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1
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, 337.0261, 338.231, 339.175,
14 343.92, 348.243, 364.02, 367.171, 369.255, 370.142,
15 370.172, 372.09, 373.026, 373.073, 373.1501, 373.1502,
16 373.1961, 373.414, 373.4211, 373.4592, 373.4595, 373.470,
17 373.472, 376.308, 377.42, 381.0273, 381.0404, 381.92,
18 383.412, 390.012, 390.014, 390.018, 393.23, 395.402,
19 400.063, 400.0712, 400.506, 400.995, 403.031, 403.201,
20 403.707, 403.890, 403.8911, 403.973, 408.032, 409.166,
21 409.1677, 409.25661, 413.271, 420.5095, 420.9076, 429.35,
22 429.907, 440.3851, 445.004, 446.43, 468.832, 468.8419,
23 468.842, 477.0135, 481.215, 481.313, 487.048, 489.115,
24 489.127, 489.517, 489.531, 497.172, 497.271, 497.466,
25 500.148, 501.022, 501.976, 553.73, 553.791, 610.104,
26 617.0802, 624.316, 627.0628, 627.06292, 627.311, 627.351,
27 627.3511, 627.4133, 627.701, 627.7261, 627.736, 628.461,
28 628.4615, 633.01, 633.025, 660.417, 736.0802, 741.3165,
29 744.1076, 812.1725, 817.625, 832.062, 921.0022, 932.701,

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30 | 940.05, 943.0314, 943.32, 943.35, 947.06, 1001.11,
31 | 1001.215, 1001.395, 1002.35, 1002.39, 1002.72, 1003.4156,
32 | 1003.428, 1004.43, 1004.4472, 1004.55, 1004.76, 1005.38,
33 | 1008.25, 1008.345, 1009.01, 1009.24, 1009.98, 1011.48,
34 | 1012.61, 1012.875, and 1013.73, F.S.; and reenacting ss.
35 | 215.559 and 338.165, F.S.; pursuant to s. 11.242, F.S.;
36 | deleting provisions that have expired, have become
37 | obsolete, have had their effect, have served their
38 | purpose, or have been impliedly repealed or superseded;
39 | replacing incorrect cross-references and citations;
40 | correcting grammatical, typographical, and like errors;
41 | removing inconsistencies, redundancies, and unnecessary
42 | repetition in the statutes; improving the clarity of the
43 | statutes and facilitating their correct interpretation;
44 | 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;

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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;

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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

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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

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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.

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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:

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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.

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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.

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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:

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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.--

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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

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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.--

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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.--

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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.--

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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

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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

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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

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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

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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.

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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,

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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

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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.

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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

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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.

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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.

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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

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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.

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- 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-

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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:

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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

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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

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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:

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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

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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

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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

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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

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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 surtax conversion rates	Discretionary surtax conversion rates	Discretionary surtax conversion rates
Alachua	0.3%	0.6%	0.8%

1085

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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	Dade	0.3%	0.5%	0.8%
1099	Desoto	0.3%	0.6%	0.8%
1100	Dixie	0.3%	0.5%	0.8%
	Duval	0.3%	0.6%	0.8%

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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				

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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%

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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				

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1145	Seminole	0.3%	0.6%	0.8%
1146	Sumter	0.3%	0.5%	0.8%
1147	Suwannee	0.3%	0.6%	0.8%
1148	Taylor	0.3%	0.6%	0.9%
1149	Union	0.3%	0.5%	0.8%
1150	Volusia	0.3%	0.6%	0.8%
1151	Wakulla	0.3%	0.6%	0.9%
1152	Walton	0.3%	0.6%	0.9%
1153	Washington	0.3%	0.5%	0.8%
1154	The discretionary surtax conversion rate with respect to			
1155	communications services reflected on bills dated on or after			
1156	October 1, 2001, shall take effect without any further action by			
1157	a county or school board that has levied a surtax on or before			
1158	October 1, 2001. For a county or school board that levies a			
1159	surtax subsequent to October 1, 2001, the discretionary surtax			
1160	conversion rate with respect to communications services shall			
1161	take effect upon the effective date of the surtax as provided in			
1162	s. 212.054. The discretionary sales surtax rate on communications			
1163	services for a county or school board levying a combined rate			
1164	which is not listed in the table provided by this subsection			

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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.

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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.

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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.

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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.

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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

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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

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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

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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

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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

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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.

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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:

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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

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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

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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

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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.--

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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

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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.

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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

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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

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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

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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

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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,

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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

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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,

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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

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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-

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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.

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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

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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,"

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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

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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

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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.

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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.

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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

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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

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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

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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.

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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

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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.

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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.--

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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

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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.

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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

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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

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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

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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.--

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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

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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)~~.

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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.

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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:

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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 (4) of section 337.0261, Florida
2619 | Statutes, is amended to read:

2620 | 337.0261 Construction aggregate materials.--

2621 | (4) EXPEDITED PERMITTING.--Due to the state's critical
2622 | infrastructure needs and the potential shortfall in available
2623 | construction aggregate materials, limerock environmental resource
2624 | permitting and reclamation applications filed after March 1,
2625 | 2007, are eligible for the expedited permitting processes

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2626 contained in s. 403.973. Challenges to state agency action in the
2627 expedited permitting process for establishment of a limerock mine
2628 in this state under s. 403.973 are subject to the same
2629 requirements as challenges brought under s. 403.973(14)(a)
2630 ~~403.973(15)(a)~~, except that, notwithstanding s. 120.574, summary
2631 proceedings must be conducted within 30 days after a party files
2632 the motion for summary hearing, regardless of whether the parties
2633 agree to the summary proceeding.

2634 Reviser's note.--Amended to conform to the repeal of s.

2635 403.973(4) by s. 23, ch. 2007-105, Laws of Florida.

2636 Section 68. Section 338.165, Florida Statutes, is reenacted
2637 to read:

2638 338.165 Continuation of tolls.--

2639 (1) The department, any transportation or expressway
2640 authority or, in the absence of an authority, a county or
2641 counties may continue to collect the toll on a revenue-producing
2642 project after the discharge of any bond indebtedness related to
2643 such project and may increase such toll. All tolls so collected
2644 shall first be used to pay the annual cost of the operation,
2645 maintenance, and improvement of the toll project.

2646 (2) If the revenue-producing project is on the State
2647 Highway System, any remaining toll revenue shall be used for the
2648 construction, maintenance, or improvement of any road on the
2649 State Highway System within the county or counties in which the
2650 revenue-producing project is located, except as provided in s.
2651 348.0004.

2652 (3) Notwithstanding any other provision of law, the
2653 department, including the turnpike enterprise, shall index toll
2654 rates on existing toll facilities to the annual Consumer Price

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2655 | Index or similar inflation indicators. Toll rate adjustments for
2656 | inflation under this subsection may be made no more frequently
2657 | than once a year and must be made no less frequently than once
2658 | every 5 years as necessary to accommodate cash toll rate
2659 | schedules. Toll rates may be increased beyond these limits as
2660 | directed by bond documents, covenants, or governing body
2661 | authorization or pursuant to department administrative rule.

2662 | (4) Notwithstanding any other law to the contrary, pursuant
2663 | to s. 11, Art. VII of the State Constitution, and subject to the
2664 | requirements of subsection (2), the Department of Transportation
2665 | may request the Division of Bond Finance to issue bonds secured
2666 | by toll revenues collected on the Alligator Alley, the Sunshine
2667 | Skyway Bridge, the Beeline-East Expressway, the Navarre Bridge,
2668 | and the Pinellas Bayway to fund transportation projects located
2669 | within the county or counties in which the project is located and
2670 | contained in the adopted work program of the department.

2671 | (5) If the revenue-producing project is on the county road
2672 | system, any remaining toll revenue shall be used for the
2673 | construction, maintenance, or improvement of any other state or
2674 | county road within the county or counties in which the revenue-
2675 | producing project is located, except as provided in s. 348.0004.

2676 | (6) Selection of projects on the State Highway System for
2677 | construction, maintenance, or improvement with toll revenues
2678 | shall be, with the concurrence of the department, consistent with
2679 | the Florida Transportation Plan.

2680 | (7) Notwithstanding the provisions of subsection (1), and
2681 | not including high occupancy toll lanes or express lanes, no
2682 | tolls may be charged for use of an interstate highway where tolls
2683 | were not charged as of July 1, 1997.

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2684 (8) With the exception of subsection (3), this section does
2685 not apply to the turnpike system as defined under the Florida
2686 Turnpike Enterprise Law.

2687 Reviser's note.--Section 51, ch. 2007-196, Laws of Florida,
2688 amended s. 338.165 without publishing existing subsection
2689 (6) and amended existing subsection (7) with coding
2690 indicating the material is newly numbered by that law as
2691 subsection (7) and with uncoded language at the beginning of
2692 the subsection reading "[w]ith the exception of subsection
2693 (3)." To conform to renumbering of subsections by s. 51, ch.
2694 2007-196, and absent affirmative evidence of legislative
2695 intent to repeal existing subsection (6), redesignated as
2696 subsection (7) to conform to the addition of a new
2697 subsection (3) by s. 51, ch. 2007-196, the section is
2698 reenacted.

2699 Section 69. Subsection (4) of section 338.231, Florida
2700 Statutes, is amended to read:

2701 338.231 Turnpike tolls, fixing; pledge of tolls and other
2702 revenues.--The department shall at all times fix, adjust, charge,
2703 and collect such tolls for the use of the turnpike system as are
2704 required in order to provide a fund sufficient with other
2705 revenues of the turnpike system to pay the cost of maintaining,
2706 improving, repairing, and operating such turnpike system; to pay
2707 the principal of and interest on all bonds issued to finance or
2708 refinance any portion of the turnpike system as the same become
2709 due and payable; and to create reserves for all such purposes.

2710 (4) For the period July 1, 1998, through June 30, 2017, the
2711 department shall, to the maximum extent feasible, program
2712 sufficient funds in the tentative work program such that the

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2713 percentage of turnpike toll and bond financed commitments in
2714 Miami-Dade ~~Dade~~ County, Broward County, and Palm Beach County as
2715 compared to total turnpike toll and bond financed commitments
2716 shall be at least 90 percent of the share of net toll collections
2717 attributable to users of the turnpike system in Miami-Dade ~~Dade~~
2718 County, Broward County, and Palm Beach County as compared to
2719 total net toll collections attributable to users of the turnpike
2720 system. The requirements of this subsection do not apply when the
2721 application of such requirements would violate any covenant
2722 established in a resolution or trust indenture relating to the
2723 issuance of turnpike bonds.

2724 Reviser's note.--Amended to conform to the redesignation of
2725 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-
2726 Dade County Code.

2727 Section 70. Paragraph (a) of subsection (3) of section
2728 339.175, Florida Statutes, is amended to read:

2729 339.175 Metropolitan planning organization.--

2730 (3) VOTING MEMBERSHIP.--

2731 (a) The voting membership of an M.P.O. shall consist of not
2732 fewer than 5 or more than 19 apportioned members, the exact
2733 number to be determined on an equitable geographic-population
2734 ratio basis by the Governor, based on an agreement among the
2735 affected units of general-purpose local government as required by
2736 federal rules and regulations. The Governor, in accordance with
2737 23 U.S.C. s. 134, may also provide for M.P.O. members who
2738 represent municipalities to alternate with representatives from
2739 other municipalities within the metropolitan planning area that
2740 do not have members on the M.P.O. County commission members shall
2741 compose not less than one-third of the M.P.O. membership, except

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2742 for an M.P.O. with more than 15 members located in a county with
2743 a 5-member county commission or an M.P.O. with 19 members located
2744 in a county with no more than 6 county commissioners, in which
2745 case county commission members may compose less than one-third
2746 percent of the M.P.O. membership, but all county commissioners
2747 must be members. All voting members shall be elected officials of
2748 general-purpose local governments, except that an M.P.O. may
2749 include, as part of its apportioned voting members, a member of a
2750 statutorily authorized planning board, an official of an agency
2751 that operates or administers a major mode of transportation, or
2752 an official of Space Florida ~~the Florida Space Authority~~. As used
2753 in this section, the term "elected officials of a general-purpose
2754 local government" shall exclude constitutional officers,
2755 including sheriffs, tax collectors, supervisors of elections,
2756 property appraisers, clerks of the court, and similar types of
2757 officials. County commissioners shall compose not less than 20
2758 percent of the M.P.O. membership if an official of an agency that
2759 operates or administers a major mode of transportation has been
2760 appointed to an M.P.O.

2761 Reviser's note.--Amended to conform to the amendment to s.
2762 331.302 by s. 3, ch. 2006-60, Laws of Florida, which
2763 replaced the Florida Space Authority with Space Florida.
2764 Section 71. Paragraph (a) of subsection (11) of section
2765 343.92, Florida Statutes, is amended to read:
2766 343.92 Tampa Bay Area Regional Transportation Authority.--
2767 (11) (a) The authority shall establish a Transit Management
2768 Committee comprised of the executive directors or general
2769 managers, or their designees, of each of the existing transit
2770 providers and ~~Tampa~~ bay area commuter services.

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2771 Reviser's note.--Amended to confirm the editorial deletion
2772 of the word "Tampa" preceding the word "bay" to conform to
2773 context.

2774 Section 72. Paragraph (1) of subsection (2) of section
2775 348.243, Florida Statutes, is repealed.

2776 Reviser's note.--The cited paragraph, which relates to an
2777 agreement to sell, transfer, and dispose of all property of
2778 the Sawgrass Expressway to the Department of Transportation
2779 as part of the Turnpike System, has served its purpose.

2780 Section 73. Subsection (14) of section 364.02, Florida
2781 Statutes, is amended to read:

2782 364.02 Definitions.--As used in this chapter:

2783 (14) "Telecommunications company" includes every
2784 corporation, partnership, and person and their lessees, trustees,
2785 or receivers appointed by any court whatsoever, and every
2786 political subdivision in the state, offering two-way
2787 telecommunications service to the public for hire within this
2788 state by the use of a telecommunications facility. The term
2789 "telecommunications company" does not include:

2790 (a) An entity which provides a telecommunications facility
2791 exclusively to a certificated telecommunications company;

2792 (b) An entity which provides a telecommunications facility
2793 exclusively to a company which is excluded from the definition of
2794 a telecommunications company under this subsection;

2795 (c) A commercial mobile radio service provider;

2796 (d) A facsimile transmission service;

2797 (e) A private computer data network company not offering
2798 service to the public for hire;

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2799 (f) A cable television company providing cable service as
2800 defined in 47 U.S.C. s. 522; or

2801 (g) An intrastate interexchange telecommunications company.
2802

2803 However, each commercial mobile radio service provider and each
2804 intrastate interexchange telecommunications company shall
2805 continue to be liable for any taxes imposed under chapters 202,
2806 203, and 212 and any fees assessed under s. 364.025. Each
2807 intrastate interexchange telecommunications company shall
2808 continue to be subject to ss. 364.04, 364.10(3)(a) and (d),
2809 364.163, 364.285, 364.336, 364.501, 364.603, and 364.604, shall
2810 provide the commission with the current information as the
2811 commission deems necessary to contact and communicate with the
2812 company, shall continue to pay intrastate switched network access
2813 rates or other intercarrier compensation to the local exchange
2814 telecommunications company or the competitive local exchange
2815 telecommunications company for the origination and termination of
2816 interexchange telecommunications service, and shall reduce its
2817 intrastate long distance toll rates in accordance with former s.
2818 364.163(2).

2819 Reviser's note.--Amended to conform to the repeal of s.
2820 364.163(2) by s. 12, ch. 2007-29, Laws of Florida.

2821 Section 74. Subsection (3) of section 367.171, Florida
2822 Statutes, is amended to read:

2823 367.171 Effectiveness of this chapter.--

2824 (3) In consideration of the variance of powers, duties,
2825 responsibilities, population, and size of municipalities of the
2826 several counties and in consideration of the fact that every
2827 county varies from every other county and thereby affects the

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2828 functions, duties, and responsibilities required of its county
2829 officers and the scope of responsibilities which each county may,
2830 at this time, undertake, the Counties of Alachua, Baker,
2831 Bradford, Calhoun, Charlotte, Collier, ~~Dade~~, Dixie, Escambia,
2832 Flagler, Gadsden, Gilchrist, Glades, Hamilton, Hardee, Hendry,
2833 Hernando, Hillsborough, Holmes, Indian River, Jefferson,
2834 Lafayette, Leon, Liberty, Madison, Manatee, Miami-Dade, Okaloosa,
2835 Okeechobee, Polk, St. Lucie, Santa Rosa, Sarasota, Suwannee,
2836 Taylor, Union, Wakulla, and Walton are excluded from the
2837 provisions of this chapter until such time as the board of county
2838 commissioners of any such county, acting pursuant to the
2839 provisions of subsection (1), makes this chapter applicable to
2840 such county or until the Legislature, by appropriate act, removes
2841 one or more of such counties from this exclusion.

2842 Reviser's note.--Amended to conform to the redesignation of
2843 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-
2844 Dade County Code.

2845 Section 75. Subsection (2) of section 369.255, Florida
2846 Statutes, is amended to read:

2847 369.255 Green utility ordinances for funding greenspace
2848 management and exotic plant control.--

2849 (2) In addition to any other funding mechanisms legally
2850 available to counties and municipalities to control invasive,
2851 nonindigenous aquatic or upland plants and manage urban forest
2852 resources, a county or municipality may create one or more green
2853 utilities or adopt fees sufficient to plan, restore, and manage
2854 urban forest resources, greenways, forest preserves, wetlands,
2855 and other aquatic zones and create a stewardship grant program
2856 for private natural areas. Counties or municipalities may create,

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2857 | alone or in cooperation with other counties or municipalities
2858 | pursuant to the Florida Interlocal Cooperation Act of 1969, s.
2859 | 163.01, one or more greenspace management districts to fund the
2860 | planning, management, operation, and administration of a
2861 | greenspace management program. The fees shall be collected on a
2862 | voluntary basis as set forth by the county or municipality and
2863 | calculated to generate sufficient funds to plan, manage, operate,
2864 | and administer a greenspace management program. Private natural
2865 | areas assessed according to s. 193.501 would qualify for
2866 | stewardship grants.

2867 | Reviser's note.--Amended to conform to the name of the
2868 | Florida Interlocal Cooperation Act of 1969 as referenced in
2869 | s. 163.01.

2870 | Section 76. Paragraph (a) of subsection (4) of section
2871 | 370.142, Florida Statutes, is amended to read:

2872 | 370.142 Spiny lobster trap certificate program.--

2873 | (4) TRAP CERTIFICATE TECHNICAL ADVISORY AND APPEALS
2874 | BOARD.--There is hereby established the Trap Certificate
2875 | Technical Advisory and Appeals Board. Such board shall consider
2876 | and advise the commission on disputes and other problems arising
2877 | from the implementation of the spiny lobster trap certificate
2878 | program. The board may also provide information to the commission
2879 | on the operation of the trap certificate program.

2880 | (a) The board shall consist of the executive director of
2881 | the commission or designee and nine other members appointed by
2882 | the executive director, according to the following criteria:

2883 | 1. All appointed members shall be certificateholders, but
2884 | two shall be holders of fewer than 100 certificates, two shall be
2885 | holders of at least 100 but no more than 750 certificates, three

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2886 shall be holders of more than 750 but not more than 2,000
2887 certificates, and two shall be holders of more than 2,000
2888 certificates.

2889 2. At least one member each shall come from Broward, Miami-
2890 Dade ~~Dade~~, and Palm Beach Counties; and five members shall come
2891 from the various regions of the Florida Keys.

