704 c. In recognition of s. 10, Art. I of the State  
5705 Constitution, prohibiting the impairment of obligations of  
5706 contracts, it is the intent of the Legislature that no action be  
5707 taken whose purpose is to impair any bond indenture or financing  
5708 agreement or any revenue source committed by contract to such  
5709 bond or other indebtedness issued or incurred by the association  
5710 or any other entity created under this subsection.

5711 7. On such coverage, an agent's remuneration shall be that  
5712 amount of money payable to the agent by the terms of his or her  
5713 contract with the company with which the business is placed.  
5714 However, no commission will be paid on that portion of the  
5715 premium which is in excess of the standard premium of that  
5716 company.

5717 8. Subject to approval by the department, the association  
5718 may establish different eligibility requirements and operational  
5719 procedures for any line or type of coverage for any specified  
5720 eligible area or portion of an eligible area if the board  
5721 determines that such changes to the eligibility requirements and  
5722 operational procedures are justified due to the voluntary market  
5723 being sufficiently stable and competitive in such area or for  
5724 such line or type of coverage and that consumers who, in good  
5725 faith, are unable to obtain insurance through the voluntary  
5726 market through ordinary methods would continue to have access to  
5727 coverage from the association. When coverage is sought in  
5728 connection with a real property transfer, such requirements and  
5729 procedures shall not provide for an effective date of coverage

8-04063-08

20081678\_\_

5730 later than the date of the closing of the transfer as established  
5731 by the transferor, the transferee, and, if applicable, the  
5732 lender.

5733 9. Notwithstanding any other provision of law:

5734 a. The pledge or sale of, the lien upon, and the security  
5735 interest in any rights, revenues, or other assets of the  
5736 association created or purported to be created pursuant to any  
5737 financing documents to secure any bonds or other indebtedness of  
5738 the association shall be and remain valid and enforceable,  
5739 notwithstanding the commencement of and during the continuation  
5740 of, and after, any rehabilitation, insolvency, liquidation,  
5741 bankruptcy, receivership, conservatorship, reorganization, or  
5742 similar proceeding against the association under the laws of this  
5743 state or any other applicable laws.

5744 b. No such proceeding shall relieve the association of its  
5745 obligation, or otherwise affect its ability to perform its  
5746 obligation, to continue to collect, or levy and collect,  
5747 assessments, market equalization or other surcharges, projected  
5748 recoveries from the Florida Hurricane Catastrophe Fund,  
5749 reinsurance recoverables, or any other rights, revenues, or other  
5750 assets of the association pledged.

5751 c. Each such pledge or sale of, lien upon, and security  
5752 interest in, including the priority of such pledge, lien, or  
5753 security interest, any such assessments, emergency assessments,  
5754 market equalization or renewal surcharges, projected recoveries  
5755 from the Florida Hurricane Catastrophe Fund, reinsurance  
5756 recoverables, or other rights, revenues, or other assets which  
5757 are collected, or levied and collected, after the commencement of

8-04063-08

20081678\_\_

5758 and during the pendency of or after any such proceeding shall  
5759 continue unaffected by such proceeding.

5760 d. As used in this subsection, the term "financing  
5761 documents" means any agreement, instrument, or other document now  
5762 existing or hereafter created evidencing any bonds or other  
5763 indebtedness of the association or pursuant to which any such  
5764 bonds or other indebtedness has been or may be issued and  
5765 pursuant to which any rights, revenues, or other assets of the  
5766 association are pledged or sold to secure the repayment of such  
5767 bonds or indebtedness, together with the payment of interest on  
5768 such bonds or such indebtedness, or the payment of any other  
5769 obligation of the association related to such bonds or  
5770 indebtedness.

5771 e. Any such pledge or sale of assessments, revenues,  
5772 contract rights or other rights or assets of the association  
5773 shall constitute a lien and security interest, or sale, as the  
5774 case may be, that is immediately effective and attaches to such  
5775 assessments, revenues, contract, or other rights or assets,  
5776 whether or not imposed or collected at the time the pledge or  
5777 sale is made. Any such pledge or sale is effective, valid,  
5778 binding, and enforceable against the association or other entity  
5779 making such pledge or sale, and valid and binding against and  
5780 superior to any competing claims or obligations owed to any other  
5781 person or entity, including policyholders in this state,  
5782 asserting rights in any such assessments, revenues, contract, or  
5783 other rights or assets to the extent set forth in and in  
5784 accordance with the terms of the pledge or sale contained in the  
5785 applicable financing documents, whether or not any such person or

8-04063-08

20081678\_\_

5786 entity has notice of such pledge or sale and without the need for  
5787 any physical delivery, recordation, filing, or other action.

5788 f. There shall be no liability on the part of, and no cause  
5789 of action of any nature shall arise against, any member insurer  
5790 or its agents or employees, agents or employees of the  
5791 association, members of the board of directors of the  
5792 association, or the department or its representatives, for any  
5793 action taken by them in the performance of their duties or  
5794 responsibilities under this subsection. Such immunity does not  
5795 apply to actions for breach of any contract or agreement  
5796 pertaining to insurance, or any willful tort.

5797 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

5798 (c) The plan of operation of the corporation:

5799 1. Must provide for adoption of residential property and  
5800 casualty insurance policy forms and commercial residential and  
5801 nonresidential property insurance forms, which forms must be  
5802 approved by the office prior to use. The corporation shall adopt  
5803 the following policy forms:

5804 a. Standard personal lines policy forms that are  
5805 comprehensive multiperil policies providing full coverage of a  
5806 residential property equivalent to the coverage provided in the  
5807 private insurance market under an HO-3, HO-4, or HO-6 policy.

5808 b. Basic personal lines policy forms that are policies  
5809 similar to an HO-8 policy or a dwelling fire policy that provide  
5810 coverage meeting the requirements of the secondary mortgage  
5811 market, but which coverage is more limited than the coverage  
5812 under a standard policy.

5813 c. Commercial lines residential and nonresidential policy  
5814 forms that are generally similar to the basic perils of full

8-04063-08

20081678\_\_

5815 coverage obtainable for commercial residential structures and  
5816 commercial nonresidential structures in the admitted voluntary  
5817 market.

5818 d. Personal lines and commercial lines residential property  
5819 insurance forms that cover the peril of wind only. The forms are  
5820 applicable only to residential properties located in areas  
5821 eligible for coverage under the high-risk account referred to in  
5822 sub-subparagraph (b)2.a.

5823 e. Commercial lines nonresidential property insurance forms  
5824 that cover the peril of wind only. The forms are applicable only  
5825 to nonresidential properties located in areas eligible for  
5826 coverage under the high-risk account referred to in sub-  
5827 subparagraph (b)2.a.

5828 f. The corporation may adopt variations of the policy forms  
5829 listed in sub-subparagraphs a.-e. that contain more restrictive  
5830 coverage.

5831 2.a. Must provide that the corporation adopt a program in  
5832 which the corporation and authorized insurers enter into quota  
5833 share primary insurance agreements for hurricane coverage, as  
5834 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
5835 property insurance forms for eligible risks which cover the peril  
5836 of wind only. As used in this subsection, the term:

5837 (I) "Quota share primary insurance" means an arrangement in  
5838 which the primary hurricane coverage of an eligible risk is  
5839 provided in specified percentages by the corporation and an  
5840 authorized insurer. The corporation and authorized insurer are  
5841 each solely responsible for a specified percentage of hurricane  
5842 coverage of an eligible risk as set forth in a quota share  
5843 primary insurance agreement between the corporation and an

8-04063-08

20081678\_\_

5844 authorized insurer and the insurance contract. The responsibility  
5845 of the corporation or authorized insurer to pay its specified  
5846 percentage of hurricane losses of an eligible risk, as set forth  
5847 in the quota share primary insurance agreement, may not be  
5848 altered by the inability of the other party to the agreement to  
5849 pay its specified percentage of hurricane losses. Eligible risks  
5850 that are provided hurricane coverage through a quota share  
5851 primary insurance arrangement must be provided policy forms that  
5852 set forth the obligations of the corporation and authorized  
5853 insurer under the arrangement, clearly specify the percentages of  
5854 quota share primary insurance provided by the corporation and  
5855 authorized insurer, and conspicuously and clearly state that  
5856 neither the authorized insurer nor the corporation may be held  
5857 responsible beyond its specified percentage of coverage of  
5858 hurricane losses.

5859 (II) "Eligible risks" means personal lines residential and  
5860 commercial lines residential risks that meet the underwriting  
5861 criteria of the corporation and are located in areas that were  
5862 eligible for coverage by the Florida Windstorm Underwriting  
5863 Association on January 1, 2002.

5864 b. The corporation may enter into quota share primary  
5865 insurance agreements with authorized insurers at corporation  
5866 coverage levels of 90 percent and 50 percent.

5867 c. If the corporation determines that additional coverage  
5868 levels are necessary to maximize participation in quota share  
5869 primary insurance agreements by authorized insurers, the  
5870 corporation may establish additional coverage levels. However,  
5871 the corporation's quota share primary insurance coverage level  
5872 may not exceed 90 percent.

8-04063-08

20081678\_\_

5873           d. Any quota share primary insurance agreement entered into  
5874 between an authorized insurer and the corporation must provide  
5875 for a uniform specified percentage of coverage of hurricane  
5876 losses, by county or territory as set forth by the corporation  
5877 board, for all eligible risks of the authorized insurer covered  
5878 under the quota share primary insurance agreement.

5879           e. Any quota share primary insurance agreement entered into  
5880 between an authorized insurer and the corporation is subject to  
5881 review and approval by the office. However, such agreement shall  
5882 be authorized only as to insurance contracts entered into between  
5883 an authorized insurer and an insured who is already insured by  
5884 the corporation for wind coverage.

5885           f. For all eligible risks covered under quota share primary  
5886 insurance agreements, the exposure and coverage levels for both  
5887 the corporation and authorized insurers shall be reported by the  
5888 corporation to the Florida Hurricane Catastrophe Fund. For all  
5889 policies of eligible risks covered under quota share primary  
5890 insurance agreements, the corporation and the authorized insurer  
5891 shall maintain complete and accurate records for the purpose of  
5892 exposure and loss reimbursement audits as required by Florida  
5893 Hurricane Catastrophe Fund rules. The corporation and the  
5894 authorized insurer shall each maintain duplicate copies of policy  
5895 declaration pages and supporting claims documents.

5896           g. The corporation board shall establish in its plan of  
5897 operation standards for quota share agreements which ensure that  
5898 there is no discriminatory application among insurers as to the  
5899 terms of quota share agreements, pricing of quota share  
5900 agreements, incentive provisions if any, and consideration paid  
5901 for servicing policies or adjusting claims.



8-04063-08

20081678\_\_

5902           h. The quota share primary insurance agreement between the  
5903 corporation and an authorized insurer must set forth the specific  
5904 terms under which coverage is provided, including, but not  
5905 limited to, the sale and servicing of policies issued under the  
5906 agreement by the insurance agent of the authorized insurer  
5907 producing the business, the reporting of information concerning  
5908 eligible risks, the payment of premium to the corporation, and  
5909 arrangements for the adjustment and payment of hurricane claims  
5910 incurred on eligible risks by the claims adjuster and personnel  
5911 of the authorized insurer. Entering into a quota sharing  
5912 insurance agreement between the corporation and an authorized  
5913 insurer shall be voluntary and at the discretion of the  
5914 authorized insurer.

5915           3. May provide that the corporation may employ or otherwise  
5916 contract with individuals or other entities to provide  
5917 administrative or professional services that may be appropriate  
5918 to effectuate the plan. The corporation shall have the power to  
5919 borrow funds, by issuing bonds or by incurring other  
5920 indebtedness, and shall have other powers reasonably necessary to  
5921 effectuate the requirements of this subsection, including,  
5922 without limitation, the power to issue bonds and incur other  
5923 indebtedness in order to refinance outstanding bonds or other  
5924 indebtedness. The corporation may, but is not required to, seek  
5925 judicial validation of its bonds or other indebtedness under  
5926 chapter 75. The corporation may issue bonds or incur other  
5927 indebtedness, or have bonds issued on its behalf by a unit of  
5928 local government pursuant to subparagraph (p)2., in the absence  
5929 of a hurricane or other weather-related event, upon a  
5930 determination by the corporation, subject to approval by the

8-04063-08

20081678\_\_

5931 | office, that such action would enable it to efficiently meet the  
5932 | financial obligations of the corporation and that such financings  
5933 | are reasonably necessary to effectuate the requirements of this  
5934 | subsection. The corporation is authorized to take all actions  
5935 | needed to facilitate tax-free status for any such bonds or  
5936 | indebtedness, including formation of trusts or other affiliated  
5937 | entities. The corporation shall have the authority to pledge  
5938 | assessments, projected recoveries from the Florida Hurricane  
5939 | Catastrophe Fund, other reinsurance recoverables, market  
5940 | equalization and other surcharges, and other funds available to  
5941 | the corporation as security for bonds or other indebtedness. In  
5942 | recognition of s. 10, Art. I of the State Constitution,  
5943 | prohibiting the impairment of obligations of contracts, it is the  
5944 | intent of the Legislature that no action be taken whose purpose  
5945 | is to impair any bond indenture or financing agreement or any  
5946 | revenue source committed by contract to such bond or other  
5947 | indebtedness.

5948 |         4.a. Must require that the corporation operate subject to  
5949 | the supervision and approval of a board of governors consisting  
5950 | of eight individuals who are residents of this state, from  
5951 | different geographical areas of this state. The Governor, the  
5952 | Chief Financial Officer, the President of the Senate, and the  
5953 | Speaker of the House of Representatives shall each appoint two  
5954 | members of the board. At least one of the two members appointed  
5955 | by each appointing officer must have demonstrated expertise in  
5956 | insurance. The Chief Financial Officer shall designate one of the  
5957 | appointees as chair. All board members serve at the pleasure of  
5958 | the appointing officer. All members of the board of governors are  
5959 | subject to removal at will by the officers who appointed them.

8-04063-08

20081678\_\_

5960 All board members, including the chair, must be appointed to  
5961 serve for 3-year terms beginning annually on a date designated by  
5962 the plan. Any board vacancy shall be filled for the unexpired  
5963 term by the appointing officer. The Chief Financial Officer shall  
5964 appoint a technical advisory group to provide information and  
5965 advice to the board of governors in connection with the board's  
5966 duties under this subsection. The executive director and senior  
5967 managers of the corporation shall be engaged by the board and  
5968 serve at the pleasure of the board. Any executive director  
5969 appointed on or after July 1, 2006, is subject to confirmation by  
5970 the Senate. The executive director is responsible for employing  
5971 other staff as the corporation may require, subject to review and  
5972 concurrence by the board.

5973       b. The board shall create a Market Accountability Advisory  
5974 Committee to assist the corporation in developing awareness of  
5975 its rates and its customer and agent service levels in  
5976 relationship to the voluntary market insurers writing similar  
5977 coverage. The members of the advisory committee shall consist of  
5978 the following 11 persons, one of whom must be elected chair by  
5979 the members of the committee: four representatives, one appointed  
5980 by the Florida Association of Insurance Agents, one by the  
5981 Florida Association of Insurance and Financial Advisors, one by  
5982 the Professional Insurance Agents of Florida, and one by the  
5983 Latin American Association of Insurance Agencies; three  
5984 representatives appointed by the insurers with the three highest  
5985 voluntary market share of residential property insurance business  
5986 in the state; one representative from the Office of Insurance  
5987 Regulation; one consumer appointed by the board who is insured by  
5988 the corporation at the time of appointment to the committee; one

8-04063-08

20081678\_\_

5989 representative appointed by the Florida Association of Realtors;  
5990 and one representative appointed by the Florida Bankers  
5991 Association. All members must serve for 3-year terms and may  
5992 serve for consecutive terms. The committee shall report to the  
5993 corporation at each board meeting on insurance market issues  
5994 which may include rates and rate competition with the voluntary  
5995 market; service, including policy issuance, claims processing,  
5996 and general responsiveness to policyholders, applicants, and  
5997 agents; and matters relating to depopulation.

5998 5. Must provide a procedure for determining the eligibility  
5999 of a risk for coverage, as follows:

6000 a. Subject to the provisions of s. 627.3517, with respect  
6001 to personal lines residential risks, if the risk is offered  
6002 coverage from an authorized insurer at the insurer's approved  
6003 rate under either a standard policy including wind coverage or,  
6004 if consistent with the insurer's underwriting rules as filed with  
6005 the office, a basic policy including wind coverage, for a new  
6006 application to the corporation for coverage, the risk is not  
6007 eligible for any policy issued by the corporation unless the  
6008 premium for coverage from the authorized insurer is more than 15  
6009 percent greater than the premium for comparable coverage from the  
6010 corporation. If the risk is not able to obtain any such offer,  
6011 the risk is eligible for either a standard policy including wind  
6012 coverage or a basic policy including wind coverage issued by the  
6013 corporation; however, if the risk could not be insured under a  
6014 standard policy including wind coverage regardless of market  
6015 conditions, the risk shall be eligible for a basic policy  
6016 including wind coverage unless rejected under subparagraph 8. 9.  
6017 However, with regard to a policyholder of the corporation or a

8-04063-08

20081678\_\_

6018 | policyholder removed from the corporation through an assumption  
6019 | agreement until the end of the assumption period, the  
6020 | policyholder remains eligible for coverage from the corporation  
6021 | regardless of any offer of coverage from an authorized insurer or  
6022 | surplus lines insurer. The corporation shall determine the type  
6023 | of policy to be provided on the basis of objective standards  
6024 | specified in the underwriting manual and based on generally  
6025 | accepted underwriting practices.