2892 3. At least one appointed member shall be a person of
2893 Hispanic origin capable of speaking English and Spanish.

2894 Reviser's note.--Amended to conform to the redesignation of
2895 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-
2896 Dade County Code.

2897 Section 77. Paragraph (a) of subsection (2) of section
2898 370.172, Florida Statutes, is amended to read:

2899 370.172 Spearfishing; definition; limitations; penalty.--

2900 (2) (a) Spearfishing is prohibited within the boundaries of
2901 the John Pennekamp Coral Reef State Park, the waters of Collier
2902 County, and the area in Monroe County known as Upper Keys, which
2903 includes all salt waters under the jurisdiction of the Fish and
2904 Wildlife Conservation Commission beginning at the county line
2905 between Miami-Dade ~~Dade~~ and Monroe Counties and running south,
2906 including all of the keys down to and including Long Key.

2907 Reviser's note.--Amended to conform to the redesignation of
2908 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-
2909 Dade County Code.

2910 Section 78. Section 372.09, Florida Statutes, is amended to
2911 read:

2912 372.09 State Game Trust Fund.--The funds resulting from the
2913 operation of the commission and from the administration of the
2914 laws and regulations pertaining to birds, game, fur-bearing

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2915 animals, freshwater fish, reptiles, and amphibians, together with
2916 any other funds specifically provided for such purposes shall
2917 constitute the State Game Trust Fund and shall be used by the
2918 commission as it shall deem fit in carrying out the provisions
2919 hereof and for no other purposes, except that annual use fees
2920 deposited into the trust fund from the sale of the Largemouth
2921 Bass license plate may be expended for the purposes provided
2922 under s. 320.08058(17) ~~320.08058(18)~~. The commission may not
2923 obligate itself beyond the current resources of the State Game
2924 Trust Fund unless specifically so authorized by the Legislature.

2925 Reviser's note.--Amended to conform to the repeal of s.
2926 320.08058(15) by s. 2, ch. 2007-103, Laws of Florida, and
2927 the subsequent redesignation of subsections.

2928 Section 79. Paragraph (b) of subsection (8) of section
2929 373.026, Florida Statutes, is amended to read:

2930 373.026 General powers and duties of the department.--The
2931 department, or its successor agency, shall be responsible for the
2932 administration of this chapter at the state level. However, it is
2933 the policy of the state that, to the greatest extent possible,
2934 the department may enter into interagency or interlocal
2935 agreements with any other state agency, any water management
2936 district, or any local government conducting programs related to
2937 or materially affecting the water resources of the state. All
2938 such agreements shall be subject to the provisions of s. 373.046.
2939 In addition to its other powers and duties, the department shall,
2940 to the greatest extent possible:

2941 (8)

2942 (b) To ensure to the greatest extent possible that project
2943 components will go forward as planned, the department shall

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2944 collaborate with the South Florida Water Management District in
2945 implementing the comprehensive plan as defined in s.
2946 373.470(2)(b) ~~373.470(2)(a)~~, the Lake Okeechobee Watershed
2947 Protection Plan as defined in s. 373.4595(2), and the River
2948 Watershed Protection Plans as defined in s. 373.4595(2). Before
2949 any project component is submitted to Congress for authorization
2950 or receives an appropriation of state funds, the department must
2951 approve, or approve with amendments, each project component
2952 within 60 days following formal submittal of the project
2953 component to the department. Prior to the release of state funds
2954 for the implementation of the comprehensive plan, department
2955 approval shall be based upon a determination of the South Florida
2956 Water Management District's compliance with s. 373.1501(5). Once
2957 a project component is approved, the South Florida Water
2958 Management District shall provide to the Joint Legislative
2959 Committee on Everglades Oversight a schedule for implementing the
2960 project component, the estimated total cost of the project
2961 component, any existing federal or nonfederal credits, the
2962 estimated remaining federal and nonfederal share of costs, and an
2963 estimate of the amount of state funds that will be needed to
2964 implement the project component. All requests for an
2965 appropriation of state funds needed to implement the project
2966 component shall be submitted to the department, and such requests
2967 shall be included in the department's annual request to the
2968 Governor. Prior to the release of state funds for the
2969 implementation of the Lake Okeechobee Watershed Protection Plan
2970 or the River Watershed Protection Plans, on an annual basis, the
2971 South Florida Water Management District shall prepare an annual
2972 work plan as part of the consolidated annual report required in

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2973 s. 373.036(7). Upon a determination by the secretary of the
2974 annual work plan's consistency with the goals and objectives of
2975 s. 373.4595, the secretary may approve the release of state
2976 funds. Any modifications to the annual work plan shall be
2977 submitted to the secretary for review and approval.

2978 Reviser's note.--Amended to conform to the redesignation of
2979 s. 373.470(2) (a) as s. 373.470(2) (b) by s. 4, ch. 2007-253,
2980 Laws of Florida.

2981 Section 80. Paragraph (d) of subsection (2) of section
2982 373.073, Florida Statutes, is amended to read:

2983 373.073 Governing board.--

2984 (2) Membership on governing boards shall be selected from
2985 candidates who have significant experience in one or more of the
2986 following areas, including, but not limited to: agriculture, the
2987 development industry, local government, government-owned or
2988 privately owned water utilities, law, civil engineering,
2989 environmental science, hydrology, accounting, or financial
2990 businesses. Notwithstanding the provisions of any other general
2991 or special law to the contrary, vacancies in the governing boards
2992 of the water management districts shall be filled according to
2993 the following residency requirements, representing areas
2994 designated by the United States Water Resources Council in United
2995 States Geological Survey, River Basin and Hydrological Unit Map
2996 of Florida--1975, Map Series No. 72:

2997 (d) South Florida Water Management District:

- 2998 1. Two members shall reside in Miami-Dade ~~Dade~~ County.
2999 2. One member shall reside in Broward County.
3000 3. One member shall reside in Palm Beach County.

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3001 4. One member shall reside in Collier County, Lee County,
3002 Hendry County, or Charlotte County.

3003 5. One member shall reside in Glades County, Okeechobee
3004 County, Highlands County, Polk County, Orange County, or Osceola
3005 County.

3006 6. Two members, appointed at large, shall reside in an area
3007 consisting of St. Lucie, Martin, Palm Beach, Broward, Miami-Dade
3008 ~~Dade~~, and Monroe Counties.

3009 7. One member, appointed at large, shall reside in an area
3010 consisting of Collier, Lee, Charlotte, Hendry, Glades, Osceola,
3011 Okeechobee, Polk, Highlands, and Orange Counties.

3012 8. No county shall have more than three members on the
3013 governing board.

3014 Reviser's note.--Amended to conform to the redesignation of
3015 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-
3016 Dade County Code.

3017 Section 81. Paragraph (a) of subsection (1) of section
3018 373.1501, Florida Statutes, is amended to read:

3019 373.1501 South Florida Water Management District as local
3020 sponsor.--

3021 (1) As used in this section and s. 373.026(8), the term:

3022 (a) "C-111 Project" means the project identified in the
3023 Central and Southern Florida Flood Control Project, Real Estate
3024 Design Memorandum, Canal 111, South Miami-Dade ~~Dade~~ County,
3025 Florida.

3026 Reviser's note.--Amended to conform to the redesignation of
3027 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-
3028 Dade County Code.

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3029 Section 82. Paragraph (a) of subsection (2) of section
3030 373.1502, Florida Statutes, is amended to read:

3031 373.1502 Regulation of comprehensive plan project
3032 components.--

3033 (2) FINDINGS; INTENT.--

3034 (a) The Legislature finds that implementation of the
3035 comprehensive plan, as defined in s. 373.470(2)(b) ~~373.470(2)(a)~~,
3036 is in the public interest and is necessary for restoring,
3037 preserving, and protecting the South Florida ecosystem, providing
3038 for the protection of water quality in and the reduction of the
3039 loss of fresh water from the Everglades, and providing such
3040 features as are necessary to meet the other water-related needs
3041 of the region, including flood control, the enhancement of water
3042 supplies, and other objectives served by the project.

3043 Reviser's note.--Amended to conform to the redesignation of
3044 s. 373.470(2)(a) as s. 373.470(2)(b) by s. 4, ch. 2007-253,
3045 Laws of Florida.

3046 Section 83. Paragraph (b) of subsection (3) of section
3047 373.1961, Florida Statutes, is amended to read:

3048 373.1961 Water production; general powers and duties;
3049 identification of needs; funding criteria; economic incentives;
3050 reuse funding.--

3051 (3) FUNDING.--

3052 (b) Beginning in fiscal year 2005-2006, the state shall
3053 annually provide a portion of those revenues deposited into the
3054 Water Protection and Sustainability Program Trust Fund for the
3055 purpose of providing funding assistance for the development of
3056 alternative water supplies pursuant to the Water Protection and
3057 Sustainability Program. At the beginning of each fiscal year,

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3058 | beginning with fiscal year 2005-2006, such revenues shall be
3059 | distributed by the department into the alternative water supply
3060 | trust fund accounts created by each district for the purpose of
3061 | alternative water supply development under the following funding
3062 | formula:

3063 | 1. Thirty percent to the South Florida Water Management
3064 | District;

3065 | 2. Twenty-five percent to the Southwest Florida Water
3066 | Management District;

3067 | 3. Twenty-five percent to the St. Johns River Water
3068 | Management District;

3069 | 4. Ten percent to the Suwannee River Water Management
3070 | District; and

3071 | 5. Ten percent to the Northwest Florida Water Management
3072 | District.

3073 | Reviser's note.--Amended to conform to the name of the trust
3074 | fund at s. 403.891, which creates the fund.

3075 | Section 84. Subsection (16) of section 373.414, Florida
3076 | Statutes, is amended to read:

3077 | 373.414 Additional criteria for activities in surface
3078 | waters and wetlands.--

3079 | (16) Until October 1, 2000, regulation under rules adopted
3080 | pursuant to this part of any sand, limerock, or limestone mining
3081 | activity which is located in Township 52 South, Range 39 East,
3082 | sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27,
3083 | 34, 35, and 36; in Township 52 South, Range 40 East, sections 6,
3084 | 7, 8, 18, and 19; in Township 53 South, Range 39 East, sections
3085 | 1, 2, 13, 21, 22, 23, 24, 25, 26, 33, 34, 35, and 36; and in
3086 | Township 54 South, Range 38 East, sections 24, and 25, and 36,

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3087 shall not include the rules adopted pursuant to subsection (9).
3088 In addition, until October 1, 2000, such activities shall
3089 continue to be regulated under the rules adopted pursuant to ss.
3090 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as
3091 amended, as such rules existed prior to the effective date of the
3092 rules adopted pursuant to subsection (9) and such dredge and fill
3093 jurisdiction shall be that which existed prior to January 24,
3094 1984. In addition, any such sand, limerock, or limestone mining
3095 activity shall be approved by Miami-Dade ~~Dade~~ County and the
3096 United States Army Corps of Engineers. This section shall only
3097 apply to mining activities which are continuous and carried out
3098 on land contiguous to mining operations that were in existence on
3099 or before October 1, 1984.

3100 Reviser's note.--Amended to conform to the redesignation of
3101 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-
3102 Dade County Code.

3103 Section 85. Subsections (16) and (19) of section 373.4211,
3104 Florida Statutes, are amended to read:

3105 373.4211 Ratification of chapter 17-340, Florida
3106 Administrative Code, on the delineation of the landward extent of
3107 wetlands and surface waters.--Pursuant to s. 373.421, the
3108 Legislature ratifies chapter 17-340, Florida Administrative Code,
3109 approved on January 13, 1994, by the Environmental Regulation
3110 Commission, with the following changes:

3111 (16) Rule 17-340.450(2) is amended by adding, after the
3112 species list, the following language:

3113 "Within Monroe County and the Key Largo portion of Miami-
3114 Dade ~~Dade~~ County only, the following species shall be listed as

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3115 Facultative Wet: *Alternanthera maritima*, *Morinda royoc*, and
3116 *Strumpfia maritima*."

3117 (19) Rule 17-340.450(3) is amended by adding, after the
3118 species list, the following language:

3119 "Within Monroe County and the Key Largo portion of Miami-
3120 Dade ~~Dade~~ County only, the following species shall be listed as
3121 facultative: *Alternanthera paronychioides*, *Byrsonima lucida*,
3122 *Ernodea littoralis*, *Guapira discolor*, *Marnilkara bahamensis*,
3123 *Pisonis rotundata*, *Pithecellobium keyensis*, *Pithecellobium*
3124 *unquis-cati*, *Randia aculeata*, *Reynosia septentrionalis*, and
3125 *Thrinax radiata*."

3126 Reviser's note.--Amended to conform to the redesignation of
3127 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-
3128 Dade County Code.

3129 Section 86. Paragraph (f) of subsection (1) and paragraph
3130 (b) of subsection (4) of section 373.4592, Florida Statutes, are
3131 amended to read:

3132 373.4592 Everglades improvement and management.--

3133 (1) FINDINGS AND INTENT.--

3134 (f) The Legislature finds that improved water supply and
3135 hydroperiod management are crucial elements to overall
3136 revitalization of the Everglades ecosystem, including Florida
3137 Bay. It is the intent of the Legislature to expedite plans and
3138 programs for improving water quantity reaching the Everglades,
3139 correcting long-standing hydroperiod problems, increasing the
3140 total quantity of water flowing through the system, providing
3141 water supply for the Everglades National Park, urban and
3142 agricultural areas, and Florida Bay, and replacing water
3143 previously available from the coastal ridge in areas of southern

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3144 Miami-Dade ~~Dade~~ County. Whenever possible, wasteful discharges of
3145 fresh water to tide shall be reduced, and the water shall be
3146 stored for delivery at more optimum times. Additionally, reuse
3147 and conservation measures shall be implemented consistent with
3148 law. The Legislature further recognizes that additional water
3149 storage may be an appropriate use of Lake Okeechobee.

3150 (4) EVERGLADES PROGRAM.--

3151 (b) Everglades water supply and hydroperiod improvement and
3152 restoration.--

3153 1. A comprehensive program to revitalize the Everglades
3154 shall include programs and projects to improve the water quantity
3155 reaching the Everglades Protection Area at optimum times and
3156 improve hydroperiod deficiencies in the Everglades ecosystem. To
3157 the greatest extent possible, wasteful discharges of fresh water
3158 to tide shall be reduced, and water conservation practices and
3159 reuse measures shall be implemented by water users, consistent
3160 with law. Water supply management must include improvement of
3161 water quantity reaching the Everglades, correction of long-
3162 standing hydroperiod problems, and an increase in the total
3163 quantity of water flowing through the system. Water supply
3164 management must provide water supply for the Everglades National
3165 Park, the urban and agricultural areas, and the Florida Bay and
3166 must replace water previously available from the coastal ridge
3167 areas of southern Miami-Dade ~~Dade~~ County. The Everglades
3168 Construction Project redirects some water currently lost to tide.
3169 It is an important first step in completing hydroperiod
3170 improvement.

3171 2. The district shall operate the Everglades Construction
3172 Project as specified in the February 15, 1994, conceptual design

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3173 | document, to provide additional inflows to the Everglades
3174 | Protection Area. The increased flow from the project shall be
3175 | directed to the Everglades Protection Area as needed to achieve
3176 | an average annual increase of 28 percent compared to the baseline
3177 | years of 1979 to 1988. Consistent with the design of the
3178 | Everglades Construction Project and without demonstratively
3179 | reducing water quality benefits, the regulatory releases will be
3180 | timed and distributed to the Everglades Protection Area to
3181 | maximize environmental benefits.

3182 | 3. The district shall operate the Everglades Construction
3183 | Project in accordance with the February 15, 1994, conceptual
3184 | design document to maximize the water quantity benefits and
3185 | improve the hydroperiod of the Everglades Protection Area. All
3186 | reductions of flow to the Everglades Protection Area from BMP
3187 | implementation will be replaced. The district shall develop a
3188 | model to be used for quantifying the amount of water to be
3189 | replaced. The timing and distribution of this replaced water will
3190 | be directed to the Everglades Protection Area to maximize the
3191 | natural balance of the Everglades Protection Area.

3192 | 4. The Legislature recognizes the complexity of the
3193 | Everglades watershed, as well as legal mandates under Florida and
3194 | federal law. As local sponsor of the Central and Southern Florida
3195 | Flood Control Project, the district must coordinate its water
3196 | supply and hydroperiod programs with the Federal Government.
3197 | Federal planning, research, operating guidelines, and
3198 | restrictions for the Central and Southern Florida Flood Control
3199 | Project now under review by federal agencies will provide
3200 | important components of the district's Everglades Program. The
3201 | department and district shall use their best efforts to seek the

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3202 amendment of the authorized purposes of the project to include
3203 water quality protection, hydroperiod restoration, and
3204 environmental enhancement as authorized purposes of the Central
3205 and Southern Florida Flood Control Project, in addition to the
3206 existing purposes of water supply, flood protection, and allied
3207 purposes. Further, the department and the district shall use
3208 their best efforts to request that the Federal Government include
3209 in the evaluation of the regulation schedule for Lake Okeechobee
3210 a review of the regulatory releases, so as to facilitate releases
3211 of water into the Everglades Protection Area which further
3212 improve hydroperiod restoration.

3213 5. The district, through cooperation with the federal and
3214 state agencies, shall develop other programs and methods to
3215 increase the water flow and improve the hydroperiod of the
3216 Everglades Protection Area.

3217 6. Nothing in this section is intended to provide an
3218 allocation or reservation of water or to modify the provisions of
3219 part II. All decisions regarding allocations and reservations of
3220 water shall be governed by applicable law.

3221 7. The district shall proceed to expeditiously implement
3222 the minimum flows and levels for the Everglades Protection Area
3223 as required by s. 373.042 and shall expeditiously complete the
3224 Lower East Coast Water Supply Plan.

3225 Reviser's note.--Amended to conform to the redesignation of
3226 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-
3227 Dade County Code.

3228 Section 87. Paragraph (c) of subsection (3) of section
3229 373.4595, Florida Statutes, is amended to read:

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3230 373.4595 Northern Everglades and Estuaries Protection
3231 Program.--

3232 (3) LAKE OKEECHOBEE WATERSHED PROTECTION PROGRAM.--A
3233 protection program for Lake Okeechobee that achieves phosphorus
3234 load reductions for Lake Okeechobee shall be immediately
3235 implemented as specified in this subsection. The program shall
3236 address the reduction of phosphorus loading to the lake from both
3237 internal and external sources. Phosphorus load reductions shall
3238 be achieved through a phased program of implementation. Initial
3239 implementation actions shall be technology-based, based upon a
3240 consideration of both the availability of appropriate technology
3241 and the cost of such technology, and shall include phosphorus
3242 reduction measures at both the source and the regional level. The
3243 initial phase of phosphorus load reductions shall be based upon
3244 the district's Technical Publication 81-2 and the district's WOD
3245 program, with subsequent phases of phosphorus load reductions
3246 based upon the total maximum daily loads established in
3247 accordance with s. 403.067. In the development and administration
3248 of the Lake Okeechobee Watershed Protection Program, the
3249 coordinating agencies shall maximize opportunities provided by
3250 federal cost-sharing programs and opportunities for partnerships
3251 with the private sector.