6026 |       (I) If the risk accepts an offer of coverage through the  
6027 | market assistance plan or an offer of coverage through a  
6028 | mechanism established by the corporation before a policy is  
6029 | issued to the risk by the corporation or during the first 30 days  
6030 | of coverage by the corporation, and the producing agent who  
6031 | submitted the application to the plan or to the corporation is  
6032 | not currently appointed by the insurer, the insurer shall:

6033 |       (A) Pay to the producing agent of record of the policy, for  
6034 | the first year, an amount that is the greater of the insurer's  
6035 | usual and customary commission for the type of policy written or  
6036 | a fee equal to the usual and customary commission of the  
6037 | corporation; or

6038 |       (B) Offer to allow the producing agent of record of the  
6039 | policy to continue servicing the policy for a period of not less  
6040 | than 1 year and offer to pay the agent the greater of the  
6041 | insurer's or the corporation's usual and customary commission for  
6042 | the type of policy written.

6043 |  
6044 | If the producing agent is unwilling or unable to accept  
6045 | appointment, the new insurer shall pay the agent in accordance  
6046 | with sub-sub-sub-subparagraph (A).

8-04063-08

20081678\_\_

6047 (II) When the corporation enters into a contractual  
6048 agreement for a take-out plan, the producing agent of record of  
6049 the corporation policy is entitled to retain any unearned  
6050 commission on the policy, and the insurer shall:

6051 (A) Pay to the producing agent of record of the corporation  
6052 policy, for the first year, an amount that is the greater of the  
6053 insurer's usual and customary commission for the type of policy  
6054 written or a fee equal to the usual and customary commission of  
6055 the corporation; or

6056 (B) Offer to allow the producing agent of record of the  
6057 corporation policy to continue servicing the policy for a period  
6058 of not less than 1 year and offer to pay the agent the greater of  
6059 the insurer's or the corporation's usual and customary commission  
6060 for the type of policy written.

6061  
6062 If the producing agent is unwilling or unable to accept  
6063 appointment, the new insurer shall pay the agent in accordance  
6064 with sub-sub-sub-subparagraph (A).

6065 b. With respect to commercial lines residential risks, for  
6066 a new application to the corporation for coverage, if the risk is  
6067 offered coverage under a policy including wind coverage from an  
6068 authorized insurer at its approved rate, the risk is not eligible  
6069 for any policy issued by the corporation unless the premium for  
6070 coverage from the authorized insurer is more than 15 percent  
6071 greater than the premium for comparable coverage from the  
6072 corporation. If the risk is not able to obtain any such offer,  
6073 the risk is eligible for a policy including wind coverage issued  
6074 by the corporation. However, with regard to a policyholder of the  
6075 corporation or a policyholder removed from the corporation

8-04063-08

20081678\_\_

6076 through an assumption agreement until the end of the assumption  
6077 period, the policyholder remains eligible for coverage from the  
6078 corporation regardless of any offer of coverage from an  
6079 authorized insurer or surplus lines insurer.

6080 (I) If the risk accepts an offer of coverage through the  
6081 market assistance plan or an offer of coverage through a  
6082 mechanism established by the corporation before a policy is  
6083 issued to the risk by the corporation or during the first 30 days  
6084 of coverage by the corporation, and the producing agent who  
6085 submitted the application to the plan or the corporation is not  
6086 currently appointed by the insurer, the insurer shall:

6087 (A) Pay to the producing agent of record of the policy, for  
6088 the first year, an amount that is the greater of the insurer's  
6089 usual and customary commission for the type of policy written or  
6090 a fee equal to the usual and customary commission of the  
6091 corporation; or

6092 (B) Offer to allow the producing agent of record of the  
6093 policy to continue servicing the policy for a period of not less  
6094 than 1 year and offer to pay the agent the greater of the  
6095 insurer's or the corporation's usual and customary commission for  
6096 the type of policy written.

6097  
6098 If the producing agent is unwilling or unable to accept  
6099 appointment, the new insurer shall pay the agent in accordance  
6100 with sub-sub-sub-subparagraph (A).

6101 (II) When the corporation enters into a contractual  
6102 agreement for a take-out plan, the producing agent of record of  
6103 the corporation policy is entitled to retain any unearned  
6104 commission on the policy, and the insurer shall:

8-04063-08

20081678\_\_

6105 (A) Pay to the producing agent of record of the corporation  
6106 policy, for the first year, an amount that is the greater of the  
6107 insurer's usual and customary commission for the type of policy  
6108 written or a fee equal to the usual and customary commission of  
6109 the corporation; or

6110 (B) Offer to allow the producing agent of record of the  
6111 corporation policy to continue servicing the policy for a period  
6112 of not less than 1 year and offer to pay the agent the greater of  
6113 the insurer's or the corporation's usual and customary commission  
6114 for the type of policy written.

6115  
6116 If the producing agent is unwilling or unable to accept  
6117 appointment, the new insurer shall pay the agent in accordance  
6118 with sub-sub-sub-subparagraph (A).

6119 c. For purposes of determining comparable coverage under  
6120 sub-subparagraphs a. and b., the comparison shall be based on  
6121 those forms and coverages that are reasonably comparable. The  
6122 corporation may rely on a determination of comparable coverage  
6123 and premium made by the producing agent who submits the  
6124 application to the corporation, made in the agent's capacity as  
6125 the corporation's agent. A comparison may be made solely of the  
6126 premium with respect to the main building or structure only on  
6127 the following basis: the same coverage A or other building  
6128 limits; the same percentage hurricane deductible that applies on  
6129 an annual basis or that applies to each hurricane for commercial  
6130 residential property; the same percentage of ordinance and law  
6131 coverage, if the same limit is offered by both the corporation  
6132 and the authorized insurer; the same mitigation credits, to the  
6133 extent the same types of credits are offered both by the



8-04063-08

20081678\_\_

6134 corporation and the authorized insurer; the same method for loss  
6135 payment, such as replacement cost or actual cash value, if the  
6136 same method is offered both by the corporation and the authorized  
6137 insurer in accordance with underwriting rules; and any other form  
6138 or coverage that is reasonably comparable as determined by the  
6139 board. If an application is submitted to the corporation for  
6140 wind-only coverage in the high-risk account, the premium for the  
6141 corporation's wind-only policy plus the premium for the ex-wind  
6142 policy that is offered by an authorized insurer to the applicant  
6143 shall be compared to the premium for multiperil coverage offered  
6144 by an authorized insurer, subject to the standards for comparison  
6145 specified in this subparagraph. If the corporation or the  
6146 applicant requests from the authorized insurer a breakdown of the  
6147 premium of the offer by types of coverage so that a comparison  
6148 may be made by the corporation or its agent and the authorized  
6149 insurer refuses or is unable to provide such information, the  
6150 corporation may treat the offer as not being an offer of coverage  
6151 from an authorized insurer at the insurer's approved rate.

6152         6. Must include rules for classifications of risks and  
6153 rates therefor.

6154         7. Must provide that if premium and investment income for  
6155 an account attributable to a particular calendar year are in  
6156 excess of projected losses and expenses for the account  
6157 attributable to that year, such excess shall be held in surplus  
6158 in the account. Such surplus shall be available to defray  
6159 deficits in that account as to future years and shall be used for  
6160 that purpose prior to assessing assessable insurers and  
6161 assessable insureds as to any calendar year.

8-04063-08

20081678\_\_

6162 8. Must provide objective criteria and procedures to be  
6163 uniformly applied for all applicants in determining whether an  
6164 individual risk is so hazardous as to be uninsurable. In making  
6165 this determination and in establishing the criteria and  
6166 procedures, the following shall be considered:

6167 a. Whether the likelihood of a loss for the individual risk  
6168 is substantially higher than for other risks of the same class;  
6169 and

6170 b. Whether the uncertainty associated with the individual  
6171 risk is such that an appropriate premium cannot be determined.

6172  
6173 The acceptance or rejection of a risk by the corporation shall be  
6174 construed as the private placement of insurance, and the  
6175 provisions of chapter 120 shall not apply.

6176 9. Must provide that the corporation shall make its best  
6177 efforts to procure catastrophe reinsurance at reasonable rates,  
6178 to cover its projected 100-year probable maximum loss as  
6179 determined by the board of governors.

6180 10. Must provide that in the event of regular deficit  
6181 assessments under sub-subparagraph (b)3.a. or sub-subparagraph  
6182 (b)3.b., in the personal lines account, the commercial lines  
6183 residential account, or the high-risk account, the corporation  
6184 shall levy upon corporation policyholders in its next rate  
6185 filing, or by a separate rate filing solely for this purpose, a  
6186 Citizens policyholder surcharge arising from a regular assessment  
6187 in such account in a percentage equal to the total amount of such  
6188 regular assessments divided by the aggregate statewide direct  
6189 written premium for subject lines of business for the prior  
6190 calendar year. For purposes of calculating the Citizens

8-04063-08

20081678\_\_

6191 | policyholder surcharge to be levied under this subparagraph, the  
6192 | total amount of the regular assessment to which this surcharge is  
6193 | related shall be determined as set forth in subparagraph (b)3.,  
6194 | without deducting the estimated Citizens policyholder surcharge.  
6195 | Citizens policyholder surcharges under this subparagraph are not  
6196 | considered premium and are not subject to commissions, fees, or  
6197 | premium taxes; however, failure to pay a market equalization  
6198 | surcharge shall be treated as failure to pay premium.

6199 |       11. The policies issued by the corporation must provide  
6200 | that, if the corporation or the market assistance plan obtains an  
6201 | offer from an authorized insurer to cover the risk at its  
6202 | approved rates, the risk is no longer eligible for renewal  
6203 | through the corporation, except as otherwise provided in this  
6204 | subsection.

6205 |       12. Corporation policies and applications must include a  
6206 | notice that the corporation policy could, under this section, be  
6207 | replaced with a policy issued by an authorized insurer that does  
6208 | not provide coverage identical to the coverage provided by the  
6209 | corporation. The notice shall also specify that acceptance of  
6210 | corporation coverage creates a conclusive presumption that the  
6211 | applicant or policyholder is aware of this potential.

6212 |       13. May establish, subject to approval by the office,  
6213 | different eligibility requirements and operational procedures for  
6214 | any line or type of coverage for any specified county or area if  
6215 | the board determines that such changes to the eligibility  
6216 | requirements and operational procedures are justified due to the  
6217 | voluntary market being sufficiently stable and competitive in  
6218 | such area or for such line or type of coverage and that consumers  
6219 | who, in good faith, are unable to obtain insurance through the

8-04063-08

20081678\_\_

6220 voluntary market through ordinary methods would continue to have  
6221 access to coverage from the corporation. When coverage is sought  
6222 in connection with a real property transfer, such requirements  
6223 and procedures shall not provide for an effective date of  
6224 coverage later than the date of the closing of the transfer as  
6225 established by the transferor, the transferee, and, if  
6226 applicable, the lender.

6227 14. Must provide that, with respect to the high-risk  
6228 account, any assessable insurer with a surplus as to  
6229 policyholders of \$25 million or less writing 25 percent or more  
6230 of its total countrywide property insurance premiums in this  
6231 state may petition the office, within the first 90 days of each  
6232 calendar year, to qualify as a limited apportionment company. A  
6233 regular assessment levied by the corporation on a limited  
6234 apportionment company for a deficit incurred by the corporation  
6235 for the high-risk account in 2006 or thereafter may be paid to  
6236 the corporation on a monthly basis as the assessments are  
6237 collected by the limited apportionment company from its insureds  
6238 pursuant to s. 627.3512, but the regular assessment must be paid  
6239 in full within 12 months after being levied by the corporation. A  
6240 limited apportionment company shall collect from its  
6241 policyholders any emergency assessment imposed under sub-  
6242 subparagraph (b)3.d. The plan shall provide that, if the office  
6243 determines that any regular assessment will result in an  
6244 impairment of the surplus of a limited apportionment company, the  
6245 office may direct that all or part of such assessment be deferred  
6246 as provided in subparagraph (p)4. However, there shall be no  
6247 limitation or deferment of an emergency assessment to be  
6248 collected from policyholders under sub-subparagraph (b)3.d.

8-04063-08

20081678\_\_

6249 15. Must provide that the corporation appoint as its  
6250 licensed agents only those agents who also hold an appointment as  
6251 defined in s. 626.015(3) with an insurer who at the time of the  
6252 agent's initial appointment by the corporation is authorized to  
6253 write and is actually writing personal lines residential property  
6254 coverage, commercial residential property coverage, or commercial  
6255 nonresidential property coverage within the state.

6256 16. Must provide, by July 1, 2007, a premium payment plan  
6257 option to its policyholders which allows at a minimum for  
6258 quarterly and semiannual payment of premiums. A monthly payment  
6259 plan may, but is not required to, be offered.

6260 17. Must limit coverage on mobile homes or manufactured  
6261 homes built prior to 1994 to actual cash value of the dwelling  
6262 rather than replacement costs of the dwelling.

6263 18. May provide such limits of coverage as the board  
6264 determines, consistent with the requirements of this subsection.

6265 19. May require commercial property to meet specified  
6266 hurricane mitigation construction features as a condition of  
6267 eligibility for coverage.

6268 (n) If coverage in an account is deactivated pursuant to  
6269 paragraph (o), coverage through the corporation shall be  
6270 reactivated by order of the office only under one of the  
6271 following circumstances:

6272 1. If the market assistance plan receives a minimum of 100  
6273 applications for coverage within a 3-month period, or 200  
6274 applications for coverage within a 1-year period or less for  
6275 residential coverage, unless the market assistance plan provides  
6276 a quotation from admitted carriers at their filed rates for at  
6277 least 90 percent of such applicants. Any market assistance plan

8-04063-08

20081678\_\_

6278 application that is rejected because an individual risk is so  
6279 hazardous as to be uninsurable using the criteria specified in  
6280 subparagraph (c)8. ~~(e)9.~~ shall not be included in the minimum  
6281 percentage calculation provided herein. In the event that there  
6282 is a legal or administrative challenge to a determination by the  
6283 office that the conditions of this subparagraph have been met for  
6284 eligibility for coverage in the corporation, any eligible risk  
6285 may obtain coverage during the pendency of such challenge.

6286 2. In response to a state of emergency declared by the  
6287 Governor under s. 252.36, the office may activate coverage by  
6288 order for the period of the emergency upon a finding by the  
6289 office that the emergency significantly affects the availability  
6290 of residential property insurance.

6291 (v) Notwithstanding any other provision of law:

6292 1. The pledge or sale of, the lien upon, and the security  
6293 interest in any rights, revenues, or other assets of the  
6294 corporation created or purported to be created pursuant to any  
6295 financing documents to secure any bonds or other indebtedness of  
6296 the corporation shall be and remain valid and enforceable,  
6297 notwithstanding the commencement of and during the continuation  
6298 of, and after, any rehabilitation, insolvency, liquidation,  
6299 bankruptcy, receivership, conservatorship, reorganization, or  
6300 similar proceeding against the corporation under the laws of this  
6301 state.

6302 2. No such proceeding shall relieve the corporation of its  
6303 obligation, or otherwise affect its ability to perform its  
6304 obligation, to continue to collect, or levy and collect,  
6305 assessments, market equalization or other surcharges under  
6306 subparagraph (c)10. ~~(e)11.~~, or any other rights, revenues, or

8-04063-08

20081678\_\_

6307 | other assets of the corporation pledged pursuant to any financing  
6308 | documents.

6309 |         3. Each such pledge or sale of, lien upon, and security  
6310 | interest in, including the priority of such pledge, lien, or  
6311 | security interest, any such assessments, market equalization or  
6312 | other surcharges, or other rights, revenues, or other assets  
6313 | which are collected, or levied and collected, after the  
6314 | commencement of and during the pendency of, or after, any such  
6315 | proceeding shall continue unaffected by such proceeding. As used  
6316 | in this subsection, the term "financing documents" means any  
6317 | agreement or agreements, instrument or instruments, or other  
6318 | document or documents now existing or hereafter created  
6319 | evidencing any bonds or other indebtedness of the corporation or  
6320 | pursuant to which any such bonds or other indebtedness has been  
6321 | or may be issued and pursuant to which any rights, revenues, or  
6322 | other assets of the corporation are pledged or sold to secure the  
6323 | repayment of such bonds or indebtedness, together with the  
6324 | payment of interest on such bonds or such indebtedness, or the  
6325 | payment of any other obligation or financial product, as defined  
6326 | in the plan of operation of the corporation related to such bonds  
6327 | or indebtedness.

6328 |         4. Any such pledge or sale of assessments, revenues,  
6329 | contract rights, or other rights or assets of the corporation  
6330 | shall constitute a lien and security interest, or sale, as the  
6331 | case may be, that is immediately effective and attaches to such  
6332 | assessments, revenues, or contract rights or other rights or  
6333 | assets, whether or not imposed or collected at the time the  
6334 | pledge or sale is made. Any such pledge or sale is effective,  
6335 | valid, binding, and enforceable against the corporation or other

8-04063-08

20081678\_\_

6336 entity making such pledge or sale, and valid and binding against  
6337 and superior to any competing claims or obligations owed to any  
6338 other person or entity, including policyholders in this state,  
6339 asserting rights in any such assessments, revenues, or contract  
6340 rights or other rights or assets to the extent set forth in and  
6341 in accordance with the terms of the pledge or sale contained in  
6342 the applicable financing documents, whether or not any such  
6343 person or entity has notice of such pledge or sale and without  
6344 the need for any physical delivery, recordation, filing, or other  
6345 action.

6346         5. As long as the corporation has any bonds outstanding,  
6347 the corporation may not file a voluntary petition under chapter 9  
6348 of the federal Bankruptcy Code or such corresponding chapter or  
6349 sections as may be in effect, from time to time, and a public  
6350 officer or any organization, entity, or other person may not  
6351 authorize the corporation to be or become a debtor under chapter  
6352 9 of the federal Bankruptcy Code or such corresponding chapter or  
6353 sections as may be in effect, from time to time, during any such  
6354 period.

6355         6. If ordered by a court of competent jurisdiction, the  
6356 corporation may assume policies or otherwise provide coverage for  
6357 policyholders of an insurer placed in liquidation under chapter  
6358 631, under such forms, rates, terms, and conditions as the  
6359 corporation deems appropriate, subject to approval by the office.

6360         (w)1. The following records of the corporation are  
6361 confidential and exempt from the provisions of s. 119.07(1) and  
6362 s. 24(a), Art. I of the State Constitution:

6363         a. Underwriting files, except that a policyholder or an  
6364 applicant shall have access to his or her own underwriting files.



8-04063-08

20081678\_\_

6365           b. Claims files, until termination of all litigation and  
6366 settlement of all claims arising out of the same incident,  
6367 although portions of the claims files may remain exempt, as  
6368 otherwise provided by law. Confidential and exempt claims file  
6369 records may be released to other governmental agencies upon  
6370 written request and demonstration of need; such records held by  
6371 the receiving agency remain confidential and exempt as provided  
6372 for herein.

6373           c. Records obtained or generated by an internal auditor  
6374 pursuant to a routine audit, until the audit is completed, or if  
6375 the audit is conducted as part of an investigation, until the  
6376 investigation is closed or ceases to be active. An investigation  
6377 is considered "active" while the investigation is being conducted  
6378 with a reasonable, good faith belief that it could lead to the  
6379 filing of administrative, civil, or criminal proceedings.

6380           d. Matters reasonably encompassed in privileged attorney-  
6381 client communications.

6382           e. Proprietary information licensed to the corporation  
6383 under contract and the contract provides for the confidentiality  
6384 of such proprietary information.

6385           f. All information relating to the medical condition or  
6386 medical status of a corporation employee which is not relevant to  
6387 the employee's capacity to perform his or her duties, except as  
6388 otherwise provided in this paragraph. Information which is exempt  
6389 shall include, but is not limited to, information relating to  
6390 workers' compensation, insurance benefits, and retirement or  
6391 disability benefits.

6392           g. Upon an employee's entrance into the employee assistance  
6393 program, a program to assist any employee who has a behavioral or

8-04063-08

20081678\_\_

6394 | medical disorder, substance abuse problem, or emotional  
6395 | difficulty which affects the employee's job performance, all  
6396 | records relative to that participation shall be confidential and  
6397 | exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I  
6398 | of the State Constitution, except as otherwise provided in s.  
6399 | 112.0455(11).

6400 |       h. Information relating to negotiations for financing,  
6401 | reinsurance, depopulation, or contractual services, until the  
6402 | conclusion of the negotiations.

6403 |       i. Minutes of closed meetings regarding underwriting files,  
6404 | and minutes of closed meetings regarding an open claims file  
6405 | until termination of all litigation and settlement of all claims  
6406 | with regard to that claim, except that information otherwise  
6407 | confidential or exempt by law will be redacted.

6408 |  
6409 | When an authorized insurer is considering underwriting a risk  
6410 | insured by the corporation, relevant underwriting files and  
6411 | confidential claims files may be released to the insurer provided  
6412 | the insurer agrees in writing, notarized and under oath, to  
6413 | maintain the confidentiality of such files. When a file is  
6414 | transferred to an insurer that file is no longer a public record  
6415 | because it is not held by an agency subject to the provisions of  
6416 | the public records law. Underwriting files and confidential  
6417 | claims files may also be released to staff of and the board of  
6418 | governors of the market assistance plan established pursuant to  
6419 | s. 627.3515, who must retain the confidentiality of such files,  
6420 | except such files may be released to authorized insurers that are  
6421 | considering assuming the risks to which the files apply, provided  
6422 | the insurer agrees in writing, notarized and under oath, to

8-04063-08

20081678\_\_

6423 maintain the confidentiality of such files. Finally, the  
6424 corporation or the board or staff of the market assistance plan  
6425 may make the following information obtained from underwriting  
6426 files and confidential claims files available to licensed general  
6427 lines insurance agents: name, address, and telephone number of  
6428 the residential property owner or insured; location of the risk;  
6429 rating information; loss history; and policy type. The receiving  
6430 licensed general lines insurance agent must retain the  
6431 confidentiality of the information received.

6432 2. Portions of meetings of the corporation are exempt from  
6433 the provisions of s. 286.011 and s. 24(b), Art. I of the State  
6434 Constitution wherein confidential underwriting files or  
6435 confidential open claims files are discussed. All portions of  
6436 corporation meetings which are closed to the public shall be  
6437 recorded by a court reporter. The court reporter shall record the  
6438 times of commencement and termination of the meeting, all  
6439 discussion and proceedings, the names of all persons present at  
6440 any time, and the names of all persons speaking. No portion of  
6441 any closed meeting shall be off the record. Subject to the  
6442 provisions hereof and s. 119.07(1)(d)-(f) ~~119.07(1)(e)-(g)~~, the  
6443 court reporter's notes of any closed meeting shall be retained by  
6444 the corporation for a minimum of 5 years. A copy of the  
6445 transcript, less any exempt matters, of any closed meeting  
6446 wherein claims are discussed shall become public as to individual  
6447 claims after settlement of the claim.

6448 Reviser's note.--Paragraph (2)(b) is amended to conform to  
6449 the redesignation of Dade County as Miami-Dade County by s.  
6450 1-4.2 of the Miami-Dade County Code. Paragraphs (6)(c) and  
6451 (6)(n) are amended to conform to the redesignation of

8-04063-08

20081678\_\_

6452 subparagraph (c)8. as subparagraph (c)9. by s. 15, ch. 2006-  
6453 12, Laws of Florida, and further redesignation as  
6454 subparagraph (c)8. by s. 11, ch. 2007-90, Laws of Florida.  
6455 Paragraph (6)(v) is amended to conform to the redesignation  
6456 of subparagraph (c)10. as subparagraph (c)11. by s. 15, ch.  
6457 2006-12, and further redesignation as subparagraph (c)10. by  
6458 s. 11, ch. 2007-90. Paragraph (6)(w) is amended to conform  
6459 to the redesignation of s. 119.07(1)(b)-(d) as s.  
6460 119.07(1)(d)-(f) by s. 1, ch. 2007-39, Laws of Florida, and  
6461 to correct the reference by s. 4, ch. 2007-39.

6462 Section 150. Paragraph (a) of subsection (3) and paragraph  
6463 (b) of subsection (6) of section 627.3511, Florida Statutes, are  
6464 amended to read:

6465 627.3511 Depopulation of Citizens Property Insurance  
6466 Corporation.--

6467 (3) EXEMPTION FROM DEFICIT ASSESSMENTS.--

6468 (a) The calculation of an insurer's assessment liability  
6469 under s. 627.351(6)(b)3.a. or b. shall, for an insurer that in  
6470 any calendar year removes 50,000 or more risks from the Citizens  
6471 Property Insurance Corporation, either by issuance of a policy  
6472 upon expiration or cancellation of the corporation policy or by  
6473 assumption of the corporation's obligations with respect to in-  
6474 force policies, exclude such removed policies for the succeeding  
6475 3 years, as follows:

6476 1. In the first year following removal of the risks, the  
6477 risks are excluded from the calculation to the extent of 100  
6478 percent.

8-04063-08

20081678\_\_

6479           2. In the second year following removal of the risks, the  
6480 risks are excluded from the calculation to the extent of 75  
6481 percent.

6482           3. In the third year following removal of the risks, the  
6483 risks are excluded from the calculation to the extent of 50  
6484 percent.

6485  
6486 If the removal of risks is accomplished through assumption of  
6487 obligations with respect to in-force policies, the corporation  
6488 shall pay to the assuming insurer all unearned premium with  
6489 respect to such policies less any policy acquisition costs agreed  
6490 to by the corporation and assuming insurer. The term "policy  
6491 acquisition costs" is defined as costs of issuance of the policy  
6492 by the corporation which includes agent commissions, servicing  
6493 company fees, and premium tax. This paragraph does not apply to  
6494 an insurer that, at any time within 5 years before removing the  
6495 risks, had a market share in excess of 0.1 percent of the  
6496 statewide aggregate gross direct written premium for any line of  
6497 property insurance, or to an affiliate of such an insurer. This  
6498 paragraph does not apply unless either at least 40 percent of the  
6499 risks removed from the corporation are located in Miami-Dade  
6500 ~~Dade~~, Broward, and Palm Beach Counties, or at least 30 percent of  
6501 the risks removed from the corporation are located in such  
6502 counties and an additional 50 percent of the risks removed from  
6503 the corporation are located in other coastal counties.

6504           (6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.--

6505           (b) In order for a plan to qualify for approval:

6506           1. At least 40 percent of the policies removed from the  
6507 corporation under the plan must be located in Miami-Dade ~~Dade~~,

8-04063-08

20081678\_\_

6508 Broward, and Palm Beach Counties, or at least 30 percent of the  
6509 policies removed from the corporation under the plan must be  
6510 located in such counties and an additional 50 percent of the  
6511 policies removed from the corporation must be located in other  
6512 coastal counties.

6513         2. The insurer must renew the replacement policy at  
6514 approved rates on substantially similar terms for two additional  
6515 1-year terms, unless canceled or nonrenewed by the insurer for a  
6516 lawful reason other than reduction of hurricane exposure. If an  
6517 insurer assumes the corporation's obligations for a policy, it  
6518 must issue a replacement policy for a 1-year term upon expiration  
6519 of the corporation policy and must renew the replacement policy  
6520 at approved rates on substantially similar terms for two  
6521 additional 1-year terms, unless canceled by the insurer for a  
6522 lawful reason other than reduction of hurricane exposure. For  
6523 each replacement policy canceled or nonrenewed by the insurer for  
6524 any reason during the 3-year coverage period required by this  
6525 subparagraph, the insurer must remove from the corporation one  
6526 additional policy covering a risk similar to the risk covered by  
6527 the canceled or nonrenewed policy.

6528         Reviser's note.--Amended to conform to the redesignation of  
6529 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
6530 Dade County Code.

6531         Section 151. Paragraph (b) of subsection (2) of section  
6532 627.4133, Florida Statutes, is amended to read:

6533         627.4133 Notice of cancellation, nonrenewal, or renewal  
6534 premium.--

6535         (2) With respect to any personal lines or commercial  
6536 residential property insurance policy, including, but not limited

8-04063-08

20081678\_\_

6537 to, any homeowner's, mobile home owner's, farmowner's,  
6538 condominium association, condominium unit owner's, apartment  
6539 building, or other policy covering a residential structure or its  
6540 contents:

6541 (b) The insurer shall give the named insured written notice  
6542 of nonrenewal, cancellation, or termination at least 100 days  
6543 prior to the effective date of the nonrenewal, cancellation, or  
6544 termination. However, the insurer shall give at least 100 days'  
6545 written notice, or written notice by June 1, whichever is  
6546 earlier, for any nonrenewal, cancellation, or termination that  
6547 would be effective between June 1 and November 30. The notice  
6548 must include the reason or reasons for the nonrenewal,  
6549 cancellation, or termination, except that:

6550 1. When cancellation is for nonpayment of premium, at least  
6551 10 days' written notice of cancellation accompanied by the reason  
6552 therefor shall be given. As used in this subparagraph, the term  
6553 "nonpayment of premium" means failure of the named insured to  
6554 discharge when due any of her or his obligations in connection  
6555 with the payment of premiums on a policy or any installment of  
6556 such premium, whether the premium is payable directly to the  
6557 insurer or its agent or indirectly under any premium finance plan  
6558 or extension of credit, or failure to maintain membership in an  
6559 organization if such membership is a condition precedent to  
6560 insurance coverage. "Nonpayment of premium" also means the  
6561 failure of a financial institution to honor an insurance  
6562 applicant's check after delivery to a licensed agent for payment  
6563 of a premium, even if the agent has previously delivered or  
6564 transferred the premium to the insurer. If a dishonored check  
6565 represents the initial premium payment, the contract and all

8-04063-08

20081678\_\_

6566 contractual obligations shall be void ab initio unless the  
6567 nonpayment is cured within the earlier of 5 days after actual  
6568 notice by certified mail is received by the applicant or 15 days  
6569 after notice is sent to the applicant by certified mail or  
6570 registered mail, and if the contract is void, any premium  
6571 received by the insurer from a third party shall be refunded to  
6572 that party in full.

6573 2. When such cancellation or termination occurs during the  
6574 first 90 days during which the insurance is in force and the  
6575 insurance is canceled or terminated for reasons other than  
6576 nonpayment of premium, at least 20 days' written notice of  
6577 cancellation or termination accompanied by the reason therefor  
6578 shall be given except where there has been a material  
6579 misstatement or misrepresentation or failure to comply with the  
6580 underwriting requirements established by the insurer.

6581 3. The requirement for providing written notice of  
6582 nonrenewal by June 1 of any nonrenewal that would be effective  
6583 between June 1 and November 30 does not apply to the following  
6584 situations, but the insurer remains subject to the requirement to  
6585 provide such notice at least 100 days prior to the effective date  
6586 of nonrenewal:

6587 a. A policy that is nonrenewed due to a revision in the  
6588 coverage for sinkhole losses and catastrophic ground cover  
6589 collapse pursuant to s. 627.706 ~~627.730~~, as amended by s. 30,  
6590 chapter 2007-1, Laws of Florida.

6591 b. A policy that is nonrenewed by Citizens Property  
6592 Insurance Corporation, pursuant to s. 627.351(6), for a policy  
6593 that has been assumed by an authorized insurer offering  
6594 replacement or renewal coverage to the policyholder.



8-04063-08

20081678\_\_

6595  
6596 After the policy has been in effect for 90 days, the policy shall  
6597 not be canceled by the insurer except when there has been a  
6598 material misstatement, a nonpayment of premium, a failure to  
6599 comply with underwriting requirements established by the insurer  
6600 within 90 days of the date of effectuation of coverage, or a  
6601 substantial change in the risk covered by the policy or when the  
6602 cancellation is for all insureds under such policies for a given  
6603 class of insureds. This paragraph does not apply to individually  
6604 rated risks having a policy term of less than 90 days.

6605 Reviser's note.--Amended to correct a reference and conform  
6606 to context. Section 627.730 is the short title of the  
6607 Florida Motor Vehicle No-Fault Law; s. 627.706 relates to  
6608 coverage for sinkhole losses and catastrophic ground cover  
6609 collapse.

6610 Section 152. Paragraph (a) of subsection (3) and paragraph  
6611 (c) of subsection (6) of section 627.701, Florida Statutes, are  
6612 amended to read:

6613 627.701 Liability of insureds; coinsurance; deductibles.--

6614 (3) (a) Except as otherwise provided in this subsection,  
6615 prior to issuing a personal lines residential property insurance  
6616 policy, the insurer must offer alternative deductible amounts  
6617 applicable to hurricane losses equal to \$500, 2 percent, 5  
6618 percent, and 10 percent of the policy dwelling limits, unless the  
6619 specific percentage deductible is less than \$500. The written  
6620 notice of the offer shall specify the hurricane deductible to be  
6621 applied in the event that the applicant or policyholder fails to  
6622 affirmatively choose a hurricane deductible. The insurer must  
6623 provide such policyholder with notice of the availability of the

8-04063-08

20081678\_\_

6624 deductible amounts specified in this subsection ~~paragraph~~ in a  
6625 form approved by the office in conjunction with each renewal of  
6626 the policy. The failure to provide such notice constitutes a  
6627 violation of this code but does not affect the coverage provided  
6628 under the policy.