3252 (c) Lake Okeechobee Watershed Phosphorus Control
3253 Program.--The Lake Okeechobee Watershed Phosphorus Control
3254 Program is designed to be a multifaceted approach to reducing
3255 phosphorus loads by improving the management of phosphorus
3256 sources within the Lake Okeechobee watershed through
3257 implementation of regulations and best management practices,
3258 development and implementation of improved best management

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3259 | practices, improvement and restoration of the hydrologic function
3260 | of natural and managed systems, and utilization of alternative
3261 | technologies for nutrient reduction. The coordinating agencies
3262 | shall facilitate the application of federal programs that offer
3263 | opportunities for water quality treatment, including
3264 | preservation, restoration, or creation of wetlands on
3265 | agricultural lands.

3266 | 1. Agricultural nonpoint source best management practices,
3267 | developed in accordance with s. 403.067 and designed to achieve
3268 | the objectives of the Lake Okeechobee Watershed Protection
3269 | Program, shall be implemented on an expedited basis. The
3270 | coordinating agencies shall develop an interagency agreement
3271 | pursuant to ss. 373.046 and 373.406(5) that assures the
3272 | development of best management practices that complement existing
3273 | regulatory programs and specifies how those best management
3274 | practices are implemented and verified. The interagency agreement
3275 | shall address measures to be taken by the coordinating agencies
3276 | during any best management practice reevaluation performed
3277 | pursuant to sub-subparagraph d. The department shall use best
3278 | professional judgment in making the initial determination of best
3279 | management practice effectiveness.

3280 | a. As provided in s. 403.067(7)(c), the Department of
3281 | Agriculture and Consumer Services, in consultation with the
3282 | department, the district, and affected parties, shall initiate
3283 | rule development for interim measures, best management practices,
3284 | conservation plans, nutrient management plans, or other measures
3285 | necessary for Lake Okeechobee watershed total maximum daily load
3286 | reduction. The rule shall include thresholds for requiring
3287 | conservation and nutrient management plans and criteria for the

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3288 contents of such plans. Development of agricultural nonpoint
3289 source best management practices shall initially focus on those
3290 priority basins listed in subparagraph (b)1. The Department of
3291 Agriculture and Consumer Services, in consultation with the
3292 department, the district, and affected parties, shall conduct an
3293 ongoing program for improvement of existing and development of
3294 new interim measures or best management practices for the purpose
3295 of adoption of such practices by rule. The Department of
3296 Agriculture and Consumer Services shall work with the University
3297 of Florida's Institute of Food and Agriculture Sciences to review
3298 and, where appropriate, develop revised nutrient application
3299 rates for all agricultural soil amendments in the watershed.

3300 b. Where agricultural nonpoint source best management
3301 practices or interim measures have been adopted by rule of the
3302 Department of Agriculture and Consumer Services, the owner or
3303 operator of an agricultural nonpoint source addressed by such
3304 rule shall either implement interim measures or best management
3305 practices or demonstrate compliance with the district's WOD
3306 program by conducting monitoring prescribed by the department or
3307 the district. Owners or operators of agricultural nonpoint
3308 sources who implement interim measures or best management
3309 practices adopted by rule of the Department of Agriculture and
3310 Consumer Services shall be subject to the provisions of s.
3311 403.067(7). The Department of Agriculture and Consumer Services,
3312 in cooperation with the department and the district, shall
3313 provide technical and financial assistance for implementation of
3314 agricultural best management practices, subject to the
3315 availability of funds.

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3316 c. The district or department shall conduct monitoring at
3317 representative sites to verify the effectiveness of agricultural
3318 nonpoint source best management practices.

3319 d. Where water quality problems are detected for
3320 agricultural nonpoint sources despite the appropriate
3321 implementation of adopted best management practices, the
3322 Department of Agriculture and Consumer Services, in consultation
3323 with the other coordinating agencies and affected parties, shall
3324 institute a reevaluation of the best management practices and
3325 make appropriate changes to the rule adopting best management
3326 practices.

3327 2. Nonagricultural nonpoint source best management
3328 practices, developed in accordance with s. 403.067 and designed
3329 to achieve the objectives of the Lake Okeechobee Watershed
3330 Protection Program, shall be implemented on an expedited basis.
3331 The department and the district shall develop an interagency
3332 agreement pursuant to ss. 373.046 and 373.406(5) that assures the
3333 development of best management practices that complement existing
3334 regulatory programs and specifies how those best management
3335 practices are implemented and verified. The interagency agreement
3336 shall address measures to be taken by the department and the
3337 district during any best management practice reevaluation
3338 performed pursuant to sub-subparagraph d.

3339 a. The department and the district are directed to work
3340 with the University of Florida's Institute of Food and
3341 Agricultural Sciences to develop appropriate nutrient application
3342 rates for all nonagricultural soil amendments in the watershed.
3343 As provided in s. 403.067(7)(c), the department, in consultation
3344 with the district and affected parties, shall develop interim

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3345 | measures, best management practices, or other measures necessary
3346 | for Lake Okeechobee watershed total maximum daily load reduction.
3347 | Development of nonagricultural nonpoint source best management
3348 | practices shall initially focus on those priority basins listed
3349 | in subparagraph (b)1. The department, the district, and affected
3350 | parties shall conduct an ongoing program for improvement of
3351 | existing and development of new interim measures or best
3352 | management practices. The district shall adopt technology-based
3353 | standards under the district's WOD program for nonagricultural
3354 | nonpoint sources of phosphorus. Nothing in this sub-subparagraph
3355 | shall affect the authority of the department or the district to
3356 | adopt basin-specific criteria under this part to prevent harm to
3357 | the water resources of the district.

3358 | b. Where nonagricultural nonpoint source best management
3359 | practices or interim measures have been developed by the
3360 | department and adopted by the district, the owner or operator of
3361 | a nonagricultural nonpoint source shall implement interim
3362 | measures or best management practices and be subject to the
3363 | provisions of s. 403.067(7). The department and district shall
3364 | provide technical and financial assistance for implementation of
3365 | nonagricultural nonpoint source best management practices,
3366 | subject to the availability of funds.

3367 | c. The district or the department shall conduct monitoring
3368 | at representative sites to verify the effectiveness of
3369 | nonagricultural nonpoint source best management practices.

3370 | d. Where water quality problems are detected for
3371 | nonagricultural nonpoint sources despite the appropriate
3372 | implementation of adopted best management practices, the

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3373 | department and the district shall institute a reevaluation of the
3374 | best management practices.

3375 | 3. The provisions of subparagraphs 1. and 2. shall not
3376 | preclude the department or the district from requiring compliance
3377 | with water quality standards or with current best management
3378 | practices requirements set forth in any applicable regulatory
3379 | program authorized by law for the purpose of protecting water
3380 | quality. Additionally, subparagraphs 1. and 2. are applicable
3381 | only to the extent that they do not conflict with any rules
3382 | promulgated by the department that are necessary to maintain a
3383 | federally delegated or approved program.

3384 | 4. Projects that reduce the phosphorus load originating
3385 | from domestic wastewater systems within the Lake Okeechobee
3386 | watershed shall be given funding priority in the department's
3387 | revolving loan program under s. 403.1835. The department shall
3388 | coordinate and provide assistance to those local governments
3389 | seeking financial assistance for such priority projects.

3390 | 5. Projects that make use of private lands, or lands held
3391 | in trust for Indian tribes, to reduce nutrient loadings or
3392 | concentrations within a basin by one or more of the following
3393 | methods: restoring the natural hydrology of the basin, restoring
3394 | wildlife habitat or impacted wetlands, reducing peak flows after
3395 | storm events, increasing aquifer recharge, or protecting range
3396 | and timberland from conversion to development, are eligible for
3397 | grants available under this section from the coordinating
3398 | agencies. For projects of otherwise equal priority, special
3399 | funding priority will be given to those projects that make best
3400 | use of the methods outlined above that involve public-private
3401 | partnerships or that obtain federal match money. Preference

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3402 ranking above the special funding priority will be given to
3403 projects located in a rural area of critical economic concern
3404 designated by the Governor. Grant applications may be submitted
3405 by any person or tribal entity, and eligible projects may
3406 include, but are not limited to, the purchase of conservation and
3407 flowage easements, hydrologic restoration of wetlands, creating
3408 treatment wetlands, development of a management plan for natural
3409 resources, and financial support to implement a management plan.

3410 6.a. The department shall require all entities disposing of
3411 domestic wastewater residuals within the Lake Okeechobee
3412 watershed and the remaining areas of Okeechobee, Glades, and
3413 Hendry Counties to develop and submit to the department an
3414 agricultural use plan that limits applications based upon
3415 phosphorus loading. By July 1, 2005, phosphorus concentrations
3416 originating from these application sites shall not exceed the
3417 limits established in the district's WOD program. After December
3418 31, 2007, the department may not authorize the disposal of
3419 domestic wastewater residuals within the Lake Okeechobee
3420 watershed unless the applicant can affirmatively demonstrate that
3421 the phosphorus in the residuals will not add to phosphorus
3422 loadings in Lake Okeechobee or its tributaries. This
3423 demonstration shall be based on achieving a net balance between
3424 phosphorus imports relative to exports on the permitted
3425 application site. Exports shall include only phosphorus removed
3426 from the Lake Okeechobee watershed through products generated on
3427 the permitted application site. This prohibition does not apply
3428 to Class AA residuals that are marketed and distributed as
3429 fertilizer products in accordance with department rule.

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3430 b. Private and government-owned utilities within Monroe,
3431 Miami-Dade ~~Dade~~, Broward, Palm Beach, Martin, St. Lucie, Indian
3432 River, Okeechobee, Highlands, Hendry, and Glades Counties that
3433 dispose of wastewater residual sludge from utility operations and
3434 septic removal by land spreading in the Lake Okeechobee watershed
3435 may use a line item on local sewer rates to cover wastewater
3436 residual treatment and disposal if such disposal and treatment is
3437 done by approved alternative treatment methodology at a facility
3438 located within the areas designated by the Governor as rural
3439 areas of critical economic concern pursuant to s. 288.0656. This
3440 additional line item is an environmental protection disposal fee
3441 above the present sewer rate and shall not be considered a part
3442 of the present sewer rate to customers, notwithstanding
3443 provisions to the contrary in chapter 367. The fee shall be
3444 established by the county commission or its designated assignee
3445 in the county in which the alternative method treatment facility
3446 is located. The fee shall be calculated to be no higher than that
3447 necessary to recover the facility's prudent cost of providing the
3448 service. Upon request by an affected county commission, the
3449 Florida Public Service Commission will provide assistance in
3450 establishing the fee. Further, for utilities and utility
3451 authorities that use the additional line item environmental
3452 protection disposal fee, such fee shall not be considered a rate
3453 increase under the rules of the Public Service Commission and
3454 shall be exempt from such rules. Utilities using the provisions
3455 of this section may immediately include in their sewer invoicing
3456 the new environmental protection disposal fee. Proceeds from this
3457 environmental protection disposal fee shall be used for treatment
3458 and disposal of wastewater residuals, including any treatment

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3459 | technology that helps reduce the volume of residuals that require
3460 | final disposal, but such proceeds shall not be used for
3461 | transportation or shipment costs for disposal or any costs
3462 | relating to the land application of residuals in the Lake
3463 | Okeechobee watershed.

3464 | c. No less frequently than once every 3 years, the Florida
3465 | Public Service Commission or the county commission through the
3466 | services of an independent auditor shall perform a financial
3467 | audit of all facilities receiving compensation from an
3468 | environmental protection disposal fee. The Florida Public Service
3469 | Commission or the county commission through the services of an
3470 | independent auditor shall also perform an audit of the
3471 | methodology used in establishing the environmental protection
3472 | disposal fee. The Florida Public Service Commission or the county
3473 | commission shall, within 120 days after completion of an audit,
3474 | file the audit report with the President of the Senate and the
3475 | Speaker of the House of Representatives and shall provide copies
3476 | to the county commissions of the counties set forth in sub-
3477 | subparagraph b. The books and records of any facilities receiving
3478 | compensation from an environmental protection disposal fee shall
3479 | be open to the Florida Public Service Commission and the Auditor
3480 | General for review upon request.

3481 | 7. The Department of Health shall require all entities
3482 | disposing of septage within the Lake Okeechobee watershed to
3483 | develop and submit to that agency an agricultural use plan that
3484 | limits applications based upon phosphorus loading. By July 1,
3485 | 2005, phosphorus concentrations originating from these
3486 | application sites shall not exceed the limits established in the
3487 | district's WOD program.

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3488 8. The Department of Agriculture and Consumer Services
3489 shall initiate rulemaking requiring entities within the Lake
3490 Okeechobee watershed which land-apply animal manure to develop
3491 resource management system level conservation plans, according to
3492 United States Department of Agriculture criteria, which limit
3493 such application. Such rules may include criteria and thresholds
3494 for the requirement to develop a conservation or nutrient
3495 management plan, requirements for plan approval, and
3496 recordkeeping requirements.

3497 9. The district, the department, or the Department of
3498 Agriculture and Consumer Services, as appropriate, shall
3499 implement those alternative nutrient reduction technologies
3500 determined to be feasible pursuant to subparagraph (d)6.

3501 Reviser's note.--Amended to conform to the redesignation of
3502 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-
3503 Dade County Code.

3504 Section 88. Paragraph (e) of subsection (2) of section
3505 373.470, Florida Statutes, is amended to read:

3506 373.470 Everglades restoration.--

3507 (2) DEFINITIONS.--As used in this section, the term:

3508 (e) "Lake Okeechobee Watershed Protection Plan" means the
3509 plan developed pursuant to ss. 373.4595(3)(a) ~~375.4595~~ and
3510 373.451-373.459.

3511 Reviser's note.--Amended to conform to the fact that s.
3512 375.4595 does not exist. Section 373.4595(3)(a) provides for
3513 the Lake Okeechobee Watershed Protection Plan.

3514 Section 89. Subsection (1) of section 373.472, Florida
3515 Statutes, is amended to read:

3516 373.472 Save Our Everglades Trust Fund.--

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3517 (1) There is created within the Department of Environmental
3518 Protection the Save Our Everglades Trust Fund. Funds in the trust
3519 fund shall be expended to implement the comprehensive plan
3520 defined in s. 373.470(2)(b) ~~373.470(2)(a)~~, the Lake Okeechobee
3521 Watershed Protection Plan defined in s. 373.4595(2), the
3522 Caloosahatchee River Watershed Protection Plan defined in s.
3523 373.4595(2), and the St. Lucie River Watershed Protection Plan
3524 defined in s. 373.4595(2), and to pay debt service for Everglades
3525 restoration bonds issued pursuant to s. 215.619. The trust fund
3526 shall serve as the repository for state, local, and federal
3527 project contributions in accordance with s. 373.470(4).

3528 Reviser's note.--Amended to conform to the redesignation of
3529 s. 373.470(2)(a) as s. 373.470(2)(b) by s. 4, ch. 2007-253,
3530 Laws of Florida.

3531 Section 90. Paragraph (c) of subsection (3) of section
3532 376.308, Florida Statutes, is amended to read:

3533 376.308 Liabilities and defenses of facilities.--

3534 (3) For purposes of this section, the following additional
3535 defenses shall apply to sites contaminated with petroleum or
3536 petroleum products:

3537 (c) The defendant is a lender which held a security
3538 interest in the site and has foreclosed or otherwise acted to
3539 acquire title primarily to protect its security interest, and
3540 seeks to sell, transfer, or otherwise divest the assets for
3541 subsequent sale at the earliest possible time, taking all
3542 relevant facts and circumstances into account, and has not
3543 undertaken management activities beyond those necessary to
3544 protect its financial interest, to effectuate compliance with
3545 environmental statutes and rules, or to prevent or abate a

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3546 discharge; however, if the facility is not eligible for cleanup
3547 pursuant to s. 376.305(6) ~~376.305(7)~~, s. 376.3071, or s.
3548 376.3072, any funds expended by the department for cleanup of the
3549 property shall constitute a lien on the property against any
3550 subsequent sale after the amount of the former security interest
3551 (including the cost of collection, management, and sale) is
3552 satisfied.

3553 Reviser's note.--Amended to conform to the redesignation of
3554 s. 376.305(7) as s. 376.305(6) by s. 4, ch. 96-277, Laws of
3555 Florida.

3556 Section 91. Subsection (1) of section 377.42, Florida
3557 Statutes, is amended to read:

3558 377.42 Big Cypress Swamp Advisory Committee.--

3559 (1) For purposes of this section, the Big Cypress watershed
3560 is defined as the area in Collier County and the adjoining
3561 portions of Hendry, Broward, Miami-Dade ~~Dade~~, and Monroe Counties
3562 which is designated as the Big Cypress Swamp in U.S. Geological
3563 Survey Open-File Report No. 70003.

3564 Reviser's note.--Amended to conform to the redesignation of
3565 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-
3566 Dade County Code.

3567 Section 92. Paragraph (c) of subsection (1), paragraph (c)
3568 of subsection (2), and paragraph (c) of subsection (3) of section
3569 381.0273, Florida Statutes, are amended to read:

3570 381.0273 Public records exemption for patient safety
3571 data.--

3572 (1) Information that identifies a patient and that is
3573 contained in patient safety data, as defined in s. 766.1016, or
3574 in other records held by the Florida Patient Safety Corporation

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3575 and its subsidiaries, advisory committees, or contractors
3576 pursuant to s. 381.0271 is confidential and exempt from s.
3577 119.07(1) and s. 24(a), Art. I of the State Constitution.
3578 Personal identifying information made confidential and exempt
3579 from disclosure by this subsection may be disclosed only:

3580 (c) To a health research entity if the entity seeks the
3581 records or data pursuant to a research protocol approved by the
3582 corporation, maintains the records or data in accordance with the
3583 approved protocol, and enters into a purchase and data-use
3584 agreement with the corporation, the fee provisions of which are
3585 consistent with s. 119.07(4) ~~119.07(1)(a)~~. The corporation may
3586 deny a request for records or data that identify the patient if
3587 the protocol provides for intrusive follow-back contacts, has not
3588 been approved by a human studies institutional review board, does
3589 not plan for the destruction of confidential records after the
3590 research is concluded, or does not have scientific merit. The
3591 agreement must prohibit the release of any information that would
3592 permit the identification of any patient, must limit the use of
3593 records or data in conformance with the approved research
3594 protocol, and must prohibit any other use of the records or data.
3595 Copies of records or data issued pursuant to this paragraph
3596 remain the property of the corporation.

3597 (2) Information that identifies the person or entity that
3598 reports patient safety data, as defined in s. 766.1016, to the
3599 corporation and that is contained in patient safety data or in
3600 other records held by the Florida Patient Safety Corporation and
3601 its subsidiaries, advisory committees, or contractors pursuant to
3602 s. 381.0271 is confidential and exempt from s. 119.07(1) and s.
3603 24(a), Art. I of the State Constitution. Information that

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3604 identifies a person or entity reporting patient safety data made
3605 confidential and exempt from disclosure by this subsection may be
3606 disclosed only:

3607 (c) To a health research entity if the entity seeks the
3608 records or data pursuant to a research protocol approved by the
3609 corporation, maintains the records or data in accordance with the
3610 approved protocol, and enters into a purchase and data-use
3611 agreement with the corporation, the fee provisions of which are
3612 consistent with s. 119.07(4) ~~119.07(1)(a)~~. The corporation may
3613 deny a request for records or data that identify the person or
3614 entity reporting patient safety data if the protocol provides for
3615 intrusive follow-back contacts, has not been approved by a human
3616 studies institutional review board, does not plan for the
3617 destruction of confidential records after the research is
3618 concluded, or does not have scientific merit. The agreement must
3619 prohibit the release of any information that would permit the
3620 identification of persons or entities that report patient safety
3621 data, must limit the use of records or data in conformance with
3622 the approved research protocol, and must prohibit any other use
3623 of the records or data. Copies of records or data issued pursuant
3624 to this paragraph remain the property of the corporation.