6629 (6)

6630 (c) A secured hurricane deductible must include the  
6631 substance of the following:

6632 1. The first \$500 of any claim, regardless of the peril  
6633 causing the loss, is fully deductible.

6634 2. With respect to hurricane losses only, the next \$5,000  
6635 in losses are fully insured, subject only to a copayment  
6636 requirement of 10 percent.

6637 3. With respect to hurricane losses only, the remainder of  
6638 the claim is subject to a deductible equal to a specified  
6639 percentage of the policy dwelling limits in excess of the  
6640 deductible allowed under former paragraph (3) (a) but no higher  
6641 than 10 percent of the policy dwelling limits.

6642 4. The insurer agrees to renew the coverage on a guaranteed  
6643 basis for a period of years after initial issuance of the secured  
6644 deductible equal to at least 1 year for each 2 percentage points  
6645 of deductible specified in subparagraph 3. unless the policy is  
6646 canceled for nonpayment of premium or the insured fails to  
6647 maintain the certificate of security. Such renewal shall be at  
6648 the same premium as the initial policy except for premium changes  
6649 attributable to changes in the value of the property.

6650 Reviser's note.--Paragraph (3) (a) is amended to conform to  
6651 context and correct a reference. Paragraph (6) (c) is amended

8-04063-08

20081678\_\_

6652 to clarify the status of former paragraph (3) (a), which was  
6653 deleted by s. 28, ch. 2007-1, Laws of Florida.

6654 Section 153. Paragraph (b) of subsection (2) of section  
6655 627.7261, Florida Statutes, is amended to read:

6656 627.7261 Refusal to issue policy.--

6657 (2)

6658 (b) As used in this section, the term "volunteer driver"  
6659 means a person who provides services, including transporting  
6660 individuals or goods, without compensation in excess of expenses  
6661 to a private nonprofit agency as defined in s. 273.01(3) or a  
6662 charitable organization as defined in s. 736.1201 ~~737.501(2)~~.

6663 Reviser's note.--Amended to correct a reference and improve  
6664 clarity. Section 737.501 was repealed by s. 48, ch. 2006-  
6665 217, Laws of Florida; s. 736.1201, created by s. 12, ch.  
6666 2006-217, now provides the definition of the term  
6667 "charitable organization" previously found in s. 737.501(2).

6668 Section 154. Paragraphs (a) and (e) of subsection (5) of  
6669 section 627.736, Florida Statutes, as revived, reenacted, and  
6670 amended by sections 13 and 20 of chapter 2007-324, Laws of  
6671 Florida, are amended to read:

6672 627.736 Required personal injury protection benefits;  
6673 exclusions; priority; claims.--

6674 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

6675 (a)1. Any physician, hospital, clinic, or other person or  
6676 institution lawfully rendering treatment to an injured person for  
6677 a bodily injury covered by personal injury protection insurance  
6678 may charge the insurer and injured party only a reasonable amount  
6679 pursuant to this section for the services and supplies rendered,  
6680 and the insurer providing such coverage may pay for such charges

8-04063-08

20081678\_\_

6681 directly to such person or institution lawfully rendering such  
6682 treatment, if the insured receiving such treatment or his or her  
6683 guardian has countersigned the properly completed invoice, bill,  
6684 or claim form approved by the office upon which such charges are  
6685 to be paid for as having actually been rendered, to the best  
6686 knowledge of the insured or his or her guardian. In no event,  
6687 however, may such a charge be in excess of the amount the person  
6688 or institution customarily charges for like services or supplies.  
6689 With respect to a determination of whether a charge for a  
6690 particular service, treatment, or otherwise is reasonable,  
6691 consideration may be given to evidence of usual and customary  
6692 charges and payments accepted by the provider involved in the  
6693 dispute, and reimbursement levels in the community and various  
6694 federal and state medical fee schedules applicable to automobile  
6695 and other insurance coverages, and other information relevant to  
6696 the reasonableness of the reimbursement for the service,  
6697 treatment, or supply.

6698 2. The insurer may limit reimbursement to 80 percent of the  
6699 following schedule of maximum charges:

6700 a. For emergency transport and treatment by providers  
6701 licensed under chapter 401, 200 percent of Medicare.

6702 b. For emergency services and care provided by a hospital  
6703 licensed under chapter 395, 75 percent of the hospital's usual  
6704 and customary charges.

6705 c. For emergency services and care as defined by s.  
6706 395.002(9) ~~395.002(10)~~ provided in a facility licensed under  
6707 chapter 395 rendered by a physician or dentist, and related  
6708 hospital inpatient services rendered by a physician or dentist,  
6709 the usual and customary charges in the community.

8-04063-08

20081678\_\_

6710 d. For hospital inpatient services, other than emergency  
6711 services and care, 200 percent of the Medicare Part A prospective  
6712 payment applicable to the specific hospital providing the  
6713 inpatient services.

6714 e. For hospital outpatient services, other than emergency  
6715 services and care, 200 percent of the Medicare Part A Ambulatory  
6716 Payment Classification for the specific hospital providing the  
6717 outpatient services.

6718 f. For all other medical services, supplies, and care, 200  
6719 percent of the applicable Medicare Part B fee schedule. However,  
6720 if such services, supplies, or care is not reimbursable under  
6721 Medicare Part B, the insurer may limit reimbursement to 80  
6722 percent of the maximum reimbursable allowance under workers'  
6723 compensation, as determined under s. 440.13 and rules adopted  
6724 thereunder which are in effect at the time such services,  
6725 supplies, or care is provided. Services, supplies, or care that  
6726 is not reimbursable under Medicare or workers' compensation is  
6727 not required to be reimbursed by the insurer.

6728 3. For purposes of subparagraph 2., the applicable fee  
6729 schedule or payment limitation under Medicare is the fee schedule  
6730 or payment limitation in effect at the time the services,  
6731 supplies, or care was rendered and for the area in which such  
6732 services were rendered, except that it may not be less than the  
6733 applicable 2007 Medicare Part B fee schedule for medical  
6734 services, supplies, and care subject to Medicare Part B.

6735 4. Subparagraph 2. does not allow the insurer to apply any  
6736 limitation on the number of treatments or other utilization  
6737 limits that apply under Medicare or workers' compensation. An  
6738 insurer that applies the allowable payment limitations of

8-04063-08

20081678\_\_

6739 | subparagraph 2. must reimburse a provider who lawfully provided  
6740 | care or treatment under the scope of his or her license,  
6741 | regardless of whether such provider would be entitled to  
6742 | reimbursement under Medicare due to restrictions or limitations  
6743 | on the types or discipline of health care providers who may be  
6744 | reimbursed for particular procedures or procedure codes.

6745 |         5. If an insurer limits payment as authorized by  
6746 | subparagraph 2., the person providing such services, supplies, or  
6747 | care may not bill or attempt to collect from the insured any  
6748 | amount in excess of such limits, except for amounts that are not  
6749 | covered by the insured's personal injury protection coverage due  
6750 | to the coinsurance amount or maximum policy limits.

6751 |         (e)1. At the initial treatment or service provided, each  
6752 | physician, other licensed professional, clinic, or other medical  
6753 | institution providing medical services upon which a claim for  
6754 | personal injury protection benefits is based shall require an  
6755 | insured person, or his or her guardian, to execute a disclosure  
6756 | and acknowledgment form, which reflects at a minimum that:

6757 |             a. The insured, or his or her guardian, must countersign  
6758 | the form attesting to the fact that the services set forth  
6759 | therein were actually rendered;

6760 |             b. The insured, or his or her guardian, has both the right  
6761 | and affirmative duty to confirm that the services were actually  
6762 | rendered;

6763 |             c. The insured, or his or her guardian, was not solicited  
6764 | by any person to seek any services from the medical provider;

6765 |             d. ~~That~~ The physician, other licensed professional, clinic,  
6766 | or other medical institution rendering services for which payment

8-04063-08

20081678\_\_

6767 | is being claimed explained the services to the insured or his or  
6768 | her guardian; and

6769 |       e. If the insured notifies the insurer in writing of a  
6770 | billing error, the insured may be entitled to a certain  
6771 | percentage of a reduction in the amounts paid by the insured's  
6772 | motor vehicle insurer.

6773 |       2. The physician, other licensed professional, clinic, or  
6774 | other medical institution rendering services for which payment is  
6775 | being claimed has the affirmative duty to explain the services  
6776 | rendered to the insured, or his or her guardian, so that the  
6777 | insured, or his or her guardian, countersigns the form with  
6778 | informed consent.

6779 |       3. Countersignature by the insured, or his or her guardian,  
6780 | is not required for the reading of diagnostic tests or other  
6781 | services that are of such a nature that they are not required to  
6782 | be performed in the presence of the insured.

6783 |       4. The licensed medical professional rendering treatment  
6784 | for which payment is being claimed must sign, by his or her own  
6785 | hand, the form complying with this paragraph.

6786 |       5. The original completed disclosure and acknowledgment  
6787 | form shall be furnished to the insurer pursuant to paragraph  
6788 | (4) (b) and may not be electronically furnished.

6789 |       6. This disclosure and acknowledgment form is not required  
6790 | for services billed by a provider for emergency services as  
6791 | defined in s. 395.002, for emergency services and care as defined  
6792 | in s. 395.002 rendered in a hospital emergency department, or for  
6793 | transport and treatment rendered by an ambulance provider  
6794 | licensed pursuant to part III of chapter 401.

8-04063-08

20081678\_\_

6795           7. The Financial Services Commission shall adopt, by rule,  
6796 a standard disclosure and acknowledgment form that shall be used  
6797 to fulfill the requirements of this paragraph, effective 90 days  
6798 after such form is adopted and becomes final. The commission  
6799 shall adopt a proposed rule by October 1, 2003. Until the rule is  
6800 final, the provider may use a form of its own which otherwise  
6801 complies with the requirements of this paragraph.

6802           8. As used in this paragraph, "countersigned" means a  
6803 second or verifying signature, as on a previously signed  
6804 document, and is not satisfied by the statement "signature on  
6805 file" or any similar statement.

6806           9. The requirements of this paragraph apply only with  
6807 respect to the initial treatment or service of the insured by a  
6808 provider. For subsequent treatments or service, the provider must  
6809 maintain a patient log signed by the patient, in chronological  
6810 order by date of service, that is consistent with the services  
6811 being rendered to the patient as claimed. The requirements of  
6812 this subparagraph for maintaining a patient log signed by the  
6813 patient may be met by a hospital that maintains medical records  
6814 as required by s. 395.3025 and applicable rules and makes such  
6815 records available to the insurer upon request.

6816           Reviser's note.--Paragraph (5) (a) is amended to correct an  
6817 erroneous reference. "Emergency services and care" is  
6818 defined in s. 395.002(9); s. 395.002(10) defines "[g]eneral  
6819 hospital." Paragraph (5) (e) is amended to correct  
6820 construction and eliminate redundancy.

6821           Section 155. Paragraph (b) of subsection (1) of section  
6822 628.461, Florida Statutes, is amended to read:

6823           628.461 Acquisition of controlling stock.--



8-04063-08

20081678\_\_

6824 (1) A person may not, individually or in conjunction with  
6825 any affiliated person of such person, acquire directly or  
6826 indirectly, conclude a tender offer or exchange offer for, enter  
6827 into any agreement to exchange securities for, or otherwise  
6828 finally acquire 5 percent or more of the outstanding voting  
6829 securities of a domestic stock insurer or of a controlling  
6830 company, unless:

6831 (b) The person or affiliated person has filed with the  
6832 office a statement as specified in subsection (3). The statement  
6833 must be completed and filed within 30 days after:

- 6834 1. Any definitive acquisition agreement is entered;  
6835 2. Any form of tender offer or exchange offer is proposed;

6836 or

- 6837 3. The acquisition of the securities, if no definitive  
6838 acquisition agreement, tender offer, or exchange offer is  
6839 involved; and

6840

6841 In lieu of a filing as required under this subsection, a party  
6842 acquiring less than 10 percent of the outstanding voting  
6843 securities of an insurer may file a disclaimer of affiliation and  
6844 control. The disclaimer shall fully disclose all material  
6845 relationships and basis for affiliation between the person and  
6846 the insurer as well as the basis for disclaiming the affiliation  
6847 and control. After a disclaimer has been filed, the insurer shall  
6848 be relieved of any duty to register or report under this section  
6849 which may arise out of the insurer's relationship with the person  
6850 unless and until the office disallows the disclaimer. The office  
6851 shall disallow a disclaimer only after furnishing all parties in  
6852 interest with notice and opportunity to be heard and after making

8-04063-08

20081678\_\_

6853 specific findings of fact to support the disallowance. A filing  
6854 as required under this subsection must be made as to any  
6855 acquisition that equals or exceeds 10 percent of the outstanding  
6856 voting securities.

6857 Reviser's note.--Amended to confirm the editorial insertion  
6858 of the words "[t]he person or affiliated person" to improve  
6859 clarity.

6860 Section 156. Paragraph (b) of subsection (2) of section  
6861 628.4615, Florida Statutes, is amended to read:

6862 628.4615 Specialty insurers; acquisition of controlling  
6863 stock, ownership interest, assets, or control; merger or  
6864 consolidation.--

6865 (2) A person may not, individually or in conjunction with  
6866 any affiliated person of such person, directly or indirectly,  
6867 conclude a tender offer or exchange offer for, enter into any  
6868 agreement to exchange securities for, or otherwise finally  
6869 acquire, 10 percent or more of the outstanding voting securities  
6870 of a specialty insurer which is a stock corporation or of a  
6871 controlling company of a specialty insurer which is a stock  
6872 corporation; or conclude an acquisition of, or otherwise finally  
6873 acquire, 10 percent or more of the ownership interest of a  
6874 specialty insurer which is not a stock corporation or of a  
6875 controlling company of a specialty insurer which is not a stock  
6876 corporation, unless:

6877 (b) The person or affiliated person has filed with the  
6878 office an application signed under oath and prepared on forms  
6879 prescribed by the commission which contains the information  
6880 specified in subsection (4). The application must be completed  
6881 and filed within 30 days after any form of tender offer or

8-04063-08

20081678\_\_

6882 exchange offer is proposed, or after the acquisition of the  
6883 securities if no tender offer or exchange offer is involved; and  
6884 Reviser's note.--Amended to confirm the editorial insertion  
6885 of the words "[t]he person or affiliated person" to improve  
6886 clarity.

6887 Section 157. Subsection (5) of section 633.01, Florida  
6888 Statutes, is amended to read:

6889 633.01 State Fire Marshal; powers and duties; rules.--

6890 (5) It is the intent of the Legislature that there are to  
6891 be no conflicting requirements between the Florida Fire  
6892 Prevention Code and the Life Safety Code authorized by this  
6893 chapter and the provisions of the Florida Building Code or  
6894 conflicts in their enforcement and interpretation. Potential  
6895 conflicts shall be resolved through coordination and cooperation  
6896 of the State Fire Marshal and the Florida Building Commission as  
6897 provided by this chapter and part IV ~~VII~~ of chapter 553.

6898 Reviser's note.--Amended to correct an erroneous reference.  
6899 Part VII of chapter 553 relates to standards for radon-  
6900 resistant buildings; part IV of chapter 553 relates to the  
6901 Florida Building Code.

6902 Section 158. Subsection (4) of section 633.025, Florida  
6903 Statutes, is amended to read:

6904 633.025 Minimum firesafety standards.--

6905 (4) Such codes shall be minimum codes and a municipality,  
6906 county, or special district with firesafety responsibilities may  
6907 adopt more stringent firesafety standards, subject to the  
6908 requirements of this subsection. Such county, municipality, or  
6909 special district may establish alternative requirements to those  
6910 requirements which are required under the minimum firesafety

8-04063-08

20081678\_\_

6911 standards on a case-by-case basis, in order to meet special  
6912 situations arising from historic, geographic, or unusual  
6913 conditions, if the alternative requirements result in a level of  
6914 protection to life, safety, or property equal to or greater than  
6915 the applicable minimum firesafety standards. For the purpose of  
6916 this subsection, the term "historic" means that the building or  
6917 structure is listed on the National Register of Historic Places  
6918 of the United States Department of the Interior.

6919 (a) The local governing body shall determine, following a  
6920 public hearing which has been advertised in a newspaper of  
6921 general circulation at least 10 days before the hearing, if there  
6922 is a need to strengthen the requirements of the minimum  
6923 firesafety code adopted by such governing body. The determination  
6924 must be based upon a review of local conditions by the local  
6925 governing body, which review demonstrates that local conditions  
6926 justify more stringent requirements than those specified in the  
6927 minimum firesafety code for the protection of life and property  
6928 or justify requirements that meet special situations arising from  
6929 historic, geographic, or unusual conditions.