3625 (3) Information that identifies a health care practitioner
3626 or health care facility which is held by the Florida Patient
3627 Safety Corporation and its subsidiaries, advisory committees, or
3628 contractors pursuant to s. 381.0271, is confidential and exempt
3629 from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
3630 Information that identifies a health care practitioner or health
3631 care facility and that is contained in patient safety data made

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3632 confidential and exempt from disclosure by this subsection may be
3633 disclosed only:

3634 (c) To a health research entity if the entity seeks the
3635 records or data pursuant to a research protocol approved by the
3636 corporation, maintains the records or data in accordance with the
3637 approved protocol, and enters into a purchase and data-use
3638 agreement with the corporation, the fee provisions of which are
3639 consistent with s. 119.07(4) ~~119.07(1)(a)~~. The corporation may
3640 deny a request for records or data that identify the person or
3641 entity reporting patient safety data if the protocol provides for
3642 intrusive follow-back contacts, has not been approved by a human
3643 studies institutional review board, does not plan for the
3644 destruction of confidential records after the research is
3645 concluded, or does not have scientific merit. The agreement must
3646 prohibit the release of any information that would permit the
3647 identification of persons or entities that report patient safety
3648 data, must limit the use of records or data in conformance with
3649 the approved research protocol, and must prohibit any other use
3650 of the records or data. Copies of records or data issued under
3651 this paragraph remain the property of the corporation.

3652 Reviser's note.--Amended to conform to the redesignation of
3653 material regarding fees for copies of public records in s.
3654 119.07(1)(a) as s. 119.07(4) by s. 7, ch. 2004-335, Laws of
3655 Florida.

3656 Section 93. Paragraph (a) of subsection (1) of section
3657 381.0404, Florida Statutes, is amended to read:

3658 381.0404 Center for Health Technologies.--

3659 (1)(a) There is hereby established the Center for Health
3660 Technologies, to be located at and administered by a statutory

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3661 teaching hospital located in Miami-Dade ~~Dade~~ County and hereafter
3662 referred to as the administrator.

3663 Reviser's note.--Amended to conform to the redesignation of
3664 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-
3665 Dade County Code.

3666 Section 94. Paragraph (c) of subsection (2) of section
3667 381.92, Florida Statutes, is amended to read:

3668 381.92 Florida Cancer Council.--

3669 (2)

3670 (c) The members of the council shall consist of:

3671 1. The chair of the Florida Dialogue on Cancer, who shall
3672 serve as the chair of the council;

3673 2. The State Surgeon General or his or her designee;

3674 3. The chief executive officer of the H. Lee Moffitt Cancer
3675 Center or his or her designee;

3676 4. The director of the University of Florida Shands Cancer
3677 Center or his or her designee;

3678 5. The chief executive officer of the University of Miami
3679 Sylvester Comprehensive Cancer Center or his or her designee;

3680 6. The chief executive officer of the Mayo Clinic,
3681 Jacksonville, or his or her designee;

3682 7. The chief executive officer of the American Cancer
3683 Society, Florida Division, Inc., or his or her designee;

3684 8. The president of the American Cancer Society, Florida
3685 Division, Inc., Board of Directors or his or her designee;

3686 9. The president of the Florida Society of Clinical
3687 Oncology or his or her designee;

3688 10. The president of the American College of Surgeons,
3689 Florida Chapter, or his or her designee;

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3690 11. The chief executive officer of Enterprise Florida,
3691 Inc., or his or her designee;

3692 12. Five representatives from cancer programs approved by
3693 the American College of Surgeons. Three shall be appointed by the
3694 Governor, one shall be appointed by the Speaker of the House of
3695 Representatives, and one shall be appointed by the President of
3696 the Senate;

3697 13. One member of the House of Representatives, to be
3698 appointed by the Speaker of the House of Representatives; and

3699 14. One member of the Senate, to be appointed by the
3700 President of the Senate.

3701 Reviser's note.--Amended to improve clarity and correct
3702 sentence construction.

3703 Section 95. Subsection (5) of section 383.412, Florida
3704 Statutes, is amended to read:

3705 383.412 Public records and public meetings exemptions.--

3706 (5) This section is subject to the Open Government Sunset
3707 Review Act ~~of 1995~~ in accordance with s. 119.15, and shall stand
3708 repealed on October 2, 2010, unless reviewed and saved from
3709 repeal through reenactment by the Legislature.

3710 Reviser's note.--Amended to conform to the renaming of the
3711 "Open Government Sunset Review Act of 1995" as the "Open
3712 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws
3713 of Florida.

3714 Section 96. Subsection (1) of section 390.012, Florida
3715 Statutes, is amended to read:

3716 390.012 Powers of agency; rules; disposal of fetal
3717 remains.--

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3718 (1) The agency may develop and enforce rules pursuant to
3719 ss. 390.011-390.018 ~~390.001-390.018~~ and part II of chapter 408
3720 for the health, care, and treatment of persons in abortion
3721 clinics and for the safe operation of such clinics.

3722 (a) The rules shall be reasonably related to the
3723 preservation of maternal health of the clients.

3724 (b) The rules shall be in accordance with s. 797.03 and may
3725 not impose an unconstitutional burden on a woman's freedom to
3726 decide whether to terminate her pregnancy.

3727 (c) The rules shall provide for:

3728 1. The performance of pregnancy termination procedures only
3729 by a licensed physician.

3730 2. The making, protection, and preservation of patient
3731 records, which shall be treated as medical records under chapter
3732 458.

3733 Reviser's note.--Amended to correct an erroneous reference
3734 added by s. 15, ch. 2007-230, Laws of Florida. Section
3735 390.001 was redesignated as s. 390.0111 by s. 2, ch. 97-151,
3736 Laws of Florida. Section 390.011 provides definitions for
3737 the range of sections in the cross-reference.

3738 Section 97. Subsection (3) of section 390.014, Florida
3739 Statutes, is amended to read:

3740 390.014 Licenses; fees.--

3741 (3) In accordance with s. 408.805, an applicant or licensee
3742 shall pay a fee for each license application submitted under this
3743 chapter part ~~part~~ and part II of chapter 408. The amount of the fee
3744 shall be established by rule and may not be less than \$70 or more
3745 than \$500.

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3746 Reviser's note.--Amended to correct an erroneous reference;
3747 chapter 390 is not divided into parts.

3748 Section 98. Section 390.018, Florida Statutes, is amended
3749 to read:

3750 390.018 Administrative fine.--In addition to the
3751 requirements of part II of chapter 408, the agency may impose a
3752 fine upon the clinic in an amount not to exceed \$1,000 for each
3753 violation of any provision of this chapter ~~part~~, part II of
3754 chapter 408, or applicable rules.

3755 Reviser's note.--Amended to correct an erroneous reference;
3756 chapter 390 is not divided into parts.

3757 Section 99. Section 393.23, Florida Statutes, is amended to
3758 read:

3759 393.23 Developmental disabilities institutions; trust
3760 accounts.--All receipts from the operation of canteens, vending
3761 machines, hobby shops, sheltered workshops, activity centers,
3762 farming projects, and other like activities operated in a
3763 developmental disabilities institution, and moneys donated to the
3764 institution, must be deposited in a trust account in any bank,
3765 credit union, or savings and loan association authorized by the
3766 State Treasury as a qualified depository ~~depositor~~ to do business
3767 in this state, if the moneys are available on demand.

3768 (1) Moneys in the trust account must be expended for the
3769 benefit, education, and welfare of clients. However, if
3770 specified, moneys that are donated to the institution must be
3771 expended in accordance with the intentions of the donor. Trust
3772 account money may not be used for the benefit of employees of the
3773 agency or to pay the wages of such employees. The welfare of the
3774 clients includes the expenditure of funds for the purchase of

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3775 items for resale at canteens or vending machines, and for the
3776 establishment of, maintenance of, and operation of canteens,
3777 hobby shops, recreational or entertainment facilities, sheltered
3778 workshops, activity centers, farming projects, or other like
3779 facilities or programs established at the institutions for the
3780 benefit of clients.

3781 (2) The institution may invest, in the manner authorized by
3782 law for fiduciaries, any money in a trust account which is not
3783 necessary for immediate use. The interest earned and other
3784 increments derived from the investments of the money must be
3785 deposited into the trust account for the benefit of clients.

3786 (3) The accounting system of an institution must account
3787 separately for revenues and expenses for each activity. The
3788 institution shall reconcile the trust account to the
3789 institution's accounting system and check registers and to the
3790 accounting system of the Chief Financial Officer.

3791 (4) All sales taxes collected by the institution as a
3792 result of sales shall be deposited into the trust account and
3793 remitted to the Department of Revenue.

3794 (5) Funds shall be expended in accordance with requirements
3795 and guidelines established by the Chief Financial Officer.

3796 Reviser's note.--Amended to confirm the editorial
3797 substitution of the word "depository" for the word
3798 "depositor" to correct an apparent error and facilitate
3799 correct interpretation.

3800 Section 100. Paragraph (a) of subsection (4) of section
3801 395.402, Florida Statutes, is amended to read:

3802 395.402 Trauma service areas; number and location of trauma
3803 centers.--

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3804 (4) Annually thereafter, the department shall review the
3805 assignment of the 67 counties to trauma service areas, in
3806 addition to the requirements of paragraphs (2) (b)-(g) and
3807 subsection (3). County assignments are made for the purpose of
3808 developing a system of trauma centers. Revisions made by the
3809 department shall take into consideration the recommendations made
3810 as part of the regional trauma system plans approved by the
3811 department and the recommendations made as part of the state
3812 trauma system plan. In cases where a trauma service area is
3813 located within the boundaries of more than one trauma region, the
3814 trauma service area's needs, response capability, and system
3815 requirements shall be considered by each trauma region served by
3816 that trauma service area in its regional system plan. Until the
3817 department completes the February 2005 assessment, the assignment
3818 of counties shall remain as established in this section.

3819 (a) The following trauma service areas are hereby
3820 established:

3821 1. Trauma service area 1 shall consist of Escambia,
3822 Okaloosa, Santa Rosa, and Walton Counties.

3823 2. Trauma service area 2 shall consist of Bay, Gulf,
3824 Holmes, and Washington Counties.

3825 3. Trauma service area 3 shall consist of Calhoun,
3826 Franklin, Gadsden, Jackson, Jefferson, Leon, Liberty, Madison,
3827 Taylor, and Wakulla Counties.

3828 4. Trauma service area 4 shall consist of Alachua,
3829 Bradford, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Levy,
3830 Putnam, Suwannee, and Union Counties.

3831 5. Trauma service area 5 shall consist of Baker, Clay,
3832 Duval, Nassau, and St. Johns Counties.

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3833 | 6. Trauma service area 6 shall consist of Citrus, Hernando,
3834 | and Marion Counties.

3835 | 7. Trauma service area 7 shall consist of Flagler and
3836 | Volusia Counties.

3837 | 8. Trauma service area 8 shall consist of Lake, Orange,
3838 | Osceola, Seminole, and Sumter Counties.

3839 | 9. Trauma service area 9 shall consist of Pasco and
3840 | Pinellas Counties.

3841 | 10. Trauma service area 10 shall consist of Hillsborough
3842 | County.

3843 | 11. Trauma service area 11 shall consist of Hardee,
3844 | Highlands, and Polk Counties.

3845 | 12. Trauma service area 12 shall consist of Brevard and
3846 | Indian River Counties.

3847 | 13. Trauma service area 13 shall consist of DeSoto,
3848 | Manatee, and Sarasota Counties.

3849 | 14. Trauma service area 14 shall consist of Martin,
3850 | Okeechobee, and St. Lucie Counties.

3851 | 15. Trauma service area 15 shall consist of Charlotte,
3852 | Glades, Hendry, and Lee Counties.

3853 | 16. Trauma service area 16 shall consist of Palm Beach
3854 | County.

3855 | 17. Trauma service area 17 shall consist of Collier County.

3856 | 18. Trauma service area 18 shall consist of Broward County.

3857 | 19. Trauma service area 19 shall consist of Miami-Dade ~~Dade~~
3858 | and Monroe Counties.

3859 | Reviser's note.--Amended to conform to the redesignation of
3860 | Dade County as Miami-Dade County by s. 1-4.2 of the Miami-
3861 | Dade County Code.

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3862 Section 101. Subsection (1) of section 400.063, Florida
3863 Statutes, is amended to read:

3864 400.063 Resident Protection Trust Fund.--

3865 (1) A Resident Protection Trust Fund shall be established
3866 for the purpose of collecting and disbursing funds generated from
3867 the license fees and administrative fines as provided for in ss.
3868 393.0673(3) ~~393.0673(2)~~, 400.062(3), 400.121(2), and 400.23(8).
3869 Such funds shall be for the sole purpose of paying for the
3870 appropriate alternate placement, care, and treatment of residents
3871 who are removed from a facility licensed under this part or a
3872 facility specified in s. 393.0678(1) in which the agency
3873 determines that existing conditions or practices constitute an
3874 immediate danger to the health, safety, or security of the
3875 residents. If the agency determines that it is in the best
3876 interest of the health, safety, or security of the residents to
3877 provide for an orderly removal of the residents from the
3878 facility, the agency may utilize such funds to maintain and care
3879 for the residents in the facility pending removal and alternative
3880 placement. The maintenance and care of the residents shall be
3881 under the direction and control of a receiver appointed pursuant
3882 to s. 393.0678(1) or s. 400.126(1). However, funds may be
3883 expended in an emergency upon a filing of a petition for a
3884 receiver, upon the declaration of a state of local emergency
3885 pursuant to s. 252.38(3)(a)5., or upon a duly authorized local
3886 order of evacuation of a facility by emergency personnel to
3887 protect the health and safety of the residents.

3888 Reviser's note.--Amended to conform to the redesignation of
3889 s. 393.0673(2) as s. 393.0673(3) by s. 20, ch. 2006-227,
3890 Laws of Florida.

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3891 Section 102. Subsection (1) of section 400.0712, Florida
3892 Statutes, is amended to read:

3893 400.0712 Application for inactive license.--

3894 (1) As specified in s. 408.831(4) ~~408.321(4)~~ and this
3895 section, the agency may issue an inactive license to a nursing
3896 home facility for all or a portion of its beds. Any request by a
3897 licensee that a nursing home or portion of a nursing home become
3898 inactive must be submitted to the agency in the approved format.
3899 The facility may not initiate any suspension of services, notify
3900 residents, or initiate inactivity before receiving approval from
3901 the agency; and a licensee that violates this provision may not
3902 be issued an inactive license.

3903 Reviser's note.--Amended to confirm the editorial
3904 substitution of a reference to s. 408.831(4) for a reference
3905 to nonexistent s. 408.321(4); s. 408.831(4) relates to
3906 issuance of inactive licenses.

3907 Section 103. Subsections (3) and (12) of section 400.506,
3908 Florida Statutes, are amended to read:

3909 400.506 Licensure of nurse registries; requirements;
3910 penalties.--

3911 (3) In accordance with s. 408.805, an applicant or licensee
3912 shall pay a fee for each license application submitted under ss.
3913 400.506-400.518 ~~400.508-400.518~~, part II of chapter 408, and
3914 applicable rules. The amount of the fee shall be established by
3915 rule and may not exceed \$2,000 per biennium.

3916 (12) Each nurse registry shall prepare and maintain a
3917 comprehensive emergency management plan that is consistent with
3918 the criteria in this subsection and with the local special needs
3919 plan. The plan shall be updated annually. The plan shall include

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3920 | the means by which the nurse registry will continue to provide
3921 | the same type and quantity of services to its patients who
3922 | evacuate to special needs shelters which were being provided to
3923 | those patients prior to evacuation. The plan shall specify how
3924 | the nurse registry shall facilitate the provision of continuous
3925 | care by persons referred for contract to persons who are
3926 | registered pursuant to s. 252.355 during an emergency that
3927 | interrupts the provision of care or services in private
3928 | residences. Nurse registries may establish links to local
3929 | emergency operations centers to determine a mechanism by which to
3930 | approach specific areas within a disaster area in order for a
3931 | provider to reach its clients. Nurse registries shall demonstrate
3932 | a good faith effort to comply with the requirements of this
3933 | subsection by documenting attempts of staff to follow procedures
3934 | outlined in the nurse registry's comprehensive emergency
3935 | management plan which support a finding that the provision of
3936 | continuing care has been attempted for patients identified as
3937 | needing care by the nurse registry and registered under s.
3938 | 252.355 in the event of an emergency under this subsection ~~(1)~~.

3939 | (a) All persons referred for contract who care for persons
3940 | registered pursuant to s. 252.355 must include in the patient
3941 | record a description of how care will be continued during a
3942 | disaster or emergency that interrupts the provision of care in
3943 | the patient's home. It shall be the responsibility of the person
3944 | referred for contract to ensure that continuous care is provided.

3945 | (b) Each nurse registry shall maintain a current
3946 | prioritized list of patients in private residences who are
3947 | registered pursuant to s. 252.355 and are under the care of
3948 | persons referred for contract and who need continued services

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3949 during an emergency. This list shall indicate, for each patient,
3950 if the client is to be transported to a special needs shelter and
3951 if the patient is receiving skilled nursing services. Nurse
3952 registries shall make this list available to county health
3953 departments and to local emergency management agencies upon
3954 request.

3955 (c) Each person referred for contract who is caring for a
3956 patient who is registered pursuant to s. 252.355 shall provide a
3957 list of the patient's medication and equipment needs to the nurse
3958 registry. Each person referred for contract shall make this
3959 information available to county health departments and to local
3960 emergency management agencies upon request.

3961 (d) Each person referred for contract shall not be required
3962 to continue to provide care to patients in emergency situations
3963 that are beyond the person's control and that make it impossible
3964 to provide services, such as when roads are impassable or when
3965 patients do not go to the location specified in their patient
3966 records.

3967 (e) The comprehensive emergency management plan required by
3968 this subsection is subject to review and approval by the county
3969 health department. During its review, the county health
3970 department shall contact state and local health and medical
3971 stakeholders when necessary. The county health department shall
3972 complete its review to ensure that the plan complies with the
3973 criteria in the Agency for Health Care Administration rules
3974 within 90 days after receipt of the plan and shall either approve
3975 the plan or advise the nurse registry of necessary revisions. If
3976 a nurse registry fails to submit a plan or fails to submit
3977 requested information or revisions to the county health

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3978 | department within 30 days after written notification from the
3979 | county health department, the county health department shall
3980 | notify the Agency for Health Care Administration. The agency
3981 | shall notify the nurse registry that its failure constitutes a
3982 | deficiency, subject to a fine of \$5,000 per occurrence. If the
3983 | plan is not submitted, information is not provided, or revisions
3984 | are not made as requested, the agency may impose the fine.

3985 | (f) The Agency for Health Care Administration shall adopt
3986 | rules establishing minimum criteria for the comprehensive
3987 | emergency management plan and plan updates required by this
3988 | subsection, with the concurrence of the Department of Health and
3989 | in consultation with the Department of Community Affairs.

3990 | Reviser's note.--Subsection (3) is amended to correct an
3991 | erroneous reference. Section 400.508 does not exist; ss.
3992 | 400.506-400.518 relate to licensing requirements, and the
3993 | range appears elsewhere in the section as amended by s. 80,
3994 | ch. 2007-230, Laws of Florida. Subsection (12) is amended to
3995 | correct an erroneous reference. Subsection (1) does not
3996 | reference emergencies; subsection (12) provides for a
3997 | comprehensive emergency management plan.