6930 (b) Such additional requirements shall not be  
6931 discriminatory as to materials, products, or construction  
6932 techniques of demonstrated capabilities.

6933 (c) Paragraphs (a) and (b) apply solely to the local  
6934 enforcing agency's adoption of requirements more stringent than  
6935 those specified in the Florida Fire Prevention Code and the Life  
6936 Safety Code that have the effect of amending building  
6937 construction standards. Upon request, the enforcing agency shall  
6938 provide a person making application for a building permit, or any

8-04063-08

20081678\_\_

6939 | state agency or board with construction-related regulation  
6940 | responsibilities, a listing of all such requirements and codes.

6941 | (d) A local government which adopts amendments to the  
6942 | minimum firesafety code must provide a procedure by which the  
6943 | validity of such amendments may be challenged by any  
6944 | substantially affected party to test the amendment's compliance  
6945 | with the provisions of this section.

6946 | 1. Unless the local government agrees to stay enforcement  
6947 | of the amendment, or other good cause is shown, the challenging  
6948 | party shall be entitled to a hearing on the challenge within 45  
6949 | days.

6950 | 2. For purposes of such challenge, the burden of proof  
6951 | shall be on the challenging party, but the amendment shall not be  
6952 | presumed to be valid or invalid.

6953 |  
6954 | This subsection gives local government the authority to establish  
6955 | firesafety codes that exceed the minimum firesafety codes and  
6956 | standards adopted by the State Fire Marshal. The Legislature  
6957 | intends that local government give proper public notice and hold  
6958 | public hearings before adopting more stringent firesafety codes  
6959 | and standards. A substantially affected person may appeal, to the  
6960 | department, the local government's resolution of the challenge,  
6961 | and the department shall determine if the amendment complies with  
6962 | this section. Actions of the department are subject to judicial  
6963 | review pursuant to s. 120.68. The department shall consider  
6964 | reports of the Florida Building Commission, pursuant to part IV  
6965 | ~~VII~~ of chapter 553, when evaluating building code enforcement.

6966 | Reviser's note.--Amended to correct an erroneous reference.

6967 | Part VII of chapter 553 relates to standards for radon-

8-04063-08

20081678\_\_

6968 resistant buildings; part IV of chapter 553 relates to the  
6969 Florida Building Code.

6970 Section 159. Paragraph (b) of subsection (3) of section  
6971 660.417, Florida Statutes, is amended to read:

6972 660.417 Investment of fiduciary funds in investment  
6973 instruments; permissible activity under certain circumstances;  
6974 limitations.--

6975 (3) The fact that such bank or trust company or an  
6976 affiliate of the bank or trust company owns or controls  
6977 investment instruments shall not preclude the bank or trust  
6978 company acting as a fiduciary from investing or reinvesting in  
6979 such investment instruments, provided such investment  
6980 instruments:

6981 (b) When sold to accounts for which the bank or trust  
6982 company is acting as a trustee of a trust as defined in s.  
6983 731.201(37) ~~731.201(35)~~:

6984 1. Are available for sale to accounts of other customers;  
6985 and

6986 2. If sold to other customers, are not sold to the trust  
6987 accounts upon terms that are less favorable to the buyer than the  
6988 terms upon which they are normally sold to the other customers.

6989 Reviser's note.--Amended to conform to the redesignation of  
6990 s. 731.201(35) as s. 731.201(37) by s. 3, ch. 2007-74, Laws  
6991 of Florida.

6992 Section 160. Paragraph (f) of subsection (5) of section  
6993 736.0802, Florida Statutes, is amended to read:

6994 736.0802 Duty of loyalty.--

6995 (5)

8-04063-08

20081678\_\_

6996 (f)1. The trustee of a trust described in s. 731.201(37)  
6997 ~~731.201(35)~~ may request authority to invest in investment  
6998 instruments described in this subsection other than a qualified  
6999 investment instrument, by providing to all qualified  
7000 beneficiaries a written request containing the following:

7001 a. The name, telephone number, street address, and mailing  
7002 address of the trustee and of any individuals who may be  
7003 contacted for further information.

7004 b. A statement that the investment or investments cannot be  
7005 made without the consent of a majority of each class of the  
7006 qualified beneficiaries.

7007 c. A statement that, if a majority of each class of  
7008 qualified beneficiaries consent, the trustee will have the right  
7009 to make investments in investment instruments, as defined in s.  
7010 660.25(6), which are owned or controlled by the trustee or its  
7011 affiliate, or from which the trustee or its affiliate receives  
7012 compensation for providing services in a capacity other than as  
7013 trustee, that such investment instruments may include investment  
7014 instruments sold primarily to trust accounts, and that the  
7015 trustee or its affiliate may receive fees in addition to the  
7016 trustee's compensation for administering the trust.

7017 d. A statement that the consent may be withdrawn  
7018 prospectively at any time by written notice given by a majority  
7019 of any class of the qualified beneficiaries.

7020

7021 A statement by the trustee is not delivered if the statement is  
7022 accompanied by another written communication other than a written  
7023 communication by the trustee that refers only to the statement.

7024 2. For purposes of paragraph (e) and this paragraph:

8-04063-08

20081678\_\_

7025 a. "Majority of the qualified beneficiaries" means:  
7026 (I) If at the time the determination is made there are one  
7027 or more beneficiaries as described in s. 736.0103(14) (c), at  
7028 least a majority in interest of the beneficiaries described in s.  
7029 736.0103(14) (a), at least a majority in interest of the  
7030 beneficiaries described in s. 736.0103(14) (b), and at least a  
7031 majority in interest of the beneficiaries described in s.  
7032 736.0103(14) (c), if the interests of the beneficiaries are  
7033 reasonably ascertainable; otherwise, a majority in number of each  
7034 such class; or  
7035 (II) If there is no beneficiary as described in s.  
7036 736.0103(14) (c), at least a majority in interest of the  
7037 beneficiaries described in s. 736.0103(14) (a) and at least a  
7038 majority in interest of the beneficiaries described in s.  
7039 736.0103(14) (b), if the interests of the beneficiaries are  
7040 reasonably ascertainable; otherwise, a majority in number of each  
7041 such class.  
7042 b. "Qualified investment instrument" means a mutual fund,  
7043 common trust fund, or money market fund described in and governed  
7044 by s. 736.0816(3).  
7045 c. An irrevocable trust is created upon execution of the  
7046 trust instrument. If a trust that was revocable when created  
7047 thereafter becomes irrevocable, the irrevocable trust is created  
7048 when the right of revocation terminates.  
7049 Reviser's note.--Amended to conform to the redesignation of  
7050 s. 731.201(35) as s. 731.201(37) by s. 3, ch. 2007-74, Laws  
7051 of Florida.  
7052 Section 161. Subsection (3) of section 741.3165, Florida  
7053 Statutes, is amended to read:



8-04063-08

20081678\_\_

7054 741.3165 Certain information exempt from disclosure.--

7055 (3) This section is subject to the Open Government Sunset  
7056 Review Act ~~of 1995~~ in accordance with s. 119.15, and shall stand  
7057 repealed on October 2, 2010, unless reviewed and saved from  
7058 repeal through reenactment by the Legislature.

7059 Reviser's note.--Amended to conform to the renaming of the  
7060 "Open Government Sunset Review Act of 1995" as the "Open  
7061 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws  
7062 of Florida.

7063 Section 162. Subsection (4) of section 744.1076, Florida  
7064 Statutes, is amended to read:

7065 744.1076 Court orders appointing court monitors and  
7066 emergency court monitors; reports of court monitors; findings of  
7067 no probable cause; public records exemptions.--

7068 (4) This section is subject to the Open Government Sunset  
7069 Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand  
7070 repealed on October 2, 2011, unless reviewed and saved from  
7071 repeal through reenactment by the Legislature.

7072 Reviser's note.--Amended to conform to the renaming of the  
7073 "Open Government Sunset Review Act of 1995" as the "Open  
7074 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws  
7075 of Florida.

7076 Section 163. Section 812.1725, Florida Statutes, is amended  
7077 to read:

7078 812.1725 Preemption.--A political subdivision of this state  
7079 may not adopt, for convenience businesses, security standards  
7080 which differ from those contained in ss. 812.173 and 812.174, and  
7081 all such differing standards, whether existing or proposed, are  
7082 hereby preempted and superseded by general law, ~~except any local~~

8-04063-08

20081678\_\_

7083 ~~ordinance in effect prior to September 1988 and determined by the~~  
7084 ~~Department of Legal Affairs to provide more stringent security~~  
7085 ~~standards than those contained in ss. 812.173 and 812.174 shall~~  
7086 ~~not be preempted and superseded by general law for a period of 2~~  
7087 ~~years from December 31, 1992.~~

7088 Reviser's note.--Amended to delete an obsolete exemption  
7089 relating to preemption.

7090 Section 164. Paragraph (c) of subsection (2) of section  
7091 817.625, Florida Statutes, is amended to read:

7092 817.625 Use of scanning device or reencoder to defraud;  
7093 penalties.--

7094 (2)

7095 (c) Any person who violates subparagraph (a)1. or  
7096 subparagraph (a)2. shall also be subject to the provisions of ss.  
7097 932.701-932.706 ~~932.701-932.707~~.

7098 Reviser's note.--Amended to conform to the repeal of s.  
7099 932.707 by s. 21, ch. 2006-176, Laws of Florida. The last  
7100 section in the range is now s. 932.706.

7101 Section 165. Paragraph (a) of subsection (4) of section  
7102 832.062, Florida Statutes, is amended to read:

7103 832.062 Prosecution for worthless checks, drafts, debit  
7104 card orders, or electronic funds transfers made to pay any tax or  
7105 associated amount administered by the Department of Revenue.--

7106 (4) (a) In any prosecution or action under this section, the  
7107 making, drawing, uttering, or delivery of a check, draft, or  
7108 order; the making, sending, instructing, ordering, or initiating  
7109 of any electronic funds transfer; or causing the making, sending,  
7110 instructing, ordering, or initiating of any electronic transfer  
7111 payment, any of which are refused by the drawee because of lack

8-04063-08

20081678\_\_

7112 of funds or credit, is prima facie evidence of intent to defraud  
7113 or knowledge of insufficient funds in, or credit with, such bank,  
7114 banking institution, trust company, or other depository, unless  
7115 the maker, drawer, sender, instructor, orderer, or initiator, or  
7116 someone for him or her, has paid the holder thereof the amount  
7117 due thereon, together with a service charge, which may not exceed  
7118 the service fees authorized under s. 832.08(5), or an amount of  
7119 up to 5 percent of the face amount of the check or the amount of  
7120 the electronic funds transfer, whichever is greater, within 15  
7121 days after written notice has been sent to the address printed on  
7122 the check, or given or on file at the time of issuance, that such  
7123 check, draft, order, or electronic funds transfer has not been  
7124 paid to the holder thereof, and has paid the bank fees incurred  
7125 by the holder. In the event of legal action for recovery, the  
7126 maker, drawer, sender, instructor, orderer, or initiator may be  
7127 additionally liable for court costs and reasonable attorney's  
7128 fees. Notice mailed by certified or registered mail that is  
7129 evidenced by return receipt, or by first-class mail that is  
7130 evidenced by an affidavit of service of mail, to the address  
7131 printed on the check or given or on file at the time of issuance  
7132 shall be deemed sufficient and equivalent to notice having been  
7133 received by the maker, drawer, sender, instructor, orderer, or  
7134 initiator, whether such notice is returned undelivered or not.  
7135 The form of the notice shall be substantially as follows:

7136

7137 "You are hereby notified that a check or electronic funds  
7138 transfer, numbered \_\_\_\_\_, in the face amount of \$\_\_\_\_\_,  
7139 issued or initiated by you on (date) , drawn upon  
7140 (name of bank) , and payable to \_\_\_\_\_, has been

8-04063-08

20081678\_\_

7141 dishonored. Pursuant to Florida law, you have 15 days  
7142 following the date of this notice to tender payment of  
7143 the full amount of such check or electronic funds  
7144 transfer plus a service charge of \$25, if the face value  
7145 does not exceed \$50; \$30, if the face value exceeds \$50  
7146 but does not exceed \$300; \$40, if the face value exceeds  
7147 \$300; or an amount of up to 5 percent of the face amount  
7148 of the check, whichever is greater, the total amount due  
7149 being \$\_\_\_\_\_ and \_\_\_\_\_ cents. Unless this amount is paid  
7150 in full within the time specified above, the holder of  
7151 such check or electronic funds transfer may turn over the  
7152 dishonored check or electronic funds transfer and all  
7153 other available information relating to this incident to  
7154 the state attorney for criminal prosecution. You may be  
7155 additionally liable in a civil action for triple the  
7156 amount of the check or electronic funds transfer, but in  
7157 no case less than \$50, together with the amount of the  
7158 check or electronic funds transfer, a service charge,  
7159 court costs, reasonable attorney's fees, and incurred  
7160 bank fees, as provided in s. 68.065, Florida Statutes."

7161  
7162 Subsequent persons receiving a check, draft, order, or electronic  
7163 funds transfer from the original payee or a successor endorsee  
7164 have the same rights that the original payee has against the  
7165 maker of the instrument if the subsequent persons give notice in  
7166 a substantially similar form to that provided above. Subsequent  
7167 persons providing such notice are immune from civil liability for  
7168 the giving of such notice and for proceeding under the forms of  
7169 such notice so long as the maker of the instrument has the same

8-04063-08

20081678\_\_

7170 defenses against these subsequent persons as against the original  
 7171 payee. However, the remedies available under this section may be  
 7172 exercised only by one party in interest.

7173 Reviser's note.--Amended to confirm the editorial insertion  
 7174 of the word "or" to improve clarity.

7175 Section 166. Paragraph (c) of subsection (3) of section  
 7176 921.0022, Florida Statutes, is amended to read:

7177 921.0022 Criminal Punishment Code; offense severity ranking  
 7178 chart.--

7179 (3) OFFENSE SEVERITY RANKING CHART

7180 (c) LEVEL 3

7181

Florida Statute	Felony Degree	Description
119.10 (2) (b)	3rd	Unlawful use of confidential information from police reports.
316.066 (6) (b) - (d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193 (2) (b)	3rd	Felony DUI, 3rd conviction.
316.1935 (2)	3rd	Fleeing or

7182

7183

7184

7185

8-04063-08

20081678\_\_

7186	319.30 (4)	3rd	attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
7187	319.33 (1) (a)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
7188	319.33 (1) (c)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
7189	319.33 (4)	3rd	Procure or pass title on stolen vehicle.  With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or

8-04063-08

20081678\_\_

7190	327.35 (2) (b)	3rd	registration.
7191	328.05 (2)	3rd	Felony BUI.  Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
7192	328.07 (4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
7193	370.12 (1) (e) 5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the

8-04063-08

20081678\_\_

7194	370.12 (1) (e) 6.	3rd	Marine Turtle Protection Act.
7195	376.302 (5)	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
7196	<u>400.9935 (4)</u> <del>400.903 (3)</del>	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
7197	440.1051 (3)	3rd	Operating a clinic without a license or filing false license application or other required information.  False report of workers' compensation fraud or retaliation for making such a report.



8-04063-08

20081678\_\_

7198	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
7199	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
7200	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
7201	626.902 (1) (a) & (b)	3rd	Representing an unauthorized insurer.
7202	697.08	3rd	Equity skimming.
7203	790.15 (3)	3rd	Person directs another to discharge firearm from a

8-04063-08

20081678\_\_

7204	796.05 (1)	3rd	vehicle.
7205	806.10 (1)	3rd	Live on earnings of a prostitute.
7206	806.10 (2)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
7207	810.09 (2) (c)	3rd	Interferes with or assaults firefighter in performance of duty.
7208	812.014 (2) (c) 2.	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
7209	812.0145 (2) (c)	3rd	Grand theft; \$5,000 or more but less than \$10,000.
			Theft from person 65 years of age or

8-04063-08

20081678\_\_

7210	815.04 (4) (b)	2nd	older; \$300 or more but less than \$10,000.
7211	817.034 (4) (a) 3.	3rd	Computer offense devised to defraud or obtain property.
7212	817.233	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
7213	817.234 (8) (b) - (c)	3rd	Burning to defraud insurer.
7214	817.234 (11) (a)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
7215	817.236	3rd	Insurance fraud; property value less than \$20,000.
			Filing a false motor

8-04063-08

20081678\_\_

7216	817.2361	3rd	vehicle insurance application.
7217	817.413 (2)	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
7218	817.505 (4)	3rd	Sale of used goods as new.
7219	828.12 (2)	3rd	Patient brokering.
7220	831.28 (2) (a)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
7221			Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.

8-04063-08

20081678\_\_

7222	831.29	2nd	Possession of instruments for counterfeiting drivers' licenses or identification cards.
7223	838.021 (3) (b)	3rd	Threatens unlawful harm to public servant.
7224	843.19	3rd	Injure, disable, or kill police dog or horse.
7225	860.15 (3)	3rd	Overcharging for repairs and parts.
7226	870.01 (2)	3rd	Riot; inciting or encouraging.
7226	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.,

8-04063-08

20081678\_\_

7227

893.13 (1) (d) 2.                      2nd

(3), or (4) drugs).

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  
university.

7228

893.13 (1) (f) 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., (2) (c) 9.,  
(3), or (4) drugs  
within 1,000 feet of  
public housing  
facility.

7229

893.13 (6) (a)                              3rd

Possession of any  
controlled substance  
other than felony  
possession of

8-04063-08

20081678\_\_

7230	893.13 (7) (a) 8.	3rd	cannabis.
7231	893.13 (7) (a) 9.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
7232	893.13 (7) (a) 10.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
7233	893.13 (7) (a) 11.	3rd	Affix false or forged label to package of controlled substance.
			Furnish false or fraudulent material information on any document or record required by chapter 893.

8-04063-08

20081678\_\_

7234

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.

7235

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.

7236

893.13 (8) (a) 3. 3rd

Knowingly write a prescription for a controlled substance



8-04063-08

20081678\_\_

7237	893.13 (8) (a) 4.	3rd	for a fictitious person.
7238	918.13 (1) (a)	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
7239	944.47 (1) (a) 1.-2.	3rd	Alter, destroy, or conceal investigation evidence.
7240	944.47 (1) (c)	2nd	Introduce contraband to correctional facility.
7241			Possess contraband while upon the grounds of a correctional institution.



8-04063-08

20081678\_\_

7264 Section 169. Subsection (3) of section 943.0314, Florida  
7265 Statutes, is amended to read:

7266 943.0314 Public records and public meetings exemptions;  
7267 Domestic Security Oversight Council.--

7268 (3) This section is subject to the Open Government Sunset  
7269 Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand  
7270 repealed on October 2, 2010, unless reviewed and saved from  
7271 repeal through reenactment by the Legislature.

7272 Reviser's note.--Amended to conform to the renaming of the  
7273 "Open Government Sunset Review Act of 1995" as the "Open  
7274 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws  
7275 of Florida.

7276 Section 170. Subsection (2) of section 943.32, Florida  
7277 Statutes, is amended to read:

7278 943.32 Statewide criminal analysis laboratory  
7279 system.--There is established a statewide criminal analysis  
7280 laboratory system to be composed of:

7281 (2) The existing locally funded laboratories in Broward,  
7282 ~~Dade~~, Indian River, Miami-Dade, Monroe, Palm Beach, and Pinellas  
7283 Counties, specifically designated in s. 943.35 to be eligible for  
7284 state matching funds; and

7285 Reviser's note.--Amended to conform to the redesignation of  
7286 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
7287 Dade County Code.

7288 Section 171. Paragraph (b) of subsection (1) of section  
7289 943.35, Florida Statutes, is amended to read:

7290 943.35 Funding for existing laboratories.--

7291 (1) The following existing criminal analysis laboratories  
7292 are eligible for receipt of state funding:

8-04063-08

20081678\_\_

7293 (b) The Miami-Dade ~~Metro-Dade~~ Police Department Crime  
7294 Laboratory;

7295 Reviser's note.--Amended to conform to the current name of  
7296 the crime laboratory and the redesignation of Dade County as  
7297 Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.  
7298 Section 172. Section 947.06, Florida Statutes, as amended  
7299 by section 16 of chapter 90-211, Laws of Florida, is amended to  
7300 read:

7301 947.06 Meeting; when commission may act.--The commission  
7302 shall meet at regularly scheduled intervals and from time to time  
7303 as may otherwise be determined by the chair. The making of  
7304 recommendations to the Governor and Cabinet in matters relating  
7305 to modifications of acts and decisions of the chair as provided  
7306 in s. 947.04(1) shall be by a majority vote of the commission. No  
7307 prisoner shall be placed on parole except as provided in ss.  
7308 947.172 and 947.174 by a panel of no fewer than two commissioners  
7309 appointed by the chair. All matters relating to the granting,  
7310 denying, or revoking of parole shall be decided in a meeting at  
7311 which the public shall have the right to be present. Victims of  
7312 the crime committed by the inmate shall be permitted to make an  
7313 oral statement or submit a written statement regarding their  
7314 views as to the granting, denying, or revoking of parole. Persons  
7315 not members or employees of the commission or victims of the  
7316 crime committed by the inmate may be permitted to participate in  
7317 deliberations concerning the granting and revoking of paroles  
7318 only upon the prior written approval of the chair of the  
7319 commission. To facilitate the ability of victims and other  
7320 persons to attend commission meetings, the commission shall meet  
7321 in various counties including, but not limited to, Broward, ~~Dade,~~

8-04063-08

20081678\_\_

7322 Duval, Escambia, Hillsborough, Leon, Miami-Dade, Orange, and Palm  
7323 Beach, with the location chosen being as close as possible to the  
7324 location where the parole-eligible inmate committed the offense  
7325 for which the parole-eligible inmate was sentenced. The  
7326 commission shall adopt rules governing the oral participation of  
7327 victims and the submission of written statements by victims.

7328 Reviser's note.--Amended to conform to the redesignation of  
7329 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
7330 Dade County Code.

7331 Section 173. Section 947.06, Florida Statutes, as amended  
7332 by section 22 of chapter 90-337, Laws of Florida, is amended to  
7333 read:

7334 947.06 Meeting; when commission may act.--The commission  
7335 shall meet at regularly scheduled intervals and from time to time  
7336 as may otherwise be determined by the chair. The making of  
7337 recommendations to the Governor and Cabinet in matters relating  
7338 to modifications of acts and decisions of the chair as provided  
7339 in s. 947.04(1) shall be by a majority vote of the commission. No  
7340 prisoner shall be placed on parole except as provided in ss.  
7341 947.172 and 947.174 by a panel of no fewer than two commissioners  
7342 appointed by the chair. All matters relating to the granting,  
7343 denying, or revoking of parole shall be decided in a meeting at  
7344 which the public shall have the right to be present. Victims of  
7345 the crime committed by the inmate shall be permitted to make an  
7346 oral statement or submit a written statement regarding their  
7347 views as to the granting, denying, or revoking of parole. Persons  
7348 not members or employees of the commission or victims of the  
7349 crime committed by the inmate may be permitted to participate in  
7350 deliberations concerning the granting and revoking of paroles

8-04063-08

20081678\_\_

7351 | only upon the prior written approval of the chair of the  
7352 | commission. To facilitate the ability of victims and other  
7353 | persons to attend commission meetings, the commission shall meet  
7354 | in counties including, but not limited to, Broward, ~~Dade~~, Duval,  
7355 | Escambia, Hillsborough, Leon, Miami-Dade, Orange, and Palm Beach,  
7356 | with the location chosen being as close as possible to the  
7357 | location where the parolee or releasee committed the offense for  
7358 | which the parolee or releasee was sentenced. The commission shall  
7359 | adopt rules governing the oral participation of victims and the  
7360 | submission of written statements by victims.

7361 |       Reviser's note.--Amended to conform to the redesignation of  
7362 |       Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
7363 |       Dade County Code.

7364 |       Section 174. Subsection (7) of section 1001.11, Florida  
7365 | Statutes, is amended to read:

7366 |       1001.11 Commissioner of Education; other duties.--

7367 |       (7) The commissioner shall make prominently available on  
7368 | the department's website the following: links to the Internet-  
7369 | based clearinghouse for professional development regarding  
7370 | physical education ~~which is established under s. 1012.98(4)(d);~~  
7371 | the school wellness and physical education policies and other  
7372 | resources required under s. 1003.453(1) and (2); and other  
7373 | Internet sites that provide professional development for  
7374 | elementary teachers of physical education as defined in s.  
7375 | 1003.01(16). These links must provide elementary teachers with  
7376 | information concerning current physical education and nutrition  
7377 | philosophy and best practices that result in student  
7378 | participation in physical activities that promote lifelong  
7379 | physical and mental well-being.

8-04063-08

20081678\_\_

7380 Reviser's note.--Amended to delete an erroneous reference.  
7381 Section 1012.98(4) (d) does not exist.

7382 Section 175. Subsections (5) and (6) of section 1001.215,  
7383 Florida Statutes, are amended to read:

7384 1001.215 Just Read, Florida! Office.--There is created in  
7385 the Department of Education the Just Read, Florida! Office. The  
7386 office shall be fully accountable to the Commissioner of  
7387 Education and shall:

7388 (5) Provide technical assistance to school districts in the  
7389 development and implementation of district plans for use of the  
7390 research-based reading instruction allocation provided in s.  
7391 1011.62(9) ~~1011.62(8)~~ and annually review and approve such plans.

7392 (6) Review, evaluate, and provide technical assistance to  
7393 school districts' implementation of the K-12 comprehensive  
7394 reading plan required in s. 1011.62(9) ~~1011.62(8)~~.

7395 Reviser's note.--Amended to correct an erroneous reference  
7396 and conform to context. The comprehensive reading plan is  
7397 required by s. 1011.62(9).

7398 Section 176. Section 1001.395, Florida Statutes, is amended  
7399 to read:

7400 1001.395 District school board members; compensation.--Each  
7401 member of the district school board shall receive a base salary,  
7402 the amounts indicated in this section, based on the population of  
7403 the county the district school board member serves. In addition,  
7404 compensation shall be made for population increments over the  
7405 minimum for each population group, which shall be determined by  
7406 multiplying the population in excess of the minimum for the group  
7407 times the group rate. The product of such calculation shall be  
7408 added to the base salary to determine the adjusted base salary.

8-04063-08

20081678\_\_

7409 The adjusted base salaries of district school board members shall  
 7410 be increased annually as provided for in s. 145.19.

7411

Pop. Group	County Pop. Range		Base Salary	Group Rate
	Minimum	Maximum		
I	-0-	9,999	\$5,000	\$0.08330
7413 II	10,000	<u>49,999</u> <del>49,000</del>	5,833	0.020830
7414 III	50,000	99,999	6,666	0.016680
7415 IV	100,000	199,999	7,500	0.008330
7416 V	200,000	399,999	8,333	0.004165
7417 VI	400,000	999,999	9,166	0.001390
7418 VII	1,000,000		10,000	0.000000

7419  
 7420 District school board member salaries negotiated on or after  
 7421 November of 2006 shall remain in effect up to the date of the  
 7422 2007-2008 calculation provided pursuant to s. 145.19.

7423 Reviser's note.--Amended to correct an apparent error.  
 7424 Section 177. Paragraph (a) of subsection (2) of section  
 7425 1002.35, Florida Statutes, is amended to read:  
 7426 1002.35 New World School of the Arts.--



8-04063-08

20081678\_\_

7427 (2) (a) For purposes of governance, the New World School of  
 7428 the Arts is assigned to Miami Dade ~~Miami-Dade~~ College, the Miami-  
 7429 Dade County Public Schools ~~Dade County School District~~, and one  
 7430 or more universities designated by the State Board of Education.  
 7431 The State Board of Education, in conjunction with the Board of  
 7432 Governors, shall assign to the New World School of the Arts a  
 7433 university partner or partners. In this selection, the State  
 7434 Board of Education and the Board of Governors shall consider the  
 7435 accreditation status of the core programs. Florida International  
 7436 University, in its capacity as the provider of university  
 7437 services to Miami-Dade ~~Dade~~ County, shall be a partner to serve  
 7438 the New World School of the Arts, upon meeting the accreditation  
 7439 criteria. The respective boards shall appoint members to an  
 7440 executive board for administration of the school. The executive  
 7441 board may include community members and shall reflect  
 7442 proportionately the participating institutions. Miami Dade ~~Miami-~~  
 7443 ~~Dade~~ College shall serve as fiscal agent for the school.

7444 Reviser's note.--Amended to reflect the current names of  
 7445 Miami Dade College and the Miami-Dade County Public Schools  
 7446 and to conform to the redesignation of Dade County as Miami-  
 7447 Dade County by s. 1-4.2 of the Miami-Dade County Code.

7448 Section 178. Paragraph (c) of subsection (10) of section  
 7449 1002.39, Florida Statutes, is amended to read:

7450 1002.39 The John M. McKay Scholarships for Students with  
 7451 Disabilities Program.--There is established a program that is  
 7452 separate and distinct from the Opportunity Scholarship Program  
 7453 and is named the John M. McKay Scholarships for Students with  
 7454 Disabilities Program.

7455 (10) JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.--

8-04063-08

20081678\_\_

7456 (c)1. The school district shall report all students who are  
7457 attending a private school under this program. The students with  
7458 disabilities attending private schools on John M. McKay  
7459 Scholarships shall be reported separately from other students  
7460 reported for purposes of the Florida Education Finance Program.

7461 2. For program participants who are eligible under  
7462 subparagraph (2)(a)2., the school district that is used as the  
7463 basis for the calculation of the scholarship amount as provided  
7464 in subparagraph (a)3. shall:

7465 a. Report to the department all such students who are  
7466 attending a private school under this program.

7467 b. Be held harmless for such students from the weighted  
7468 enrollment ceiling for group 2 programs in s. 1011.62(1)(d)3.b.  
7469 ~~1011.62(1)(d)3.a.~~ during the first school year in which the  
7470 students are reported.

7471 Reviser's note.--Amended to correct an erroneous reference  
7472 and conform to context. The weighted enrollment ceiling for  
7473 group 2 programs is in s. 1011.62(1)(d)3.b.

7474 Section 179. Subsection (4) of section 1002.72, Florida  
7475 Statutes, is amended to read:

7476 1002.72 Records of children in the Voluntary  
7477 Prekindergarten Education Program.--

7478 (4) This section is subject to the Open Government Sunset  
7479 Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand  
7480 repealed October 2, 2010, unless reviewed and saved from repeal  
7481 through reenactment by the Legislature.

7482 Reviser's note.--Amended to conform to the renaming of the  
7483 "Open Government Sunset Review Act of 1995" as the "Open

8-04063-08

20081678\_\_

7484 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws  
7485 of Florida.

7486 Section 180. Paragraph (b) of subsection (1) of section  
7487 1003.4156, Florida Statutes, is amended to read:

7488 1003.4156 General requirements for middle grades  
7489 promotion.--

7490 (1) Beginning with students entering grade 6 in the 2006-  
7491 2007 school year, promotion from a school composed of middle  
7492 grades 6, 7, and 8 requires that:

7493 (b) For each year in which a student scores at Level 1 on  
7494 FCAT Reading, the student must be enrolled in and complete an  
7495 intensive reading course the following year. Placement of Level 2  
7496 readers in either an intensive reading course or a content area  
7497 course in which reading strategies are delivered shall be  
7498 determined by diagnosis of reading needs. The department shall  
7499 provide guidance on appropriate strategies for diagnosing and  
7500 meeting the varying instructional needs of students reading below  
7501 grade level. Reading courses shall be designed and offered  
7502 pursuant to the comprehensive reading plan required by s.  
7503 1011.62(9) ~~1011.62(8)~~.

7504 Reviser's note.--Amended to correct an erroneous reference  
7505 and conform to context. The comprehensive reading plan is  
7506 required by s. 1011.62(9).

7507 Section 181. Paragraph (b) of subsection (2) of section  
7508 1003.428, Florida Statutes, is amended to read:

7509 1003.428 General requirements for high school graduation;  
7510 revised.--

8-04063-08

20081678\_\_

7511 (2) The 24 credits may be earned through applied,  
7512 integrated, and combined courses approved by the Department of  
7513 Education and shall be distributed as follows:

7514 (b) Eight credits in majors, minors, or electives:

7515 1. Four credits in a major area of interest, such as  
7516 sequential courses in a career and technical program, fine and  
7517 performing arts, or academic content area, selected by the  
7518 student as part of the education plan required by s. 1003.4156.  
7519 Students may revise major areas of interest each year as part of  
7520 annual course registration processes and should update their  
7521 education plan to reflect such revisions. Annually by October 1,  
7522 the district school board shall approve major areas of interest  
7523 and submit the list of majors to the Commissioner of Education  
7524 for approval. Each major area of interest shall be deemed  
7525 approved unless specifically rejected by the commissioner within  
7526 60 days. Upon approval, each district's major areas of interest  
7527 shall be available for use by all school districts and shall be  
7528 posted on the department's website.

7529 2. Four credits in elective courses selected by the student  
7530 as part of the education plan required by s. 1003.4156. These  
7531 credits may be combined to allow for a second major area of  
7532 interest pursuant to subparagraph 1., a minor area of interest,  
7533 elective courses, or intensive reading or mathematics  
7534 intervention courses as described in this subparagraph.

7535 a. Minor areas of interest are composed of three credits  
7536 selected by the student as part of the education plan required by  
7537 s. 1003.4156 and approved by the district school board.

8-04063-08

20081678\_\_

7538           b. Elective courses are selected by the student in order to  
7539 pursue a complete education program as described in s. 1001.41(3)  
7540 and to meet eligibility requirements for scholarships.