3998 | Section 104. Subsection (5) of section 400.995, Florida
3999 | Statutes, is amended to read:

4000 | 400.995 Agency administrative penalties.--

4001 | (5) Any clinic whose owner fails to apply for a change-of-
4002 | ownership license ~~in accordance with s. 400.992~~ and operates the
4003 | clinic under the new ownership is subject to a fine of \$5,000.

4004 | Reviser's note.--Amended to conform to the repeal of s.
4005 | 400.992 by s. 125, ch. 2007-230, Laws of Florida.

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4006 Section 105. Paragraph (a) of subsection (13) of section
4007 403.031, Florida Statutes, is amended to read:

4008 403.031 Definitions.--In construing this chapter, or rules
4009 and regulations adopted pursuant hereto, the following words,
4010 phrases, or terms, unless the context otherwise indicates, have
4011 the following meanings:

4012 (13) "Waters" include, but are not limited to, rivers,
4013 lakes, streams, springs, impoundments, wetlands, and all other
4014 waters or bodies of water, including fresh, brackish, saline,
4015 tidal, surface, or underground waters. Waters owned entirely by
4016 one person other than the state are included only in regard to
4017 possible discharge on other property or water. Underground waters
4018 include, but are not limited to, all underground waters passing
4019 through pores of rock or soils or flowing through in channels,
4020 whether manmade or natural. Solely for purposes of s. 403.0885,
4021 waters of the state also include navigable waters or waters of
4022 the contiguous zone as used in s. 502 of the Clean Water Act, as
4023 amended, 33 U.S.C. ss. 1251 et seq., as in existence on January
4024 1, 1993, except for those navigable waters seaward of the
4025 boundaries of the state set forth in s. 1, Art. II of the State
4026 Constitution. Solely for purposes of this chapter, waters of the
4027 state also include the area bounded by the following:

4028 (a) Commence at the intersection of State Road (SRD) 5
4029 (U.S. 1) and the county line dividing Miami-Dade ~~Dade~~ and Monroe
4030 Counties, said point also being the mean high-water line of
4031 Florida Bay, located in section 4, township 60 south, range 39
4032 east of the Tallahassee Meridian for the point of beginning. From
4033 said point of beginning, thence run northwesterly along said SRD
4034 5 to an intersection with the north line of section 18, township

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4035 | 58 south, range 39 east; thence run westerly to a point marking
4036 | the southeast corner of section 12, township 58 south, range 37
4037 | east, said point also lying on the east boundary of the
4038 | Everglades National Park; thence run north along the east
4039 | boundary of the aforementioned Everglades National Park to a
4040 | point marking the northeast corner of section 1, township 58
4041 | south, range 37 east; thence run west along said park to a point
4042 | marking the northwest corner of said section 1; thence run
4043 | northerly along said park to a point marking the northwest corner
4044 | of section 24, township 57 south, range 37 east; thence run
4045 | westerly along the south lines of sections 14, 15, and 16 to the
4046 | southwest corner of section 16; thence leaving the Everglades
4047 | National Park boundary run northerly along the west line of
4048 | section 16 to the northwest corner of section 16; thence east
4049 | along the northerly line of section 16 to a point at the
4050 | intersection of the east one-half and west one-half of section 9;
4051 | thence northerly along the line separating the east one-half and
4052 | the west one-half of sections 9, 4, 33, and 28; thence run
4053 | easterly along the north line of section 28 to the northeast
4054 | corner of section 28; thence run northerly along the west line of
4055 | section 22 to the northwest corner of section 22; thence easterly
4056 | along the north line of section 22 to a point at the intersection
4057 | of the east one-half and west one-half of section 15; thence run
4058 | northerly along said line to the point of intersection with the
4059 | north line of section 15; thence easterly along the north line of
4060 | section 15 to the northeast corner of section 15; thence run
4061 | northerly along the west lines of sections 11 and 2 to the
4062 | northwest corner of section 2; thence run easterly along the
4063 | north lines of sections 2 and 1 to the northeast corner of

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4064 section 1, township 56 south, range 37 east; thence run north
4065 along the east line of section 36, township 55 south, range 37
4066 east to the northeast corner of section 36; thence run west along
4067 the north line of section 36 to the northwest corner of section
4068 36; thence run north along the west line of section 25 to the
4069 northwest corner of section 25; thence run west along the north
4070 line of section 26 to the northwest corner of section 26; thence
4071 run north along the west line of section 23 to the northwest
4072 corner of section 23; thence run easterly along the north line of
4073 section 23 to the northeast corner of section 23; thence run
4074 north along the west line of section 13 to the northwest corner
4075 of section 13; thence run east along the north line of section 13
4076 to a point of intersection with the west line of the southeast
4077 one-quarter of section 12; thence run north along the west line
4078 of the southeast one-quarter of section 12 to the northwest
4079 corner of the southeast one-quarter of section 12; thence run
4080 east along the north line of the southeast one-quarter of section
4081 12 to the point of intersection with the east line of section 12;
4082 thence run east along the south line of the northwest one-quarter
4083 of section 7 to the southeast corner of the northwest one-quarter
4084 of section 7; thence run north along the east line of the
4085 northwest one-quarter of section 7 to the point of intersection
4086 with the north line of section 7; thence run northerly along the
4087 west line of the southeast one-quarter of section 6 to the
4088 northwest corner of the southeast one-quarter of section 6;
4089 thence run east along the north lines of the southeast one-
4090 quarter of section 6 and the southwest one-quarter of section 5
4091 to the northeast corner of the southwest one-quarter of section
4092 5; thence run northerly along the east line of the northwest one-

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4093 quarter of section 5 to the point of intersection with the north
4094 line of section 5; thence run northerly along the line dividing
4095 the east one-half and the west one-half of Lot 5 to a point
4096 intersecting the north line of Lot 5; thence run east along the
4097 north line of Lot 5 to the northeast corner of Lot 5, township 54
4098 1/2 south, range 38 east; thence run north along the west line of
4099 section 33, township 54 south, range 38 east to a point
4100 intersecting the northwest corner of the southwest one-quarter of
4101 section 33; thence run easterly along the north line of the
4102 southwest one-quarter of section 33 to the northeast corner of
4103 the southwest one-quarter of section 33; thence run north along
4104 the west line of the northeast one-quarter of section 33 to a
4105 point intersecting the north line of section 33; thence run
4106 easterly along the north line of section 33 to the northeast
4107 corner of section 33; thence run northerly along the west line of
4108 section 27 to a point intersecting the northwest corner of the
4109 southwest one-quarter of section 27; thence run easterly to the
4110 northeast corner of the southwest one-quarter of section 27;
4111 thence run northerly along the west line of the northeast one-
4112 quarter of section 27 to a point intersecting the north line of
4113 section 27; thence run west along the north line of section 27 to
4114 the northwest corner of section 27; thence run north along the
4115 west lines of sections 22 and 15 to the northwest corner of
4116 section 15; thence run easterly along the north lines of sections
4117 15 and 14 to the point of intersection with the L-31N Levee, said
4118 intersection located near the southeast corner of section 11,
4119 township 54 south, range 38 east; thence run northerly along
4120 Levee L-31N crossing SRD 90 (U.S. 41 Tamiami Trail) to an
4121 intersection common to Levees L-31N, L-29, and L-30, said

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4122 intersection located near the southeast corner of section 2,
4123 township 54 south, range 38 east; thence run northeasterly,
4124 northerly, and northeasterly along Levee L-30 to a point of
4125 intersection with the Miami-Dade/Broward ~~Dade/Broward~~ Levee, said
4126 intersection located near the northeast corner of section 17,
4127 township 52 south, range 39 east; thence run due east to a point
4128 of intersection with SRD 27 (Krome Ave.); thence run
4129 northeasterly along SRD 27 to an intersection with SRD 25 (U.S.
4130 27), said intersection located in section 3, township 52 south,
4131 range 39 east; thence run northerly along said SRD 25, entering
4132 into Broward County, to an intersection with SRD 84 at Andytown;
4133 thence run southeasterly along the aforementioned SRD 84 to an
4134 intersection with the southwesterly prolongation of Levee L-35A,
4135 said intersection being located in the northeast one-quarter of
4136 section 5, township 50 south, range 40 east; thence run
4137 northeasterly along Levee L-35A to an intersection of Levee L-36,
4138 said intersection located near the southeast corner of section
4139 12, township 49 south, range 40 east; thence run northerly along
4140 Levee L-36, entering into Palm Beach County, to an intersection
4141 common to said Levees L-36, L-39, and L-40, said intersection
4142 located near the west quarter corner of section 19, township 47
4143 south, range 41 east; thence run northeasterly, easterly, and
4144 northerly along Levee L-40, said Levee L-40 being the easterly
4145 boundary of the Loxahatchee National Wildlife Refuge, to an
4146 intersection with SRD 80 (U.S. 441), said intersection located
4147 near the southeast corner of section 32, township 43 south, range
4148 40 east; thence run westerly along the aforementioned SRD 80 to a
4149 point marking the intersection of said road and the northeasterly
4150 prolongation of Levee L-7, said Levee L-7 being the westerly

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4151 | boundary of the Loxahatchee National Wildlife Refuge; thence run
4152 | southwesterly and southerly along said Levee L-7 to an
4153 | intersection common to Levees L-7, L-15 (Hillsborough Canal), and
4154 | L-6; thence run southwesterly along Levee L-6 to an intersection
4155 | common to Levee L-6, SRD 25 (U.S. 27), and Levee L-5, said
4156 | intersection being located near the northwest corner of section
4157 | 27, township 47 south, range 38 east; thence run westerly along
4158 | the aforementioned Levee L-5 to a point intersecting the east
4159 | line of range 36 east; thence run northerly along said range line
4160 | to a point marking the northeast corner of section 1, township 47
4161 | south, range 36 east; thence run westerly along the north line of
4162 | township 47 south, to an intersection with Levee L-23/24 (Miami
4163 | Canal); thence run northwesterly along the Miami Canal Levee to a
4164 | point intersecting the north line of section 22, township 46
4165 | south, range 35 east; thence run westerly to a point marking the
4166 | northwest corner of section 21, township 46 south, range 35 east;
4167 | thence run southerly to the southwest corner of said section 21;
4168 | thence run westerly to a point marking the northwest corner of
4169 | section 30, township 46 south, range 35 east, said point also
4170 | being on the line dividing Palm Beach and Hendry Counties; from
4171 | said point, thence run southerly along said county line to a
4172 | point marking the intersection of Broward, Hendry, and Collier
4173 | Counties, said point also being the northeast corner of section
4174 | 1, township 49 south, range 34 east; thence run westerly along
4175 | the line dividing Hendry and Collier Counties and continuing
4176 | along the prolongation thereof to a point marking the southwest
4177 | corner of section 36, township 48 south, range 29 east; thence
4178 | run southerly to a point marking the southwest corner of section
4179 | 12, township 49 south, range 29 east; thence run westerly to a

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4180 | point marking the southwest corner of section 10, township 49
4181 | south, range 29 east; thence run southerly to a point marking the
4182 | southwest corner of section 15, township 49 south, range 29 east;
4183 | thence run westerly to a point marking the northwest corner of
4184 | section 24, township 49 south, range 28 east, said point lying on
4185 | the west boundary of the Big Cypress Area of Critical State
4186 | Concern as described in rule 28-25.001, Florida Administrative
4187 | Code; thence run southerly along said boundary crossing SRD 84
4188 | (Alligator Alley) to a point marking the southwest corner of
4189 | section 24, township 50 south, range 28 east; thence leaving the
4190 | aforementioned west boundary of the Big Cypress Area of Critical
4191 | State Concern run easterly to a point marking the northeast
4192 | corner of section 25, township 50 south, range 28 east; thence
4193 | run southerly along the east line of range 28 east to a point
4194 | lying approximately 0.15 miles south of the northeast corner of
4195 | section 1, township 52 south, range 28 east; thence run
4196 | southwesterly 2.4 miles more or less to an intersection with SRD
4197 | 90 (U.S. 41 Tamiami Trail), said intersection lying 1.1 miles
4198 | more or less west of the east line of range 28 east; thence run
4199 | northwesterly and westerly along SRD 90 to an intersection with
4200 | the west line of section 10, township 52 south, range 28 east;
4201 | thence leaving SRD 90 run southerly to a point marking the
4202 | southwest corner of section 15, township 52 south, range 28 east;
4203 | thence run westerly crossing the Faka Union Canal 0.6 miles more
4204 | or less to a point; thence run southerly and parallel to the Faka
4205 | Union Canal to a point located on the mean high-water line of
4206 | Faka Union Bay; thence run southeasterly along the mean high-
4207 | water line of the various bays, rivers, inlets, and streams to
4208 | the point of beginning.

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4209 Reviser's note.--Amended to conform to the redesignation of
4210 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-
4211 Dade County Code.

4212 Section 106. Subsection (2) of section 403.201, Florida
4213 Statutes, is amended to read:

4214 403.201 Variances.--

4215 (2) No variance shall be granted from any provision or
4216 requirement concerning discharges of waste into waters of the
4217 state or hazardous waste management which would result in the
4218 provision or requirement being less stringent than a comparable
4219 federal provision or requirement, except as provided in s.
4220 403.70715 ~~403.7221~~.

4221 Reviser's note.--Amended to conform to the redesignation of
4222 s. 403.7221 as s. 403.70715 by s. 20, ch. 2007-184, Laws of
4223 Florida.

4224 Section 107. Paragraph (a) of subsection (6) of section
4225 403.707, Florida Statutes, is amended to read:

4226 403.707 Permits.--

4227 (6) The department may issue a construction permit pursuant
4228 to this part only to a solid waste management facility that
4229 provides the conditions necessary to control the safe movement of
4230 wastes or waste constituents into surface or ground waters or the
4231 atmosphere and that will be operated, maintained, and closed by
4232 qualified and properly trained personnel. Such facility must if
4233 necessary:

4234 (a) Use natural or artificial barriers that ~~which~~ are
4235 capable of controlling lateral or vertical movement of wastes or
4236 waste constituents into surface or ground waters.

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4238 Open fires, air-curtain incinerators, or trench burning may not
4239 be used as a means of disposal at a solid waste management
4240 facility, unless permitted by the department under s. 403.087.

4241 Reviser's note.--Amended to confirm the editorial deletion
4242 of the word "which" following the word "that" to correct a
4243 drafting error that occurred in the amendment to the section
4244 by s. 12, ch. 2007-184, Laws of Florida.

4245 Section 108. Subsections (1), (2), and (3) of section
4246 403.890, Florida Statutes, as amended by section 2 of chapter
4247 2007-335, Laws of Florida, are amended to read:

4248 403.890 Water Protection and Sustainability Program;
4249 intent; goals; purposes.--

4250 (1) Effective July 1, 2006, revenues transferred from the
4251 Department of Revenue pursuant to s. 201.15(1)(d)2. shall be
4252 deposited into the Water Protection and Sustainability Program
4253 Trust Fund in the Department of Environmental Protection. These
4254 revenues and any other additional revenues deposited into or
4255 appropriated to the Water Protection and Sustainability Program
4256 Trust Fund shall be distributed by the Department of
4257 Environmental Protection in the following manner:

4258 (a) Sixty percent to the Department of Environmental
4259 Protection for the implementation of an alternative water supply
4260 program as provided in s. 373.1961.

4261 (b) Twenty percent for the implementation of best
4262 management practices and capital project expenditures necessary
4263 for the implementation of the goals of the total maximum daily
4264 load program established in s. 403.067. Of these funds, 85
4265 percent shall be transferred to the credit of the Department of
4266 Environmental Protection Water Quality Assurance Trust Fund to

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4267 | address water quality impacts associated with nonagricultural
4268 | nonpoint sources. Fifteen percent of these funds shall be
4269 | transferred to the Department of Agriculture and Consumer
4270 | Services General Inspection Trust Fund to address water quality
4271 | impacts associated with agricultural nonpoint sources. These
4272 | funds shall be used for research, development, demonstration, and
4273 | implementation of the total maximum daily load program under s.
4274 | 403.067, suitable best management practices or other measures
4275 | used to achieve water quality standards in surface waters and
4276 | water segments identified pursuant to s. 303(d) of the Clean
4277 | Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.
4278 | Implementation of best management practices and other measures
4279 | may include cost-share grants, technical assistance,
4280 | implementation tracking, and conservation leases or other
4281 | agreements for water quality improvement. The Department of
4282 | Environmental Protection and the Department of Agriculture and
4283 | Consumer Services may adopt rules governing the distribution of
4284 | funds for implementation of capital projects, best management
4285 | practices, and other measures. These funds shall not be used to
4286 | abrogate the financial responsibility of those point and nonpoint
4287 | sources that have contributed to the degradation of water or land
4288 | areas. Increased priority shall be given by the department and
4289 | the water management district governing boards to those projects
4290 | that have secured a cost-sharing agreement allocating
4291 | responsibility for the cleanup of point and nonpoint sources.
4292 | (c) Ten percent shall be disbursed for the purposes of
4293 | funding projects pursuant to ss. 373.451-373.459 or surface water
4294 | restoration activities in water-management-district-designated
4295 | priority water bodies. The Secretary of Environmental Protection

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4296 shall ensure that each water management district receives the
4297 following percentage of funds annually:

4298 1. Thirty-five percent to the South Florida Water
4299 Management District;

4300 2. Twenty-five percent to the Southwest Florida Water
4301 Management District;

4302 3. Twenty-five percent to the St. Johns River Water
4303 Management District;

4304 4. Seven and one-half percent to the Suwannee River Water
4305 Management District; and

4306 5. Seven and one-half percent to the Northwest Florida
4307 Water Management District.

4308 (d) Ten percent to the Department of Environmental
4309 Protection for the Disadvantaged Small Community Wastewater Grant
4310 Program as provided in s. 403.1838.

4311 (2) Applicable beginning in the 2007-2008 fiscal year,
4312 revenues transferred from the Department of Revenue pursuant to
4313 s. 201.15(1)(d)2. shall be deposited into the Water Protection
4314 and Sustainability Program Trust Fund in the Department of
4315 Environmental Protection. These revenues and any other additional
4316 revenues deposited into or appropriated to the Water Protection
4317 and Sustainability Program Trust Fund shall be distributed by the
4318 Department of Environmental Protection in the following manner:

4319 (a) Sixty-five percent to the Department of Environmental
4320 Protection for the implementation of an alternative water supply
4321 program as provided in s. 373.1961.

4322 (b) Twenty-two and five-tenths percent for the
4323 implementation of best management practices and capital project
4324 expenditures necessary for the implementation of the goals of the

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4325 | total maximum daily load program established in s. 403.067. Of
4326 | these funds, 83.33 percent shall be transferred to the credit of
4327 | the Department of Environmental Protection Water Quality
4328 | Assurance Trust Fund to address water quality impacts associated
4329 | with nonagricultural nonpoint sources. Sixteen and sixty-seven
4330 | hundredths percent of these funds shall be transferred to the
4331 | Department of Agriculture and Consumer Services General
4332 | Inspection Trust Fund to address water quality impacts associated
4333 | with agricultural nonpoint sources. These funds shall be used for
4334 | research, development, demonstration, and implementation of the
4335 | total maximum daily load program under s. 403.067, suitable best
4336 | management practices or other measures used to achieve water
4337 | quality standards in surface waters and water segments identified
4338 | pursuant to s. 303(d) of the Clean Water Act, Pub. L. No. 92-500,
4339 | 33 U.S.C. ss. 1251 et seq. Implementation of best management
4340 | practices and other measures may include cost-share grants,
4341 | technical assistance, implementation tracking, and conservation
4342 | leases or other agreements for water quality improvement. The
4343 | Department of Environmental Protection and the Department of
4344 | Agriculture and Consumer Services may adopt rules governing the
4345 | distribution of funds for implementation of capital projects,
4346 | best management practices, and other measures. These funds shall
4347 | not be used to abrogate the financial responsibility of those
4348 | point and nonpoint sources that have contributed to the
4349 | degradation of water or land areas. Increased priority shall be
4350 | given by the department and the water management district
4351 | governing boards to those projects that have secured a cost-
4352 | sharing agreement allocating responsibility for the cleanup of
4353 | point and nonpoint sources.