7541           c. For each year in which a student scores at Level 1 on  
7542 FCAT Reading, the student must be enrolled in and complete an  
7543 intensive reading course the following year. Placement of Level 2  
7544 readers in either an intensive reading course or a content area  
7545 course in which reading strategies are delivered shall be  
7546 determined by diagnosis of reading needs. The department shall  
7547 provide guidance on appropriate strategies for diagnosing and  
7548 meeting the varying instructional needs of students reading below  
7549 grade level. Reading courses shall be designed and offered  
7550 pursuant to the comprehensive reading plan required by s.  
7551 1011.62(9) ~~1011.62(8)~~.

7552           d. For each year in which a student scores at Level 1 or  
7553 Level 2 on FCAT Mathematics, the student must receive remediation  
7554 the following year. These courses may be taught through applied,  
7555 integrated, or combined courses and are subject to approval by  
7556 the department for inclusion in the Course Code Directory.

7557           Reviser's note.--Amended to correct an erroneous reference  
7558 and conform to context. The comprehensive reading plan is  
7559 required by s. 1011.62(9).

7560           Section 182. Paragraph (c) of subsection (8) of section  
7561 1004.43, Florida Statutes, is amended to read:

7562           1004.43 H. Lee Moffitt Cancer Center and Research  
7563 Institute.--There is established the H. Lee Moffitt Cancer Center  
7564 and Research Institute at the University of South Florida.

7565           (8)

8-04063-08

20081678\_\_

7566 (c) Subparagraphs 10. and 12. of paragraph (b) are subject  
7567 to the Open Government Sunset Review Act ~~of 1995~~ in accordance  
7568 with s. 119.15 and shall stand repealed on October 2, 2010,  
7569 unless reviewed and saved from repeal through reenactment by the  
7570 Legislature.

7571 Reviser's note.--Amended to conform to the renaming of the  
7572 "Open Government Sunset Review Act of 1995" as the "Open  
7573 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws  
7574 of Florida.

7575 Section 183. Subsection (4) of section 1004.4472, Florida  
7576 Statutes, is amended to read:

7577 1004.4472 Florida Institute for Human and Machine  
7578 Cognition, Inc.; public records exemption; public meetings  
7579 exemption.--

7580 (4) This section is subject to the Open Government Sunset  
7581 Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand  
7582 repealed on October 2, 2009, unless reviewed and saved from  
7583 repeal through reenactment by the Legislature.

7584 Reviser's note.--Amended to conform to the renaming of the  
7585 "Open Government Sunset Review Act of 1995" as the "Open  
7586 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws  
7587 of Florida.

7588 Section 184. Paragraph (e) of subsection (1) of section  
7589 1004.55, Florida Statutes, is amended to read:

7590 1004.55 Regional autism centers.--

7591 (1) Seven regional autism centers are established to  
7592 provide nonresidential resource and training services for persons  
7593 of all ages and of all levels of intellectual functioning who  
7594 have autism, as defined in s. 393.063; who have a pervasive

8-04063-08

20081678\_\_

7595 developmental disorder that is not otherwise specified; who have  
7596 an autistic-like disability; who have a dual sensory impairment;  
7597 or who have a sensory impairment with other handicapping  
7598 conditions. Each center shall be operationally and fiscally  
7599 independent and shall provide services within its geographical  
7600 region of the state. Service delivery shall be consistent for all  
7601 centers. Each center shall coordinate services within and between  
7602 state and local agencies and school districts but may not  
7603 duplicate services provided by those agencies or school  
7604 districts. The respective locations and service areas of the  
7605 centers are:

7606 (e) The Mailman Center for Child Development and the  
7607 Department of Psychology at the University of Miami, which serves  
7608 Broward, Miami-Dade ~~Dade~~, and Monroe Counties.

7609 Reviser's note.--Amended to conform to the redesignation of  
7610 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-  
7611 Dade County Code.

7612 Section 185. Subsection (2) of section 1004.76, Florida  
7613 Statutes, is amended to read:

7614 1004.76 Florida Martin Luther King, Jr., Institute for  
7615 Nonviolence.--

7616 (2) There is hereby created the Florida Martin Luther King,  
7617 Jr., Institute for Nonviolence to be established at Miami Dade  
7618 ~~Miami-Dade Community~~ College. The institute shall have an  
7619 advisory board consisting of 13 members as follows: the Attorney  
7620 General, the Commissioner of Education, and 11 members to be  
7621 appointed by the Governor, such members to represent the  
7622 population of the state based on its ethnic, gender, and  
7623 socioeconomic diversity. Of the members appointed by the

8-04063-08

20081678\_\_

7624 Governor, one shall be a member of the Senate appointed by the  
7625 Governor on the recommendation of the President of the Senate;  
7626 one shall be a member of the Senate appointed by the Governor on  
7627 the recommendation of the minority leader; one shall be a member  
7628 of the House of Representatives appointed by the Governor on the  
7629 recommendation of the Speaker of the House of Representatives;  
7630 one shall be a member of the House of Representatives appointed  
7631 by the Governor on the recommendation of the minority leader; and  
7632 seven shall be members appointed by the Governor, no more than  
7633 three of whom shall be members of the same political party. The  
7634 following groups shall be represented by the seven members: the  
7635 Florida Sheriffs Association; the Florida Association of  
7636 Counties; the Florida League of Cities; state universities human  
7637 services agencies; community relations or human relations  
7638 councils; and youth. A chairperson shall be elected by the  
7639 members and shall serve for a term of 3 years. Members of the  
7640 board shall serve the following terms of office which shall be  
7641 staggered:

7642 (a) A member of the Legislature appointed to the board  
7643 shall serve for a single term not to exceed 5 years and shall  
7644 serve as a member only while he or she is a member of the  
7645 Legislature.

7646 (b) Of the seven members who are not members of the  
7647 Legislature, three shall serve for terms of 4 years, two shall  
7648 serve for terms of 3 years, and one shall serve for a term of 1  
7649 year. Thereafter, each member, except for a member appointed to  
7650 fill an unexpired term, shall serve for a 5-year term. No member  
7651 shall serve on the board for more than 10 years.

7652



8-04063-08

20081678\_\_

7653 In the event of a vacancy occurring in the office of a member of  
7654 the board by death, resignation, or otherwise, the Governor shall  
7655 appoint a successor to serve for the balance of the unexpired  
7656 term.

7657 Reviser's note.--Amended to conform to the redesignation of  
7658 Miami-Dade Community College as Miami Dade College due to  
7659 new baccalaureate degrees offered.

7660 Section 186. Paragraph (b) of subsection (6) of section  
7661 1005.38, Florida Statutes, is amended to read:

7662 1005.38 Actions against a licensee and other penalties.--

7663 (6) The commission may conduct disciplinary proceedings  
7664 through an investigation of any suspected violation of this  
7665 chapter or any rule of the commission, including a finding of  
7666 probable cause and making reports to any law enforcement agency  
7667 or regulatory agency.

7668 (b)1. All investigatory records held by the commission in  
7669 conjunction with an investigation conducted pursuant to this  
7670 subsection, including minutes and findings of an exempt probable  
7671 cause panel meeting convened in conjunction with such  
7672 investigation, are exempt from s. 119.07(1) and s. 24(a), Art. I  
7673 of the State Constitution for a period not to exceed 10 days  
7674 after the panel makes a determination regarding probable cause.

7675 2. Those portions of meetings of the probable cause panel  
7676 at which records made exempt pursuant to subparagraph 1. are  
7677 discussed are exempt from s. 286.011 and s. 24(b), Art. I of the  
7678 State Constitution.

7679 3. This paragraph is subject to the Open Government Sunset  
7680 Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand

8-04063-08

20081678\_\_

7681 repealed on October 2, 2010, unless reviewed and saved from  
7682 repeal through reenactment by the Legislature.

7683 Reviser's note.--Amended to conform to the renaming of the  
7684 "Open Government Sunset Review Act of 1995" as the "Open  
7685 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws  
7686 of Florida.

7687 Section 187. Paragraph (b) of subsection (4) of section  
7688 1008.25, Florida Statutes, is amended to read:

7689 1008.25 Public school student progression; remedial  
7690 instruction; reporting requirements.--

7691 (4) ASSESSMENT AND REMEDIATION.--

7692 (b) The school in which the student is enrolled must  
7693 develop, in consultation with the student's parent, and must  
7694 implement a progress monitoring plan. A progress monitoring plan  
7695 is intended to provide the school district and the school  
7696 flexibility in meeting the academic needs of the student and to  
7697 reduce paperwork. A student who is not meeting the school  
7698 district or state requirements for proficiency in reading and  
7699 math shall be covered by one of the following plans to target  
7700 instruction and identify ways to improve his or her academic  
7701 achievement:

7702 1. A federally required student plan such as an individual  
7703 education plan;

7704 2. A schoolwide system of progress monitoring for all  
7705 students; or

7706 3. An individualized progress monitoring plan.

7707

7708 The plan chosen must be designed to assist the student or the  
7709 school in meeting state and district expectations for

8-04063-08

20081678\_\_

7710 proficiency. If the student has been identified as having a  
7711 deficiency in reading, the K-12 comprehensive reading plan  
7712 required by s. 1011.62(9) ~~1011.62(8)~~ shall include instructional  
7713 and support services to be provided to meet the desired levels of  
7714 performance. District school boards may require low-performing  
7715 students to attend remediation programs held before or after  
7716 regular school hours or during the summer if transportation is  
7717 provided.

7718 Reviser's note.--Amended to correct an erroneous reference  
7719 and conform to context. The comprehensive reading plan is  
7720 required by s. 1011.62(9).

7721 Section 188. Subsection (5) of section 1008.345, Florida  
7722 Statutes, is amended to read:

7723 1008.345 Implementation of state system of school  
7724 improvement and education accountability.--

7725 (5) The commissioner shall report to the Legislature and  
7726 recommend changes in state policy necessary to foster school  
7727 improvement and education accountability. Included in the report  
7728 shall be a list of the schools, including schools operating for  
7729 the purpose of providing educational services to youth in  
7730 Department of Juvenile Justice programs, for which district  
7731 school boards have developed assistance and intervention plans  
7732 and an analysis of the various strategies used by the school  
7733 boards. School reports shall be distributed pursuant to this  
7734 subsection and s. 1001.42(16)(e) ~~1006.42(16)(e)~~ and according to  
7735 rules adopted by the State Board of Education.

7736 Reviser's note.--Amended to correct an erroneous reference  
7737 and conform to context. The cite should be to s.

8-04063-08

20081678\_\_

7738 1001.42(16)(e); s. 1006.42 does not contain a subsection  
7739 (16).

7740 Section 189. Subsection (3) of section 1009.01, Florida  
7741 Statutes, is amended to read:

7742 1009.01 Definitions.--The term:

7743 (3) "Tuition differential" means the supplemental fee  
7744 charged to a student for instruction provided by a public  
7745 university in this state pursuant to s. 1009.24(16) ~~1009.24(15)~~.

7746 Reviser's note.--Amended to correct an erroneous reference  
7747 and conform to context. Tuition differential is covered in  
7748 s. 1009.24(16).

7749 Section 190. Paragraph (f) of subsection (13) of section  
7750 1009.24, Florida Statutes, as amended by section 5 of chapter  
7751 2007-329, Laws of Florida, is amended to read:

7752 1009.24 State university student fees.--

7753 (13) Each university board of trustees is authorized to  
7754 establish the following fees:

7755 (f) A fee for miscellaneous health-related charges for  
7756 services provided at cost by the university health center which  
7757 are not covered by the health fee set under subsection (11) ~~(10)~~.

7758 Reviser's note.--Amended to conform to the addition of a new  
7759 subsection (3) by s. 133, ch. 2007-217, Laws of Florida, and  
7760 the redesignation of subsequent subsections by that  
7761 provision.

7762 Section 191. Paragraph (b) of subsection (2) of section  
7763 1009.98, Florida Statutes, is amended to read:

7764 1009.98 Stanley G. Tate Florida Prepaid College Program.--

7765 (2) PREPAID COLLEGE PLANS.--At a minimum, the board shall  
7766 make advance payment contracts available for two independent

8-04063-08

20081678\_\_

7767 plans to be known as the community college plan and the  
7768 university plan. The board may also make advance payment  
7769 contracts available for a dormitory residence plan. The board may  
7770 restrict the number of participants in the community college  
7771 plan, university plan, and dormitory residence plan,  
7772 respectively. However, any person denied participation solely on  
7773 the basis of such restriction shall be granted priority for  
7774 participation during the succeeding year.

7775 (b)1. Through the university plan, the advance payment  
7776 contract shall provide prepaid registration fees for a specified  
7777 number of undergraduate semester credit hours not to exceed the  
7778 average number of hours required for the conference of a  
7779 baccalaureate degree. Qualified beneficiaries shall bear the cost  
7780 of any laboratory fees associated with enrollment in specific  
7781 courses. Each qualified beneficiary shall be classified as a  
7782 resident for tuition purposes pursuant to s. 1009.21, regardless  
7783 of his or her actual legal residence.

7784 2. Effective July 1, 1998, the board may provide advance  
7785 payment contracts for additional fees delineated in s.  
7786 1009.24(9)-(12) ~~1009.24(8)-(11)~~, for a specified number of  
7787 undergraduate semester credit hours not to exceed the average  
7788 number of hours required for the conference of a baccalaureate  
7789 degree, in conjunction with advance payment contracts for  
7790 registration fees. Such contracts shall provide prepaid coverage  
7791 for the sum of such fees, to a maximum of 45 percent of the cost  
7792 of registration fees. University plan contracts purchased prior  
7793 to July 1, 1998, shall be limited to the payment of registration  
7794 fees as defined in s. 1009.97.

8-04063-08

20081678\_\_

7795 3. Effective July 1, 2007, the board may provide advance  
7796 payment contracts for the tuition differential authorized in s.  
7797 1009.24(16) ~~1009.24(15)~~ for a specified number of undergraduate  
7798 semester credit hours, which may not exceed the average number of  
7799 hours required for the conference of a baccalaureate degree, in  
7800 conjunction with advance payment contracts for registration fees.

7801 Reviser's note.--Amended to conform to the redesignation of  
7802 subunits within s. 1009.24 by s. 133, ch. 2007-217, Laws of  
7803 Florida. Paragraph (2)(b) was also amended to correct an  
7804 erroneous reference and conform to context. Tuition  
7805 differential is covered in s. 1009.24(16).

7806 Section 192. Subsection (5) of section 1011.48, Florida  
7807 Statutes, is amended to read:

7808 1011.48 Establishment of educational research centers for  
7809 child development.--

7810 (5) Each educational research center for child development  
7811 shall be funded by a portion of the Capital Improvement Trust  
7812 Fund fee established by the Board of Governors pursuant to s.  
7813 1009.24(8) ~~1009.24(7)~~. Each university that establishes a center  
7814 shall receive a portion of such fees collected from the students  
7815 enrolled at that university, usable only at that university,  
7816 equal to 22.5 cents per student per credit hour taken per term,  
7817 based on the summer term and fall and spring semesters. This  
7818 allocation shall be used by the university only for the  
7819 establishment and operation of a center as provided by this  
7820 section and rules adopted hereunder. Said allocation may be made  
7821 only after all bond obligations required to be paid from such  
7822 fees have been met.

8-04063-08

20081678\_\_

7823 Reviser's note.--Amended to conform to the redesignation of  
7824 subunits within s. 1009.24 by s. 133, ch. 2007-217, Laws of  
7825 Florida.

7826 Section 193. Paragraph (c) of subsection (2) of section  
7827 1012.61, Florida Statutes, is amended to read:

7828 1012.61 Sick leave.--

7829 (2) PROVISIONS GOVERNING SICK LEAVE.--The following  
7830 provisions shall govern sick leave:

7831 (c) Compensation.--Any employee having unused sick leave  
7832 credit shall receive full-time compensation for the time  
7833 justifiably absent on sick leave, but no compensation may be  
7834 allowed beyond that which may be provided in subparagraph (2) (a)4  
7835 ~~subsection (4)~~.

7836 Reviser's note.--Amended to correct an erroneous reference  
7837 and conform to context. The cited subsection does not exist.  
7838 Subparagraph (2) (a)4. relates to compensation for terminal  
7839 pay for accumulated sick leave.

7840 Section 194. Section 1012.875, Florida Statutes, is amended  
7841 to read:

7842 1012.875 State Community College System Optional Retirement  
7843 Program.--Each community college may implement an optional  
7844 retirement program, if such program is established therefor  
7845 pursuant to s. 1001.64(20), under which annuity or other  
7846 contracts providing retirement and death benefits may be  
7847 purchased by, and on behalf of, eligible employees who  
7848 participate in the program, in accordance with s. 403(b) of the  
7849 Internal Revenue Code. Except as otherwise provided herein, this  
7850 retirement program, which shall be known as the State Community  
7851 College System Optional Retirement Program, may be implemented

8-04063-08

20081678\_\_

7852 and administered only by an individual community college or by a  
7853 consortium of community colleges.