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4354 (c) Twelve and five-tenths percent to the Department of
4355 Environmental Protection for the Disadvantaged Small Community
4356 Wastewater Grant Program as provided in s. 403.1838.

4357 (d) On June 30, 2009, and every 24 months thereafter, the
4358 Department of Environmental Protection shall request the return
4359 of all unencumbered funds distributed pursuant to this section.
4360 These funds shall be deposited into the Water Protection and
4361 Sustainability Program Trust Fund and redistributed pursuant to
4362 the provisions of this section.

4363 (3) For fiscal year 2005-2006, funds deposited or
4364 appropriated into the Water Protection and Sustainability Program
4365 Trust Fund shall be distributed as follows:

4366 (a) One hundred million dollars to the Department of
4367 Environmental Protection for the implementation of an alternative
4368 water supply program as provided in s. 373.1961.

4369 (b) Funds remaining after the distribution provided for in
4370 subsection (1) shall be distributed as follows:

4371 1. Fifty percent for the implementation of best management
4372 practices and capital project expenditures necessary for the
4373 implementation of the goals of the total maximum daily load
4374 program established in s. 403.067. Of these funds, 85 percent
4375 shall be transferred to the credit of the Department of
4376 Environmental Protection Water Quality Assurance Trust Fund to
4377 address water quality impacts associated with nonagricultural
4378 nonpoint sources. Fifteen percent of these funds shall be
4379 transferred to the Department of Agriculture and Consumer
4380 Services General Inspection Trust Fund to address water quality
4381 impacts associated with agricultural nonpoint sources. These
4382 funds shall be used for research, development, demonstration, and

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4383 implementation of suitable best management practices or other
4384 measures used to achieve water quality standards in surface
4385 waters and water segments identified pursuant to s. 303(d) of the
4386 Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.
4387 Implementation of best management practices and other measures
4388 may include cost-share grants, technical assistance,
4389 implementation tracking, and conservation leases or other
4390 agreements for water quality improvement. The Department of
4391 Environmental Protection and the Department of Agriculture and
4392 Consumer Services may adopt rules governing the distribution of
4393 funds for implementation of best management practices. These
4394 funds shall not be used to abrogate the financial responsibility
4395 of those point and nonpoint sources that have contributed to the
4396 degradation of water or land areas. Increased priority shall be
4397 given by the department and the water management district
4398 governing boards to those projects that have secured a cost-
4399 sharing agreement allocating responsibility for the cleanup of
4400 point and nonpoint sources.

4401 2. Twenty-five percent for the purposes of funding projects
4402 pursuant to ss. 373.451-373.459 or surface water restoration
4403 activities in water-management-district-designated priority water
4404 bodies. The Secretary of Environmental Protection shall ensure
4405 that each water management district receives the following
4406 percentage of funds annually:

4407 a. Thirty-five percent to the South Florida Water
4408 Management District;

4409 b. Twenty-five percent to the Southwest Florida Water
4410 Management District;

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4411 c. Twenty-five percent to the St. Johns River Water
4412 Management District;

4413 d. Seven and one-half percent to the Suwannee River Water
4414 Management District; and

4415 e. Seven and one-half percent to the Northwest Florida
4416 Water Management District.

4417 3. Twenty-five percent to the Department of Environmental
4418 Protection for the Disadvantaged Small Community Wastewater Grant
4419 Program as provided in s. 403.1838.

4420
4421 Prior to the end of the 2008 Regular Session, the Legislature
4422 must review the distribution of funds under the Water Protection
4423 and Sustainability Program to determine if revisions to the
4424 funding formula are required. At the discretion of the President
4425 of the Senate and the Speaker of the House of Representatives,
4426 the appropriate substantive committees of the Legislature may
4427 conduct an interim project to review the Water Protection and
4428 Sustainability Program and the funding formula and make written
4429 recommendations to the Legislature proposing necessary changes,
4430 if any.

4431 Reviser's note.--Amended to confirm the insertion of the
4432 word "Program" by the editors to conform to the name of the
4433 trust fund at s. 403.891, which creates the fund.

4434 Section 109. Section 403.8911, Florida Statutes, is amended
4435 to read:

4436 403.8911 Annual appropriation from the Water Protection and
4437 Sustainability Program Trust Fund.--

4438 (1) Funds paid into the Water Protection and Sustainability
4439 Program Trust Fund pursuant to s. 201.15(1)(d) are hereby

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4440 annually appropriated for expenditure for the purposes for which
4441 the Water Protection and Sustainability Program Trust Fund is
4442 established.

4443 (2) If the Water Protection and Sustainability Program
4444 Trust Fund is not created, such funds are hereby annually
4445 appropriated for expenditure from the Ecosystem Management and
4446 Restoration Trust Fund solely for the purposes established in s.
4447 403.890.

4448 Reviser's note.--Amended to conform to the name of the trust
4449 fund at s. 403.891, which creates the fund.

4450 Section 110. Subsections (6), (7), and (12) and paragraph
4451 (b) of subsection (13) of section 403.973, Florida Statutes, are
4452 amended to read:

4453 403.973 Expedited permitting; comprehensive plan
4454 amendments.--

4455 (6) The local government shall hold a duly noticed public
4456 hearing to execute a memorandum of agreement for each qualified
4457 project. Notwithstanding any other provision of law, and at the
4458 option of the local government, the workshop provided for in
4459 subsection (5) ~~(6)~~ may be conducted on the same date as the
4460 public hearing held under this subsection. The memorandum of
4461 agreement that a local government signs shall include a provision
4462 identifying necessary local government procedures and time limits
4463 that will be modified to allow for the local government decision
4464 on the project within 90 days. The memorandum of agreement
4465 applies to projects, on a case-by-case basis, that qualify for
4466 special review and approval as specified in this section. The
4467 memorandum of agreement must make it clear that this expedited
4468 permitting and review process does not modify, qualify, or

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4469 otherwise alter existing local government nonprocedural standards
4470 for permit applications, unless expressly authorized by law.

4471 (7) At the option of the participating local government,
4472 appeals of its final approval for a project may be pursuant to
4473 the summary hearing provisions of s. 120.574, pursuant to
4474 subsection (14) ~~(15)~~, or pursuant to other appellate processes
4475 available to the local government. The local government's
4476 decision to enter into a summary hearing must be made as provided
4477 in s. 120.574 or in the memorandum of agreement.

4478 (12) The applicant, the regional permit action team, and
4479 participating local governments may agree to incorporate into a
4480 single document the permits, licenses, and approvals that are
4481 obtained through the expedited permit process. This consolidated
4482 permit is subject to the summary hearing provisions set forth in
4483 subsection (14) ~~(15)~~.

4484 (13) Notwithstanding any other provisions of law:

4485 (b) Projects qualified under this section are not subject
4486 to interstate highway level-of-service standards adopted by the
4487 Department of Transportation for concurrency purposes. The
4488 memorandum of agreement specified in subsection (5) ~~(6)~~ must
4489 include a process by which the applicant will be assessed a fair
4490 share of the cost of mitigating the project's significant traffic
4491 impacts, as defined in chapter 380 and related rules. The
4492 agreement must also specify whether the significant traffic
4493 impacts on the interstate system will be mitigated through the
4494 implementation of a project or payment of funds to the Department
4495 of Transportation. Where funds are paid, the Department of
4496 Transportation must include in the 5-year work program
4497 transportation projects or project phases, in an amount equal to

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4498 | the funds received, to mitigate the traffic impacts associated
4499 | with the proposed project.

4500 | Reviser's note.--Amended to conform to the repeal of former
4501 | subsection (4) by s. 23, ch. 2007-105, Laws Of Florida.

4502 | Section 111. Subsection (5) of section 408.032, Florida
4503 | Statutes, is amended to read:

4504 | 408.032 Definitions relating to Health Facility and
4505 | Services Development Act.--As used in ss. 408.031-408.045, the
4506 | term:

4507 | (5) "District" means a health service planning district
4508 | composed of the following counties:

4509 | District 1.--Escambia, Santa Rosa, Okaloosa, and Walton
4510 | Counties.

4511 | District 2.--Holmes, Washington, Bay, Jackson, Franklin,
4512 | Gulf, Gadsden, Liberty, Calhoun, Leon, Wakulla, Jefferson,
4513 | Madison, and Taylor Counties.

4514 | District 3.--Hamilton, Suwannee, Lafayette, Dixie, Columbia,
4515 | Gilchrist, Levy, Union, Bradford, Putnam, Alachua, Marion,
4516 | Citrus, Hernando, Sumter, and Lake Counties.

4517 | District 4.--Baker, Nassau, Duval, Clay, St. Johns, Flagler,
4518 | and Volusia Counties.

4519 | District 5.--Pasco and Pinellas Counties.

4520 | District 6.--Hillsborough, Manatee, Polk, Hardee, and
4521 | Highlands Counties.

4522 | District 7.--Seminole, Orange, Osceola, and Brevard
4523 | Counties.

4524 | District 8.--Sarasota, DeSoto, Charlotte, Lee, Glades,
4525 | Hendry, and Collier Counties.

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4526 District 9.--Indian River, Okeechobee, St. Lucie, Martin,
4527 and Palm Beach Counties.

4528 District 10.--Broward County.

4529 District 11.--Miami-Dade ~~Dade~~ and Monroe Counties.

4530 Reviser's note.--Amended to conform to the redesignation of
4531 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-
4532 Dade County Code.

4533 Section 112. Paragraph (b) of subsection (2) of section
4534 409.166, Florida Statutes, is amended to read:

4535 409.166 Children within the child welfare system; adoption
4536 assistance program.--

4537 (2) DEFINITIONS.--As used in this section, the term:

4538 (b) "Adoption assistance" means financial assistance and
4539 services provided to a child and his or her adoptive family. Such
4540 assistance may include a maintenance subsidy, medical assistance,
4541 Medicaid assistance, and reimbursement of nonrecurring expenses
4542 associated with the legal adoption. The term also includes a
4543 tuition exemption at a postsecondary career program, community
4544 college, or state university, and a state employee adoption
4545 benefit under s. 409.1663 ~~110.152~~.

4546 Reviser's note.--Amended to conform to the repeal of s.
4547 110.152 by s. 3, ch. 2007-119, Laws of Florida, and the
4548 enactment of similar provisions in s. 409.1663 by s. 1, ch.
4549 2007-119.

4550 Section 113. Subsection (2) of section 409.1677, Florida
4551 Statutes, is amended to read:

4552 409.1677 Model comprehensive residential services
4553 programs.--

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4554 (2) The department shall establish a model comprehensive
4555 residential services program in ~~Dade and~~ Manatee and Miami-Dade
4556 Counties through a contract with the designated lead agency
4557 established in accordance with s. 409.1671 or with a private
4558 entity capable of providing residential group care and home-based
4559 care and experienced in the delivery of a range of services to
4560 foster children, if no lead agency exists. These model programs
4561 are to serve that portion of eligible children within each county
4562 which is specified in the contract, based on funds appropriated,
4563 to include a full array of services for a fixed price. The
4564 private entity or lead agency is responsible for all programmatic
4565 functions necessary to carry out the intent of this section.

4566 Reviser's note.--Amended to conform to the redesignation of
4567 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-
4568 Dade County Code.

4569 Section 114. Subsection (2) of section 409.25661, Florida
4570 Statutes, is amended to read:

4571 409.25661 Public records exemption for insurance claim data
4572 exchange information.--

4573 (2) This section is subject to the Open Government Sunset
4574 Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand
4575 repealed on October 2, 2009, unless reviewed and saved from
4576 repeal through reenactment by the Legislature.

4577 Reviser's note.--Amended to conform to the renaming of the
4578 "Open Government Sunset Review Act of 1995" as the "Open
4579 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws
4580 of Florida.

4581 Section 115. Subsection (4) of section 413.271, Florida
4582 Statutes, is repealed.

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4583 Reviser's note.--Repealed to delete obsolete provisions. The
4584 cited subsection provided that the Florida Coordinating
4585 Council for the Deaf and Hard of Hearing provide reports and
4586 recommendations by January 1, 2005, and January 1, 2006.

4587 Section 116. Paragraph (d) of subsection (12) of section
4588 420.5095, Florida Statutes, is amended to read:

4589 420.5095 Community Workforce Housing Innovation Pilot
4590 Program.--

4591 (12) All eligible applications shall:

4592 (d) Have grants, donations of land, or contributions from
4593 the public-private partnership or other sources collectively
4594 totaling at least 10 percent of the total development cost or \$2
4595 million, whichever is less. Such grants, donations of land, or
4596 contributions must be evidenced by a letter of commitment, ~~an~~
4597 agreement, contract, deed, memorandum of understanding, or other
4598 written instrument at the time of application. Grants, donations
4599 of land, or contributions in excess of 10 percent of the
4600 development cost shall increase the application score.

4601 Reviser's note.--Amended to confirm the editorial deletion
4602 of the word "an" following the word "commitment" to correct
4603 sentence construction.

4604 Section 117. Subsection (2) of section 420.9076, Florida
4605 Statutes, is amended to read:

4606 420.9076 Adoption of affordable housing incentive
4607 strategies; committees.--

4608 (2) The governing board of a county or municipality shall
4609 appoint the members of the affordable housing advisory committee
4610 by resolution. Pursuant to the terms of any interlocal agreement,
4611 a county and municipality may create and jointly appoint an

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4612 advisory committee to prepare a joint plan. The ordinance adopted
4613 pursuant to s. 420.9072 which creates the advisory committee or
4614 the resolution appointing the advisory committee members must
4615 provide for 11 committee members and their terms. The committee
4616 must include:

4617 (a) One citizen who is actively engaged in the residential
4618 home building industry in connection with affordable housing.

4619 (b) One citizen who is actively engaged in the banking or
4620 mortgage banking industry in connection with affordable housing.

4621 (c) One citizen who is a representative of those areas of
4622 labor actively engaged in home building in connection with
4623 affordable housing.

4624 (d) One citizen who is actively engaged as an advocate for
4625 low-income persons in connection with affordable housing.

4626 (e) One citizen who is actively engaged as a for-profit
4627 provider of affordable housing.

4628 (f) One citizen who is actively engaged as a not-for-profit
4629 provider of affordable housing.

4630 (g) One citizen who is actively engaged as a real estate
4631 professional in connection with affordable housing.

4632 (h) One citizen who actively serves on the local planning
4633 agency pursuant to s. 163.3174.

4634 (i) One citizen who resides within the jurisdiction of the
4635 local governing body making the appointments.

4636 (j) One citizen who represents employers within the
4637 jurisdiction.

4638 (k) One citizen who represents essential services
4639 personnel, as defined in the local housing assistance plan.
4640

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4641 If a county or eligible municipality whether due to its small
4642 size, the presence of a conflict of interest by prospective
4643 appointees, or other reasonable factor, is unable to appoint a
4644 citizen actively engaged in these activities in connection with
4645 affordable housing, a citizen engaged in the activity without
4646 regard to affordable housing may be appointed. Local governments
4647 that receive the minimum allocation under the State Housing
4648 Initiatives Partnership Program may elect to appoint an
4649 affordable housing advisory committee with fewer than 11
4650 representatives if they are unable to find representatives who
4651 ~~that~~ meet the criteria of paragraphs (a)-(k).

4652 Reviser's note.--Amended to confirm the editorial
4653 substitution of the word "who" for the word "that" to
4654 improve clarity and facilitate correct interpretation.

4655 Section 118. Subsection (2) of section 429.35, Florida
4656 Statutes, is amended to read:

4657 429.35 Maintenance of records; reports.--

4658 (2) Within 60 days after the date of the biennial
4659 inspection visit required under s. 408.811 or within 30 days
4660 after the date of any interim visit, the agency shall forward the
4661 results of the inspection to the local ombudsman council in whose
4662 planning and service area, as defined in part II ~~F~~ of chapter
4663 400, the facility is located; to at least one public library or,
4664 in the absence of a public library, the county seat in the county
4665 in which the inspected assisted living facility is located; and,
4666 when appropriate, to the district Adult Services and Mental
4667 Health Program Offices.

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4668 Reviser's note.--Amended to correct an erroneous reference.
4669 "Planning and service area" is defined in part II of chapter
4670 400.

4671 Section 119. Subsection (1) of section 429.907, Florida
4672 Statutes, is amended to read:

4673 429.907 License requirement; fee; exemption; display.--

4674 (1) The requirements of part II of chapter 408 apply to the
4675 provision of services that require licensure pursuant to this
4676 part and part II of chapter 408 and to entities licensed by or
4677 applying for such licensure from the Agency for Health Care
4678 Administration pursuant to this part. A license issued by the
4679 agency is required in order to operate an adult day care center
4680 in this state.

4681 Reviser's note.--Amended to confirm the editorial insertion
4682 of the word "center" to improve clarity and facilitate
4683 correct interpretation.

4684 Section 120. Subsection (4) of section 440.3851, Florida
4685 Statutes, is amended to read:

4686 440.3851 Public records and public meetings exemptions.--

4687 (4) This section is subject to the Open Government Sunset
4688 Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand
4689 repealed on October 2, 2010, unless reviewed and saved from
4690 repeal through reenactment by the Legislature.

4691 Reviser's note.--Amended to conform to the renaming of the
4692 "Open Government Sunset Review Act of 1995" as the "Open
4693 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws
4694 of Florida.

4695 Section 121. Paragraph (i) of subsection (5) of section
4696 445.004, Florida Statutes, is repealed.

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4697 Reviser's note.--The referenced subsection, which relates to
4698 Enterprise Florida, Inc., working with the Department of
4699 Education and Workforce Florida, Inc., in designating
4700 districts to participate in the CHOICE project under
4701 repealed s. 1003.494, has served its purpose.

4702 Section 122. Section 446.43, Florida Statutes, is amended
4703 to read:

4704 446.43 Scope and coverage of Rural Workforce Services
4705 Program.--The scope of the area to be covered by the Rural
4706 Workforce Services Program will include all counties of the state
4707 not classified as standard metropolitan statistical areas (SMSA)
4708 by the United States Department of Labor Manpower Administration.
4709 Florida's designated SMSA labor areas include: Broward, Miami-
4710 Dade ~~Dade~~, Duval, Escambia, Hillsborough, Pinellas, Leon, Orange,
4711 and Palm Beach Counties.

4712 Reviser's note.--Amended to conform to the redesignation of
4713 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-
4714 Dade County Code.

4715 Section 123. Paragraph (g) of subsection (1) of section
4716 468.832, Florida Statutes, is amended to read:

4717 468.832 Disciplinary proceedings.--

4718 (1) The following acts constitute grounds for which the
4719 disciplinary actions in subsection (2) may be taken:

4720 (g) Engaging in fraud or deceit, or ~~of~~ negligence,
4721 incompetency, or misconduct, in the practice of home inspection
4722 services;

4723 Reviser's note.--Amended to confirm the editorial deletion
4724 of the word "of" preceding the word "negligence" to correct
4725 sentence structure and facilitate correct interpretation.

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4726 Section 124. Paragraph (c) of subsection (1) of section
4727 468.8419, Florida Statutes, is amended to read:

4728 468.8419 Prohibitions; penalties.--

4729 (1) A mold assessor, a company that employs a mold
4730 assessor, or a company that is controlled by a company that also
4731 has a financial interest in a company employing a mold assessor
4732 may not:

4733 (c) Use the name or title "certified mold assessor,"
4734 "registered mold assessor," "licensed mold assessor," "mold
4735 assessor," "professional mold assessor," or any combination
4736 thereof unless the person has complied with the provisions of
4737 this part.

4738 Reviser's note.--Amended to confirm the editorial insertion
4739 of the word "of" to correct sentence structure.

4740 Section 125. Paragraph (g) of subsection (1) of section
4741 468.842, Florida Statutes, is amended to read:

4742 468.842 Disciplinary proceedings.--

4743 (1) The following acts constitute grounds for which the
4744 disciplinary actions in subsection (2) may be taken:

4745 (g) Engaging in fraud or deceit, or ~~of~~ negligence,
4746 incompetency, or misconduct, in the practice of mold assessment
4747 or mold remediation;

4748 Reviser's note.--Amended to confirm the editorial deletion
4749 of the word "of" preceding the word "negligence" to correct
4750 sentence structure and facilitate correct interpretation.

4751 Section 126. Subsection (5) of section 477.0135, Florida
4752 Statutes, is amended to read:

4753 477.0135 Exemptions.--

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4754 (5) A license is not required of any individual providing
4755 makeup, special effects, or cosmetology services to an actor,
4756 stunt person, musician, extra, or other talent during a
4757 production recognized by the Office of Film and Entertainment as
4758 a qualified production as defined in s. 288.1254(1) ~~288.1254(2)~~.
4759 Such services are not required to be performed in a licensed
4760 salon. Individuals exempt under this subsection may not provide
4761 such services to the general public.

4762 Reviser's note.--Amended to conform to the substantial
4763 rewording of s. 288.1254 by s. 2, ch. 2007-125, Laws of
4764 Florida; s. 288.1254(1) now defines a qualified production.
4765 Section 127. Subsection (6) of section 481.215, Florida
4766 Statutes, is amended to read:

4767 481.215 Renewal of license.--

4768 (6) The board shall require, by rule adopted pursuant to
4769 ss. 120.536(1) and 120.54, a specified number of hours in
4770 specialized or advanced courses, approved by the Florida Building
4771 Commission, on any portion of the Florida Building Code, adopted
4772 pursuant to part IV ~~VII~~ of chapter 553, relating to the
4773 licensee's respective area of practice.

4774 Reviser's note.--Amended to correct an erroneous reference.
4775 Part VII of chapter 553 relates to standards for radon-
4776 resistant buildings; part IV of chapter 553 relates to the
4777 Florida Building Code.

4778 Section 128. Subsection (6) of section 481.313, Florida
4779 Statutes, is amended to read:

4780 481.313 Renewal of license.--

4781 (6) The board shall require, by rule adopted pursuant to
4782 ss. 120.536(1) and 120.54, a specified number of hours in

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4783 specialized or advanced courses, approved by the Florida Building
4784 Commission, on any portion of the Florida Building Code, adopted
4785 pursuant to part IV ~~VII~~ of chapter 553, relating to the
4786 licensee's respective area of practice.

4787 Reviser's note.--Amended to correct an erroneous reference.
4788 Part VII of chapter 553 relates to standards for radon-
4789 resistant buildings; part IV of chapter 553 relates to the
4790 Florida Building Code.

4791 Section 129. Subsection (1) of section 487.048, Florida
4792 Statutes, is amended to read:

4793 487.048 Dealer's license; records.--

4794 (1) Each person holding or offering for sale, selling, or
4795 distributing restricted-use pesticides shall obtain a dealer's
4796 license from the department. Application for the license shall be
4797 made on a form prescribed by the department. The license must be
4798 obtained before entering into business or transferring ownership
4799 of a business. The department may require examination or other
4800 proof of competency of individuals to whom licenses are issued or
4801 of individuals employed by persons to whom licenses are issued.
4802 Demonstration of continued competency may be required for license
4803 renewal, as set by rule. The license shall be renewed annually as
4804 provided by rule. An annual license fee not exceeding \$250 shall
4805 be established by rule. However, a user of a restricted-use
4806 pesticide may distribute unopened containers of a properly
4807 labeled pesticide to another user who is legally entitled to use
4808 that restricted-use pesticide without obtaining a pesticide
4809 dealer's license. The exclusive purpose of distribution of the
4810 restricted-use pesticide is to keep it from becoming a hazardous
4811 waste as defined in s. 403.703(13) ~~403.703(21)~~.

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4812 Reviser's note.--Amended to conform to the substantial
4813 rewording of s. 403.703 by s. 6, ch. 2007-184, Laws of
4814 Florida; s. 403.703(13) now defines hazardous waste.
4815 Section 130. Paragraph (b) of subsection (4) and subsection
4816 (9) of section 489.115, Florida Statutes, are amended to read:
4817 489.115 Certification and registration; endorsement;
4818 reciprocity; renewals; continuing education.--
4819 (4)
4820 (b)1. Each certificateholder or registrant shall provide
4821 proof, in a form established by rule of the board, that the
4822 certificateholder or registrant has completed at least 14
4823 classroom hours of at least 50 minutes each of continuing
4824 education courses during each biennium since the issuance or
4825 renewal of the certificate or registration. The board shall
4826 establish by rule that a portion of the required 14 hours must
4827 deal with the subject of workers' compensation, business
4828 practices, workplace safety, and, for applicable licensure
4829 categories, wind mitigation methodologies, and 1 hour of which
4830 must deal with laws and rules. The board shall by rule establish
4831 criteria for the approval of continuing education courses and
4832 providers, including requirements relating to the content of
4833 courses and standards for approval of providers, and may by rule
4834 establish criteria for accepting alternative nonclassroom
4835 continuing education on an hour-for-hour basis. The board shall
4836 prescribe by rule the continuing education, if any, which is
4837 required during the first biennium of initial licensure. A person
4838 who has been licensed for less than an entire biennium must not
4839 be required to complete the full 14 hours of continuing
4840 education.

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4841 2. In addition, the board may approve specialized
4842 continuing education courses on compliance with the wind
4843 resistance provisions for one and two family dwellings contained
4844 in the Florida Building Code and any alternate methodologies for
4845 providing such wind resistance which have been approved for use
4846 by the Florida Building Commission. Division I certificateholders
4847 or registrants who demonstrate proficiency upon completion of
4848 such specialized courses may certify plans and specifications for
4849 one and two family dwellings to be in compliance with the code or
4850 alternate methodologies, as appropriate, except for dwellings
4851 located in floodways or coastal hazard areas as defined in ss.
4852 60.3D and E of the National Flood Insurance Program.

4853 3. Each certificateholder or registrant shall provide to
4854 the board proof of completion of the core curriculum courses, or
4855 passing the equivalency test of the Building Code Training
4856 Program established under s. 553.841, specific to the licensing
4857 category sought, within 2 years after commencement of the program
4858 or of initial certification or registration, whichever is later.
4859 Classroom hours spent taking core curriculum courses shall count
4860 toward the number required for renewal of certificates or
4861 registration. A certificateholder or registrant who passes the
4862 equivalency test in lieu of taking the core curriculum courses
4863 shall receive full credit for core curriculum course hours.

4864 4. The board shall require, by rule adopted pursuant to ss.
4865 120.536(1) and 120.54, a specified number of hours in specialized
4866 or advanced module courses, approved by the Florida Building
4867 Commission, on any portion of the Florida Building Code, adopted
4868 pursuant to part IV ~~VII~~ of chapter 553, relating to the
4869 contractor's respective discipline.

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4870 (9) An initial applicant shall submit, along with the
4871 application, a complete set of fingerprints in a form and manner
4872 required by the department. The fingerprints shall be submitted
4873 to the Department of Law Enforcement for state processing, and
4874 the Department of Law Enforcement shall forward them to the
4875 Federal Bureau of Investigation for the purpose of conducting a
4876 level 2 background check pursuant to s. 435.04. The department
4877 shall and the board may review the background results to
4878 determine if an applicant meets licensure requirements. The cost
4879 for the fingerprint processing shall be borne by the person
4880 subject to the background screening. These fees are to be
4881 collected by the authorized agencies or vendors. The authorized
4882 agencies or vendors are responsible for paying the processing
4883 costs to the Department of Law Enforcement.

4884 Reviser's note.--Paragraph (4) (b) is amended to correct an
4885 erroneous reference. Part VII of chapter 553 relates to
4886 standards for radon-resistant buildings; part IV of chapter
4887 553 relates to the Florida Building Code. Subsection (9) is
4888 amended to confirm the editorial insertion of the word "of"
4889 to correct sentence construction.

4890 Section 131. Paragraph (h) of subsection (1) of section
4891 489.127, Florida Statutes, is amended to read:

4892 489.127 Prohibitions; penalties.--

4893 (1) No person shall:

4894 (h) Commence or perform work for which a building permit is
4895 required pursuant to part IV ~~VII~~ of chapter 553 without such
4896 building permit being in effect; or

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4898 For purposes of this subsection, a person or business
4899 organization operating on an inactive or suspended certificate,
4900 registration, or certificate of authority is not duly certified
4901 or registered and is considered unlicensed. A business tax
4902 receipt issued under the authority of chapter 205 is not a
4903 license for purposes of this part.

4904 Reviser's note.--Amended to correct an erroneous reference.
4905 Part VII of chapter 553 relates to standards for radon-
4906 resistant buildings; part IV of chapter 553 relates to the
4907 Florida Building Code and required building permits.

4908 Section 132. Subsection (6) of section 489.517, Florida
4909 Statutes, is amended to read:

4910 489.517 Renewal of certificate or registration; continuing
4911 education.--

4912 (6) The board shall require, by rule adopted pursuant to
4913 ss. 120.536(1) and 120.54, a specialized number of hours in
4914 specialized or advanced module courses, approved by the Florida
4915 Building Commission, on any portion of the Florida Building Code,
4916 adopted pursuant to part IV ~~VII~~ of chapter 553, relating to the
4917 contractor's respective discipline.

4918 Reviser's note.--Amended to correct an erroneous reference.
4919 Part VII of chapter 553 relates to standards for radon-
4920 resistant buildings; part IV of chapter 553 relates to the
4921 Florida Building Code.

4922 Section 133. Paragraph (i) of subsection (1) of section
4923 489.531, Florida Statutes, is amended to read:

4924 489.531 Prohibitions; penalties.--

4925 (1) A person may not:

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4926 (i) Commence or perform work for which a building permit is
4927 required pursuant to part IV ~~VII~~ of chapter 553 without the
4928 building permit being in effect; or

4929 Reviser's note.--Amended to correct an erroneous reference.

4930 Part VII of chapter 553 relates to standards for radon-
4931 resistant buildings; part IV of chapter 553 relates to the
4932 Florida Building Code.

4933 Section 134. Subsection (5) of section 497.172, Florida
4934 Statutes, is amended to read:

4935 497.172 Public records exemptions; public meetings
4936 exemptions.--

4937 (5) REVIEW AND REPEAL.--This section is subject to the Open
4938 Government Sunset Review Act ~~of 1995~~ in accordance with s.
4939 119.15, and shall stand repealed on October 2, 2010, unless
4940 reviewed and saved from repeal through reenactment by the
4941 Legislature.

4942 Reviser's note.--Amended to conform to the renaming of the
4943 "Open Government Sunset Review Act of 1995" as the "Open
4944 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws
4945 of Florida.

4946 Section 135. Subsection (3) of section 497.271, Florida
4947 Statutes, is amended to read:

4948 497.271 Standards for construction and significant
4949 alteration or renovation of mausoleums and columbaria.--

4950 (3) The licensing authority shall transmit the rules as
4951 adopted under subsection (2), hereinafter referred to as the
4952 "mausoleum standards," to the Florida Building Commission, which
4953 shall initiate rulemaking under chapter 120 to consider such
4954 mausoleum standards. If such mausoleum standards are not deemed

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4955 acceptable, they shall be returned by the Florida Building
4956 Commission to the licensing authority with details of changes
4957 needed to make them acceptable. If such mausoleum standards are
4958 acceptable, the Florida Building Commission shall adopt a rule
4959 designating the mausoleum standards as an approved revision to
4960 the State Minimum Building Codes under part IV ~~VII~~ of chapter
4961 553. When so designated by the Florida Building Commission, such
4962 mausoleum standards shall become a required element of the State
4963 Minimum Building Codes under s. 553.73(2) and shall be
4964 transmitted to each local enforcement agency, as defined in s.
4965 553.71(5). Such local enforcement agency shall consider and
4966 inspect for compliance with such mausoleum standards as if they
4967 were part of the local building code, but shall have no
4968 continuing duty to inspect after final approval of the
4969 construction pursuant to the local building code. Any further
4970 amendments to the mausoleum standards shall be accomplished by
4971 the same procedure. Such designated mausoleum standards, as from
4972 time to time amended, shall be a part of the State Minimum
4973 Building Codes under s. 553.73 until the adoption and effective
4974 date of a new statewide uniform minimum building code, which may
4975 supersede the mausoleum standards as provided by the law enacting
4976 the new statewide uniform minimum building code.

4977 Reviser's note.--Amended to correct an erroneous reference.
4978 Part VII of chapter 553 relates to standards for radon-
4979 resistant buildings; part IV of chapter 553 relates to the
4980 Florida Building Code.

4981 Section 136. Paragraph (b) of subsection (8) of section
4982 497.466, Florida Statutes, is repealed.

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4983 Reviser's note.--The cited paragraph, which provided that
4984 persons holding preneed sales agent licenses in good
4985 standing under former s. 497.439 as of September 30, 2005,
4986 were deemed to hold permanent preneed sales agent licenses
4987 or licenses by appointment by preneed licensees as of
4988 October 1, 2005, has served its purpose. Section 497.439 was
4989 redesignated as s. 497.466, effective October 1, 2005, by s.
4990 115, ch. 2004-301, Laws of Florida.

4991 Section 137. Subsection (3) of section 500.148, Florida
4992 Statutes, is amended to read:

4993 500.148 Reports and dissemination of information;
4994 confidentiality.--

4995 (3) Information deemed confidential under 21 C.F.R. part
4996 20.61, part 20.62, or part 20.88, or 5 U.S.C. s. 552(b), and
4997 which is provided to the department during a joint food safety or
4998 food illness investigation, as a requirement for conducting a
4999 federal-state contract or partnership activity, or for regulatory
5000 review, is confidential and exempt from s. 119.07(1) and s.
5001 24(a), Art. I of the State Constitution. Such information may not
5002 be disclosed except under a final determination by the
5003 appropriate federal agencies that such records are no longer
5004 entitled to protection, or pursuant to an order of the court.
5005 This section is subject to the Open Government Sunset Review Act
5006 ~~of 1995~~ in accordance with s. 119.15, and shall stand repealed on
5007 October 2, 2008, unless reviewed and saved from repeal through
5008 reenactment by the Legislature.

5009 Reviser's note.--Amended to conform to the renaming of the
5010 "Open Government Sunset Review Act of 1995" as the "Open

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5011 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws
5012 of Florida.

5013 Section 138. Paragraph (b) of subsection (1) of section
5014 501.022, Florida Statutes, is amended to read:

5015 501.022 Home solicitation sale; permit required.--

5016 (1)

5017 (b) The following are excluded from the operation of this
5018 section:

5019 1. Bona fide agents, business representatives, or
5020 salespersons making calls or soliciting orders at the usual place
5021 of business of a customer regarding products or services for use
5022 in connection with the customer's business.

5023 2. Solicitors, salespersons, or agents making a call or
5024 business visit upon the express invitation, oral or written, of
5025 an inhabitant of the premises or her or his agent.

5026 3. Telephone solicitors, salespersons, or agents making
5027 calls which involve transactions that are unsolicited by the
5028 consumer and consummated by telephone and without any other
5029 contact between the buyer and the seller or its representative
5030 prior to delivery of the goods or performance of the services.

5031 4. Solicitors, salespersons, or agents conducting a sale,
5032 lease, or rental of consumer goods or services by sample,
5033 catalog, or brochure for future delivery.

5034 5. Minors, as defined in s. 1.01(13), conducting home
5035 solicitation sales under the supervision of an adult supervisor
5036 who holds a valid home solicitation sale permit. Minors excluded
5037 from operation of this section must, however, carry personal
5038 identification which includes their full name, date of birth,

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5039 residence address, and employer and the name and permit number of
5040 their adult supervisor.

5041 6. Those sellers or their representatives that are
5042 currently regulated as to the sale of goods and services by
5043 chapter 475 or chapter 497.

5044 7. Solicitors, salespersons, or agents making calls or
5045 soliciting orders on behalf of a religious, charitable,
5046 scientific, educational, or veterans' institution or organization
5047 holding a sales tax exemption certificate under s. 212.08(7)
5048 ~~212.08(7)(a)~~.

5049 Reviser's note.--Amended to correct an erroneous reference.

5050 Section 139. Subsection (11) of section 501.976, Florida
5051 Statutes, is amended to read:

5052 501.976 Actionable, unfair, or deceptive acts or
5053 practices.--It is an unfair or deceptive act or practice,
5054 actionable under the Florida Deceptive and Unfair Trade Practices
5055 Act, for a dealer to:

5056 (11) Add to the cash price of a vehicle as defined in s.
5057 520.02(2) any fee or charge other than those provided in that
5058 section and in rule 69V-50.001 ~~3D-50.001~~, Florida Administrative
5059 Code. All fees or charges permitted to be added to the cash price
5060 by rule 69V-50.001 ~~3D-50.001~~, Florida Administrative Code, must
5061 be fully disclosed to customers in all binding contracts
5062 concerning the vehicle's selling price.

5063

5064 In any civil litigation resulting from a violation of this
5065 section, when evaluating the reasonableness of an award of
5066 attorney's fees to a private person, the trial court shall

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5067 | consider the amount of actual damages in relation to the time
5068 | spent.

5069 | Reviser's note.--Amended to conform to the redesignation of
5070 | rule 3D-50.001 as rule 69V-50.001, Florida Administrative
5071 | Code.

5072 | Section 140. Paragraph (f) of subsection (10) of section
5073 | 553.73, Florida Statutes, is amended to read:

5074 | 553.73 Florida Building Code.--

5075 | (10)

5076 | (f) All decisions of the local building official and local
5077 | fire official and all decisions of the administrative board shall
5078 | be in writing and shall be binding upon all persons but shall not
5079 | limit the authority of the State Fire Marshal or the Florida
5080 | Building Commission pursuant to paragraph (1)(d) and ss. 633.01
5081 | ~~663.01~~ and 633.161. Decisions of general application shall be
5082 | indexed by building and fire code sections and shall be available
5083 | for inspection during normal business hours.

5084 | Reviser's note.--Amended to correct a reference and conform
5085 | to context. Section 663.01 provides definitions relating to
5086 | international banking corporations; s. 633.01 provides for
5087 | powers and duties of the State Fire Marshal.

5088 | Section 141. Paragraph (b) of subsection (15) of section
5089 | 553.791, Florida Statutes, is amended to read:

5090 | 553.791 Alternative plans review and inspection.--

5091 | (15)

5092 | (b) A local enforcement agency, local building official, or
5093 | local government may establish, for private providers and duly
5094 | authorized representatives working within that jurisdiction, a
5095 | system of registration to verify compliance with the licensure

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5096 requirements of paragraph (1)(i) ~~(1)(g)~~ and the insurance
5097 requirements of subsection (16).