7854 (1) As used in this section, the term:

7855 (a) "Activation" means the date upon which an optional  
7856 retirement program is first made available by the program  
7857 administrator to eligible employees.

7858 (b) "College" means community colleges as defined in s.  
7859 1000.21.

7860 (c) "Department" means the Department of Management  
7861 Services.

7862 (d) "Program administrator" means the individual college or  
7863 consortium of colleges responsible for implementing and  
7864 administering an optional retirement program.

7865 (e) "Program participant" means an eligible employee who  
7866 has elected to participate in an available optional retirement  
7867 program as authorized by this section.

7868 (2) Participation in the optional retirement program  
7869 provided by this section is limited to employees who satisfy the  
7870 criteria set forth in s. 121.051(2)(c).

7871 (3)(a) With respect to any employee who is eligible to  
7872 participate in the optional retirement program by reason of  
7873 qualifying employment commencing before the program's activation:

7874 1. The employee may elect to participate in the optional  
7875 retirement program in lieu of participation in the Florida  
7876 Retirement System. To become a program participant, the employee  
7877 must file with the personnel officer of the college, within 90  
7878 days after the program's activation, a written election on a form  
7879 provided by the Florida Retirement System and a completed  
7880 application for an individual contract or certificate.



8-04063-08

20081678\_\_

7881           2. An employee's participation in the optional retirement  
7882 program commences on the first day of the next full calendar  
7883 month following the filing of the election and completed  
7884 application with the program administrator and receipt of such  
7885 election by the department. An employee's membership in the  
7886 Florida Retirement System terminates on this same date.

7887           3. Any such employee who fails to make an election to  
7888 participate in the optional retirement program within 60 days  
7889 after its activation has elected to retain membership in the  
7890 Florida Retirement System.

7891           (b) With respect to any employee who becomes eligible to  
7892 participate in an optional retirement program by reason of  
7893 qualifying employment commencing on or after the program's  
7894 activation:

7895           1. The employee may elect to participate in the optional  
7896 retirement program in lieu of participation in the Florida  
7897 Retirement System. To become a program participant, the employee  
7898 must file with the personnel officer of the college, within 90  
7899 days after commencing qualifying employment as provided in s.  
7900 121.051(2)(c)4., a written election on a form provided by the  
7901 Florida Retirement System and a completed application for an  
7902 individual contract or certificate.

7903           2. An employee's participation in the optional retirement  
7904 program commences retroactive to the first day of qualifying  
7905 employment following the filing of the election and completed  
7906 application with the program administrator and receipt of such  
7907 election by the department. An employee's membership in the  
7908 Florida Retirement System terminates on this same date.

8-04063-08

20081678\_\_

7909           3. Any such employee who fails to make an election to  
7910 participate in the optional retirement program within 90 days  
7911 after commencing qualifying employment has elected to retain  
7912 membership in the Florida Retirement System.

7913           (c) Any employee who, on or after an optional retirement  
7914 program's activation, becomes eligible to participate in the  
7915 program by reason of a change in status due to the subsequent  
7916 designation of the employee's position as one of those referenced  
7917 in subsection (2), or due to the employee's appointment,  
7918 promotion, transfer, or reclassification to a position referenced  
7919 in subsection (2), must be notified by the college of the  
7920 employee's eligibility to participate in the optional retirement  
7921 program in lieu of participation in the Florida Retirement  
7922 System. These eligible employees are subject to the provisions of  
7923 paragraph (b) and may elect to participate in the optional  
7924 retirement program in the same manner as those employees  
7925 described in paragraph (b), except that the 90-day election  
7926 period commences upon the date notice of eligibility is received  
7927 by the employee and participation in the program begins the first  
7928 day of the first full calendar month that the change in status  
7929 becomes effective.

7930           (d) Program participants must be fully and immediately  
7931 vested in the optional retirement program upon issuance of an  
7932 optional retirement program contract.

7933           (e) The election by an eligible employee to participate in  
7934 the optional retirement program is irrevocable for so long as the  
7935 employee continues to meet the eligibility requirements set forth  
7936 in this section and in s. 121.051(2)(c), except as provided in  
7937 paragraph (i) or as provided in s. 121.051(2)(c)3.

8-04063-08

20081678\_\_

7938 (f) If a program participant becomes ineligible to continue  
7939 participating in the optional retirement program pursuant to the  
7940 criteria referenced in subsection (2), the employee becomes a  
7941 member of the Florida Retirement System if eligible. The college  
7942 must notify the department of an employee's change in eligibility  
7943 status within 30 days after the event that makes the employee  
7944 ineligible to continue participation in the optional retirement  
7945 program.

7946 (g) An eligible employee who is a member of the Florida  
7947 Retirement System at the time of election to participate in the  
7948 optional retirement program retains all retirement service credit  
7949 earned under the Florida Retirement System at the rate earned.  
7950 Additional service credit in the Florida Retirement System may  
7951 not be earned while the employee participates in the optional  
7952 retirement program, nor is the employee eligible for disability  
7953 retirement under the Florida Retirement System. An eligible  
7954 employee may transfer from the Florida Retirement System to his  
7955 or her accounts under the State Community College System Optional  
7956 Retirement Program a sum representing the present value of his or  
7957 her service credit accrued under the defined benefit program of  
7958 the Florida Retirement System for the period between his or her  
7959 first eligible transfer date from the defined benefit plan to the  
7960 optional retirement program and the actual date of such transfer  
7961 as provided in s. 121.051(2)(c)7. Upon such transfer, all such  
7962 service credit previously earned under the defined benefit  
7963 program of the Florida Retirement System during this period shall  
7964 be nullified for purposes of entitlement to a future benefit  
7965 under the defined benefit program of the Florida Retirement  
7966 System.

8-04063-08

20081678\_\_

7967 (h) A program participant may not simultaneously  
7968 participate in any other state-administered retirement system,  
7969 plan, or class.

7970 (i) Except as provided in s. 121.052(6)(d), a program  
7971 participant who is or who becomes dually employed in two or more  
7972 positions covered by the Florida Retirement System, one of which  
7973 is eligible for an optional retirement program pursuant to this  
7974 section and one of which is not, is subject to the dual  
7975 employment provisions of chapter 121.

7976 (4)(a) Each college must contribute on behalf of each  
7977 program participant an amount equal to 10.43 percent of the  
7978 participant's gross monthly compensation. The college shall  
7979 deduct an amount approved by the district board of trustees of  
7980 the college to provide for the administration of the optional  
7981 retirement program. Payment of this contribution must be made  
7982 either directly by the college or through the program  
7983 administrator to the designated company contracting for payment  
7984 of benefits to the program participant.

7985 (b) Each college must contribute on behalf of each program  
7986 participant an amount equal to the unfunded actuarial accrued  
7987 liability portion of the employer contribution which would be  
7988 required if the program participant were a member of the Regular  
7989 Class of the Florida Retirement System. Payment of this  
7990 contribution must be made directly by the college to the  
7991 department for deposit in the Florida Retirement System Trust  
7992 Fund.

7993 (c) Each program participant who has been issued an  
7994 optional retirement program contract may contribute by way of  
7995 salary reduction or deduction a percentage of the program

8-04063-08

20081678\_\_

7996 participant's gross compensation, but this percentage may not  
7997 exceed the corresponding percentage contributed by the community  
7998 college to the optional retirement program. Payment of this  
7999 contribution may be made either directly by the college or  
8000 through the program administrator to the designated company  
8001 contracting for payment of benefits to the program participant.

8002 (d) Contributions to an optional retirement program by a  
8003 college or a program participant are in addition to, and have no  
8004 effect upon, contributions required now or in future by the  
8005 federal Social Security Act.

8006 (e) The college may accept for deposit into participant  
8007 account or accounts contributions in the form of rollovers or  
8008 direct trustee-to-trustee transfers by or on behalf of  
8009 participants who are reasonably determined by the college to be  
8010 eligible for rollover or transfer to the optional retirement  
8011 program pursuant to the Internal Revenue Code, if such  
8012 contributions are made in accordance with the applicable  
8013 requirements of the college. Accounting for such contributions  
8014 shall be in accordance with any applicable requirements of the  
8015 Internal Revenue Code and the college.

8016 (5) (a) The benefits to be provided to program participants  
8017 must be provided through contracts, including individual  
8018 contracts or individual certificates issued for group annuity or  
8019 other contracts, which may be fixed, variable, or both, in  
8020 accordance with s. 403(b) of the Internal Revenue Code. Each  
8021 individual contract or certificate must state the type of  
8022 contract on its face page, and must include at least a statement  
8023 of ownership, the contract benefits, distribution options,  
8024 limitations, expense charges, and surrender charges, if any.

8-04063-08

20081678\_\_

8025 (b) Benefits are payable under the optional retirement  
8026 program to program participants or their beneficiaries, and the  
8027 benefits must be paid only by the designated company in  
8028 accordance with the terms of the contracts applicable to the  
8029 program participant. Benefits shall accrue in individual accounts  
8030 that are participant-directed, portable, and funded by employer  
8031 contributions and the earnings thereon. Benefits funded by  
8032 employer contributions are payable in accordance with the  
8033 following terms and conditions:

8034 1. Benefits shall be payable only to a participant, to his  
8035 or her beneficiaries, or to his or her estate, as designated by  
8036 the participant.

8037 2. Benefits shall be paid by the provider company or  
8038 companies in accordance with the law, the provisions of the  
8039 contract, and any applicable employer rule or policy.

8040 3. In the event of a participant's death, moneys  
8041 accumulated by, or on behalf of, the participant, less  
8042 withholding taxes remitted to the Internal Revenue Service, if  
8043 any, shall be distributed to the participant's designated  
8044 beneficiary or beneficiaries, or to the participant's estate, as  
8045 if the participant retired on the date of death as provided in  
8046 paragraph (d). No other death benefits shall be available for  
8047 survivors of participants under the optional retirement program  
8048 except for such benefits, or coverage for such benefits, as are  
8049 separately afforded by the employer at the employer's discretion.

8050 (c) Upon receipt by the provider company of a properly  
8051 executed application for distribution of benefits, the total  
8052 accumulated benefits shall be payable to the participant as:

8053 1. A lump-sum distribution to the participant;

8-04063-08

20081678\_\_

8054           2. A lump-sum direct rollover distribution whereby all  
8055 accrued benefits, plus interest and investment earnings, are paid  
8056 from the participant's account directly to an eligible retirement  
8057 plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code,  
8058 on behalf of the participant;

8059           3. Periodic distributions;

8060           4. A partial lump-sum payment whereby a portion of the  
8061 accrued benefit is paid to the participant and the remaining  
8062 amount is transferred to an eligible retirement plan, as defined  
8063 in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
8064 participant; or

8065           5. Such other distribution options as are provided for in  
8066 the participant's optional retirement program contract.

8067           (d) Survivor benefits shall be payable as:

8068           1. A lump-sum distribution payable to the beneficiaries or  
8069 to the deceased participant's estate;

8070           2. An eligible rollover distribution on behalf of the  
8071 surviving spouse or beneficiary of a deceased participant whereby  
8072 all accrued benefits, plus interest and investment earnings, are  
8073 paid from the deceased participant's account directly to an  
8074 eligible retirement plan, as described in s. 402(c)(8)(B) of the  
8075 Internal Revenue Code, on behalf of the surviving spouse;

8076           3. Such other distribution options as are provided for in  
8077 the participant's optional retirement program contract; or

8078           4. A partial lump-sum payment whereby a portion of the  
8079 accrued benefits are paid to the deceased participant's surviving  
8080 spouse or other designated beneficiaries, less withholding taxes  
8081 remitted to the Internal Revenue Service, if any, and the  
8082 remaining amount is transferred directly to an eligible

8-04063-08

20081678\_\_

8083 retirement plan, as described in s. 402(c)(8)(B) of the Internal  
8084 Revenue Code, on behalf of the surviving spouse. The proportions  
8085 must be specified by the participant or the surviving  
8086 beneficiary.

8087  
8088 Nothing in this paragraph abrogates other applicable provisions  
8089 of state or federal law providing payment of death benefits.

8090 (e) The benefits payable to any person under the optional  
8091 retirement program, and any contribution accumulated under the  
8092 program, are not subject to assignment, execution, attachment, or  
8093 to any legal process whatsoever.

8094 (6)(a) The optional retirement program authorized by this  
8095 section must be implemented and administered by the program  
8096 administrator under s. 403(b) of the Internal Revenue Code. The  
8097 program administrator has the express authority to contract with  
8098 a third party to fulfill any of the program administrator's  
8099 duties.

8100 (b) The program administrator shall solicit competitive  
8101 bids or issue a request for proposal and select no more than four  
8102 companies from which optional retirement program contracts may be  
8103 purchased under the optional retirement program. In making these  
8104 selections, the program administrator shall consider the  
8105 following factors:

- 8106 1. The financial soundness of the company.
- 8107 2. The extent of the company's experience in providing  
8108 annuity or other contracts to fund retirement programs.
- 8109 3. The nature and extent of the rights and benefits  
8110 provided to program participants in relation to the premiums  
8111 paid.



8-04063-08

20081678\_\_

8112 4. The suitability of the rights and benefits provided to  
8113 the needs of eligible employees and the interests of the college  
8114 in the recruitment and retention of employees.

8115  
8116 In lieu of soliciting competitive bids or issuing a request for  
8117 proposals, the program administrator may authorize the purchase  
8118 of annuity contracts under the optional retirement program from  
8119 those companies currently selected by the department to offer  
8120 such contracts through the State University System Optional  
8121 Retirement Program, as set forth in s. 121.35.

8122 (c) Optional retirement program annuity contracts must be  
8123 approved in form and content by the program administrator in  
8124 order to qualify. The program administrator may use the same  
8125 annuity contracts currently used within the State University  
8126 System Optional Retirement Program, as set forth in s. 121.35.

8127 (d) The provision of each annuity contract applicable to a  
8128 program participant must be contained in a written program  
8129 description that includes a report of pertinent financial and  
8130 actuarial information on the solvency and actuarial soundness of  
8131 the program and the benefits applicable to the program  
8132 participant. The company must furnish the description annually to  
8133 the program administrator, and to each program participant upon  
8134 commencement of participation in the program and annually  
8135 thereafter.

8136 (e) The program administrator must ensure that each program  
8137 participant is provided annually with an accounting of the total  
8138 contributions and the annual contributions made by and on the  
8139 behalf of the program participant.

8-04063-08

20081678\_\_

8140 Reviser's note.--Amended to conform to the complete title of  
8141 the State Community College System Optional Retirement  
8142 Program as referenced in the section.

8143 Section 195. Subsection (1) of section 1013.73, Florida  
8144 Statutes, is amended to read:

8145 1013.73 Effort index grants for school district  
8146 facilities.--

8147 (1) The Legislature hereby allocates for effort index  
8148 grants the sum of \$300 million from the funds appropriated from  
8149 the Educational Enhancement Trust Fund by s. 46, chapter 97-384,  
8150 Laws of Florida, contingent upon the sale of school capital  
8151 outlay bonds. From these funds, the Commissioner of Education  
8152 shall allocate to the four school districts deemed eligible for  
8153 an effort index grant by the SMART Schools Clearinghouse the sums  
8154 of \$7,442,890 to the Clay County School District, \$62,755,920 to  
8155 the Miami-Dade County Public Schools ~~Dade County School District~~,  
8156 \$1,628,590 to the Hendry County School District, and \$414,950 to  
8157 the Madison County School District. The remaining funds shall be  
8158 allocated among the remaining district school boards that qualify  
8159 for an effort index grant by meeting the local capital outlay  
8160 effort criteria in paragraph (a) or paragraph (b).

8161 (a) Between July 1, 1995, and June 30, 1999, the school  
8162 district received direct proceeds from the one-half-cent sales  
8163 surtax for public school capital outlay authorized by s.  
8164 212.055(6) or from the local government infrastructure sales  
8165 surtax authorized by s. 212.055(2).

8166 (b) The school district met two of the following criteria:

8-04063-08

20081678\_\_

8167 | 1. Levied the full 2 mills of nonvoted discretionary  
8168 | capital outlay authorized by s. 1011.71(2) during 1995-1996,  
8169 | 1996-1997, 1997-1998, and 1998-1999.

8170 | 2. Levied a cumulative voted millage for capital outlay and  
8171 | debt service equal to 2.5 mills for fiscal years 1995 through  
8172 | 1999.

8173 | 3. Received proceeds of school impact fees greater than  
8174 | \$500 per dwelling unit which were in effect on July 1, 1998.

8175 | 4. Received direct proceeds from either the one-half-cent  
8176 | sales surtax for public school capital outlay authorized by s.  
8177 | 212.055(6) or from the local government infrastructure sales  
8178 | surtax authorized by s. 212.055(2).

8179 | Reviser's note.--Amended to conform to the current name of  
8180 | the school district and the redesignation of Dade County as  
8181 | Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.  
8182 | Section 196. This act shall take effect on the 60th day  
8183 | after adjournment sine die of the session of the Legislature in  
8184 | which enacted.