5098 Reviser's note.--Amended to conform to the redesignation of
5099 paragraph (1)(g) as paragraph (1)(i) by s. 6, ch. 2007-187,
5100 Laws of Florida.

5101 Section 142. Subsection (11) of section 610.104, Florida
5102 Statutes, is amended to read:

5103 610.104 State authorization to provide cable or video
5104 service.--

5105 (11) The application shall be accompanied by a one-time fee
5106 of \$10,000. A parent company may file a single application
5107 covering itself and all of its subsidiaries and affiliates
5108 intending to provide cable or video service in the service areas
5109 throughout the state as described in subparagraph (2)(e)5.
5110 ~~paragraph (3)(d)~~, but the entity actually providing such service
5111 in a given area shall otherwise be considered the
5112 certificateholder under this act.

5113 Reviser's note.--Amended to correct a reference. Subsection
5114 (3) is not divided into paragraphs; subparagraph (2)(e)5.
5115 describes service areas.

5116 Section 143. Subsection (2) of section 617.0802, Florida
5117 Statutes, is amended to read:

5118 617.0802 Qualifications of directors.--

5119 (2) In the event that the eligibility to serve as a member
5120 of the board of directors of a condominium association,
5121 cooperative association, homeowners' association, or mobile home
5122 owners' association is restricted to membership in such
5123 association and membership is appurtenant to ownership of a unit,
5124 parcel, or mobile home, a grantor of a trust described in s.

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5125 733.707(3), or a beneficiary as defined in former s.
5126 737.303(4)(b) of a trust which owns a unit, parcel, or mobile
5127 home shall be deemed a member of the association and eligible to
5128 serve as a director of the condominium association, cooperative
5129 association, homeowners' association, or mobile home owners'
5130 association, provided that said beneficiary occupies the unit,
5131 parcel, or mobile home.

5132 Reviser's note.--Amended to clarify the status of s.
5133 737.303, which was repealed by s. 48, ch. 2006-217, Laws of
5134 Florida.

5135 Section 144. Paragraph (e) of subsection (2) of section
5136 624.316, Florida Statutes, is amended to read:

5137 624.316 Examination of insurers.--

5138 (2)

5139 (e) The commission shall adopt rules providing that an
5140 examination under this section may be conducted by independent
5141 certified public accountants, actuaries, investment specialists,
5142 information technology specialists, and reinsurance specialists
5143 meeting criteria specified by rule. The rules shall provide:

5144 1. That the rates charged to the insurer being examined are
5145 consistent with rates charged by other firms in a similar
5146 profession and are comparable with the rates charged for
5147 comparable examinations.

5148 2. That the firm selected by the office to perform the
5149 examination has no conflicts of interest that might affect its
5150 ability to independently perform its responsibilities on the
5151 examination.

5152 3. That the insurer being examined must make payment for
5153 the examination pursuant to s. 624.320(1) ~~624.320(2)~~ in

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5154 | accordance with the rates and terms established by the office and
5155 | the firm performing the examination.

5156 | Reviser's note.--Amended to correct a reference and conform
5157 | to context. Section 624.320(2) relates to deposit of the
5158 | collected moneys into a specified trust fund; s. 624.320(1)
5159 | relates to insurer payment for examination.

5160 | Section 145. Paragraph (e) of subsection (3) of section
5161 | 627.0628, Florida Statutes, is amended to read:

5162 | 627.0628 Florida Commission on Hurricane Loss Projection
5163 | Methodology; public records exemption; public meetings
5164 | exemption.--

5165 | (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

5166 | (e)1. A trade secret, as defined in s. 812.081, that is
5167 | used in designing and constructing a hurricane loss model and
5168 | that is provided pursuant to this section, by a private company,
5169 | to the commission, office, or consumer advocate appointed
5170 | pursuant to s. 627.0613, is confidential and exempt from s.
5171 | 119.07(1) and s. 24(a), Art. I of the State Constitution.

5172 | 2. That portion of a meeting of the commission or of a rate
5173 | proceeding on an insurer's rate filing at which a trade secret
5174 | made confidential and exempt by this paragraph is discussed is
5175 | exempt from s. 286.011 and s. 24(b), Art. I of the State
5176 | Constitution.

5177 | 3. This paragraph is subject to the Open Government Sunset
5178 | Review Act ~~of 1995~~ in accordance with s. 119.15, and shall stand
5179 | repealed on October 2, 2010, unless reviewed and saved from
5180 | repeal through reenactment by the Legislature.

5181 | Reviser's note.--Amended to conform to the renaming of the
5182 | "Open Government Sunset Review Act of 1995" as the "Open

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5183 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws
5184 of Florida.

5185 Section 146. Subsection (3) of section 627.06292, Florida
5186 Statutes, is amended to read:

5187 627.06292 Reports of hurricane loss data and associated
5188 exposure data; public records exemption.--

5189 (3) This section is subject to the Open Government Sunset
5190 Review Act ~~of 1995~~ in accordance with s. 119.15, and shall stand
5191 repealed on October 2, 2010, unless reviewed and saved from
5192 repeal through reenactment by the Legislature.

5193 Reviser's note.--Amended to conform to the renaming of the
5194 "Open Government Sunset Review Act of 1995" as the "Open
5195 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws
5196 of Florida.

5197 Section 147. Paragraph (b) of subsection (4) and paragraph
5198 (m) of subsection (5) of section 627.311, Florida Statutes, are
5199 amended to read:

5200 627.311 Joint underwriters and joint reinsurers; public
5201 records and public meetings exemptions.--

5202 (4) The Florida Automobile Joint Underwriting Association:

5203 (b) Shall keep portions of association meetings during
5204 which confidential and exempt underwriting files or confidential
5205 and exempt claims files are discussed exempt from the provisions
5206 of s. 286.011 and s. 24(b), Art. I of the State Constitution. All
5207 closed portions of association meetings shall be recorded by a
5208 court reporter. The court reporter shall record the times of
5209 commencement and termination of the meeting, all discussion and
5210 proceedings, the names of all persons present at any time, and
5211 the names of all persons speaking. No portion of any closed

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5212 meeting shall be off the record. Subject to the provisions of
5213 this paragraph and s. 119.07(1)(d)-(f) ~~119.07(1)(e)-(g)~~, the
5214 court reporter's notes of any closed meeting shall be retained by
5215 the association for a minimum of 5 years. A copy of the
5216 transcript, less any confidential and exempt information, of any
5217 closed meeting during which confidential and exempt claims files
5218 are discussed shall become public as to individual claims files
5219 after settlement of that claim.

5220 (5)

5221 (m) Senior managers and officers, as defined in the plan of
5222 operation, and members of the board of governors are subject to
5223 the provisions of ss. 112.313, 112.3135, 112.3143, 112.3145,
5224 112.316, and 112.317. Senior managers, officers, and board
5225 members are also required to file such disclosures with the
5226 Commission on Ethics and the Office of Insurance Regulation. The
5227 executive director of the plan or his or her designee shall
5228 notify each newly appointed and existing appointed member of the
5229 board of governors, senior manager, and officer of his or her
5230 duty to comply with the reporting requirements of s. 112.3145
5231 ~~112.345~~. At least quarterly, the executive director of the plan
5232 or his or her designee shall submit to the Commission on Ethics a
5233 list of names of the senior managers, officers, and members of
5234 the board of governors who are subject to the public disclosure
5235 requirements under s. 112.3145. Notwithstanding s. 112.313, an
5236 employee, officer, owner, or director of an insurance agency,
5237 insurance company, or other insurance entity may be a member of
5238 the board of governors unless such employee, officer, owner, or
5239 director of an insurance agency, insurance company, other
5240 insurance entity, or an affiliate provides policy issuance,

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5241 | policy administration, underwriting, claims handling, or payroll
5242 | audit services. Notwithstanding s. 112.3143, such board member
5243 | may not participate in or vote on a matter if the insurance
5244 | agency, insurance company, or other insurance entity would obtain
5245 | a special or unique benefit that would not apply to other
5246 | similarly situated insurance entities.

5247 | Reviser's note.--Paragraph (4) (b) is amended to conform to
5248 | the redesignation of s. 119.07(1) (b)-(d) as s. 119.07(1) (d)-
5249 | (f) by s. 1, ch. 2007-39, Laws of Florida, and to correct
5250 | the reference by s. 3, ch. 2007-39. Paragraph (5) (m) is
5251 | amended to correct a reference and conform to context.
5252 | Section 112.345 does not exist; s. 112.3145 relates to
5253 | reporting requirements.

5254 | Section 148. Paragraph (b) of subsection (2) and paragraphs
5255 | (c), (n), (v), and (w) of subsection (6) of section 627.351,
5256 | Florida Statutes, are amended to read:

5257 | 627.351 Insurance risk apportionment plans.--

5258 | (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--

5259 | (b) The department shall require all insurers holding a
5260 | certificate of authority to transact property insurance on a
5261 | direct basis in this state, other than joint underwriting
5262 | associations and other entities formed pursuant to this section,
5263 | to provide windstorm coverage to applicants from areas determined
5264 | to be eligible pursuant to paragraph (c) who in good faith are
5265 | entitled to, but are unable to procure, such coverage through
5266 | ordinary means; or it shall adopt a reasonable plan or plans for
5267 | the equitable apportionment or sharing among such insurers of
5268 | windstorm coverage, which may include formation of an association
5269 | for this purpose. As used in this subsection, the term "property

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5270 insurance" means insurance on real or personal property, as
5271 defined in s. 624.604, including insurance for fire, industrial
5272 fire, allied lines, farmowners multiperil, homeowners'
5273 multiperil, commercial multiperil, and mobile homes, and
5274 including liability coverages on all such insurance, but
5275 excluding inland marine as defined in s. 624.607(3) and excluding
5276 vehicle insurance as defined in s. 624.605(1)(a) other than
5277 insurance on mobile homes used as permanent dwellings. The
5278 department shall adopt rules that provide a formula for the
5279 recovery and repayment of any deferred assessments.

5280 1. For the purpose of this section, properties eligible for
5281 such windstorm coverage are defined as dwellings, buildings, and
5282 other structures, including mobile homes which are used as
5283 dwellings and which are tied down in compliance with mobile home
5284 tie-down requirements prescribed by the Department of Highway
5285 Safety and Motor Vehicles pursuant to s. 320.8325, and the
5286 contents of all such properties. An applicant or policyholder is
5287 eligible for coverage only if an offer of coverage cannot be
5288 obtained by or for the applicant or policyholder from an admitted
5289 insurer at approved rates.

5290 2.a.(I) All insurers required to be members of such
5291 association shall participate in its writings, expenses, and
5292 losses. Surplus of the association shall be retained for the
5293 payment of claims and shall not be distributed to the member
5294 insurers. Such participation by member insurers shall be in the
5295 proportion that the net direct premiums of each member insurer
5296 written for property insurance in this state during the preceding
5297 calendar year bear to the aggregate net direct premiums for
5298 property insurance of all member insurers, as reduced by any

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5299 | credits for voluntary writings, in this state during the
5300 | preceding calendar year. For the purposes of this subsection, the
5301 | term "net direct premiums" means direct written premiums for
5302 | property insurance, reduced by premium for liability coverage and
5303 | for the following if included in allied lines: rain and hail on
5304 | growing crops; livestock; association direct premiums booked;
5305 | National Flood Insurance Program direct premiums; and similar
5306 | deductions specifically authorized by the plan of operation and
5307 | approved by the department. A member's participation shall begin
5308 | on the first day of the calendar year following the year in which
5309 | it is issued a certificate of authority to transact property
5310 | insurance in the state and shall terminate 1 year after the end
5311 | of the calendar year during which it no longer holds a
5312 | certificate of authority to transact property insurance in the
5313 | state. The commissioner, after review of annual statements, other
5314 | reports, and any other statistics that the commissioner deems
5315 | necessary, shall certify to the association the aggregate direct
5316 | premiums written for property insurance in this state by all
5317 | member insurers.

5318 | (II) Effective July 1, 2002, the association shall operate
5319 | subject to the supervision and approval of a board of governors
5320 | who are the same individuals that have been appointed by the
5321 | Treasurer to serve on the board of governors of the Citizens
5322 | Property Insurance Corporation.

5323 | (III) The plan of operation shall provide a formula whereby
5324 | a company voluntarily providing windstorm coverage in affected
5325 | areas will be relieved wholly or partially from apportionment of
5326 | a regular assessment pursuant to sub-sub-subparagraph d.(I) or
5327 | sub-sub-subparagraph d.(II).

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5328 (IV) A company which is a member of a group of companies
5329 under common management may elect to have its credits applied on
5330 a group basis, and any company or group may elect to have its
5331 credits applied to any other company or group.

5332 (V) There shall be no credits or relief from apportionment
5333 to a company for emergency assessments collected from its
5334 policyholders under sub-sub-subparagraph d.(III).

5335 (VI) The plan of operation may also provide for the award
5336 of credits, for a period not to exceed 3 years, from a regular
5337 assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-
5338 subparagraph d.(II) as an incentive for taking policies out of
5339 the Residential Property and Casualty Joint Underwriting
5340 Association. In order to qualify for the exemption under this
5341 sub-sub-subparagraph, the take-out plan must provide that at
5342 least 40 percent of the policies removed from the Residential
5343 Property and Casualty Joint Underwriting Association cover risks
5344 located in Miami-Dade ~~Dade~~, Broward, and Palm Beach Counties or
5345 at least 30 percent of the policies so removed cover risks
5346 located in Miami-Dade ~~Dade~~, Broward, and Palm Beach Counties and
5347 an additional 50 percent of the policies so removed cover risks
5348 located in other coastal counties, and must also provide that no
5349 more than 15 percent of the policies so removed may exclude
5350 windstorm coverage. With the approval of the department, the
5351 association may waive these geographic criteria for a take-out
5352 plan that removes at least the lesser of 100,000 Residential
5353 Property and Casualty Joint Underwriting Association policies or
5354 15 percent of the total number of Residential Property and
5355 Casualty Joint Underwriting Association policies, provided the
5356 governing board of the Residential Property and Casualty Joint

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5357 Underwriting Association certifies that the take-out plan will
5358 materially reduce the Residential Property and Casualty Joint
5359 Underwriting Association's 100-year probable maximum loss from
5360 hurricanes. With the approval of the department, the board may
5361 extend such credits for an additional year if the insurer
5362 guarantees an additional year of renewability for all policies
5363 removed from the Residential Property and Casualty Joint
5364 Underwriting Association, or for 2 additional years if the
5365 insurer guarantees 2 additional years of renewability for all
5366 policies removed from the Residential Property and Casualty Joint
5367 Underwriting Association.

5368 b. Assessments to pay deficits in the association under
5369 this subparagraph shall be included as an appropriate factor in
5370 the making of rates as provided in s. 627.3512.

5371 c. The Legislature finds that the potential for unlimited
5372 deficit assessments under this subparagraph may induce insurers
5373 to attempt to reduce their writings in the voluntary market, and
5374 that such actions would worsen the availability problems that the
5375 association was created to remedy. It is the intent of the
5376 Legislature that insurers remain fully responsible for paying
5377 regular assessments and collecting emergency assessments for any
5378 deficits of the association; however, it is also the intent of
5379 the Legislature to provide a means by which assessment
5380 liabilities may be amortized over a period of years.

5381 d.(I) When the deficit incurred in a particular calendar
5382 year is 10 percent or less of the aggregate statewide direct
5383 written premium for property insurance for the prior calendar
5384 year for all member insurers, the association shall levy an
5385 assessment on member insurers in an amount equal to the deficit.

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5386 (II) When the deficit incurred in a particular calendar
5387 year exceeds 10 percent of the aggregate statewide direct written
5388 premium for property insurance for the prior calendar year for
5389 all member insurers, the association shall levy an assessment on
5390 member insurers in an amount equal to the greater of 10 percent
5391 of the deficit or 10 percent of the aggregate statewide direct
5392 written premium for property insurance for the prior calendar
5393 year for member insurers. Any remaining deficit shall be
5394 recovered through emergency assessments under sub-sub-
5395 subparagraph (III).

5396 (III) Upon a determination by the board of directors that a
5397 deficit exceeds the amount that will be recovered through regular
5398 assessments on member insurers, pursuant to sub-sub-subparagraph
5399 (I) or sub-sub-subparagraph (II), the board shall levy, after
5400 verification by the department, emergency assessments to be
5401 collected by member insurers and by underwriting associations
5402 created pursuant to this section which write property insurance,
5403 upon issuance or renewal of property insurance policies other
5404 than National Flood Insurance policies in the year or years
5405 following levy of the regular assessments. The amount of the
5406 emergency assessment collected in a particular year shall be a
5407 uniform percentage of that year's direct written premium for
5408 property insurance for all member insurers and underwriting
5409 associations, excluding National Flood Insurance policy premiums,
5410 as annually determined by the board and verified by the
5411 department. The department shall verify the arithmetic
5412 calculations involved in the board's determination within 30 days
5413 after receipt of the information on which the determination was
5414 based. Notwithstanding any other provision of law, each member

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5415 | insurer and each underwriting association created pursuant to
5416 | this section shall collect emergency assessments from its
5417 | policyholders without such obligation being affected by any
5418 | credit, limitation, exemption, or deferment. The emergency
5419 | assessments so collected shall be transferred directly to the
5420 | association on a periodic basis as determined by the association.
5421 | The aggregate amount of emergency assessments levied under this
5422 | sub-sub-subparagraph in any calendar year may not exceed the
5423 | greater of 10 percent of the amount needed to cover the original
5424 | deficit, plus interest, fees, commissions, required reserves, and
5425 | other costs associated with financing of the original deficit, or
5426 | 10 percent of the aggregate statewide direct written premium for
5427 | property insurance written by member insurers and underwriting
5428 | associations for the prior year, plus interest, fees,
5429 | commissions, required reserves, and other costs associated with
5430 | financing the original deficit. The board may pledge the proceeds
5431 | of the emergency assessments under this sub-sub-subparagraph as
5432 | the source of revenue for bonds, to retire any other debt
5433 | incurred as a result of the deficit or events giving rise to the
5434 | deficit, or in any other way that the board determines will
5435 | efficiently recover the deficit. The emergency assessments under
5436 | this sub-sub-subparagraph shall continue as long as any bonds
5437 | issued or other indebtedness incurred with respect to a deficit
5438 | for which the assessment was imposed remain outstanding, unless
5439 | adequate provision has been made for the payment of such bonds or
5440 | other indebtedness pursuant to the document governing such bonds
5441 | or other indebtedness. Emergency assessments collected under this
5442 | sub-sub-subparagraph are not part of an insurer's rates, are not
5443 | premium, and are not subject to premium tax, fees, or

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5444 commissions; however, failure to pay the emergency assessment
5445 shall be treated as failure to pay premium.

5446 (IV) Each member insurer's share of the total regular
5447 assessments under sub-sub-subparagraph (I) or sub-sub-
5448 subparagraph (II) shall be in the proportion that the insurer's
5449 net direct premium for property insurance in this state, for the
5450 year preceding the assessment bears to the aggregate statewide
5451 net direct premium for property insurance of all member insurers,
5452 as reduced by any credits for voluntary writings for that year.

5453 (V) If regular deficit assessments are made under sub-sub-
5454 subparagraph (I) or sub-sub-subparagraph (II), or by the
5455 Residential Property and Casualty Joint Underwriting Association
5456 under sub-subparagraph (6) (b)3.a. or sub-subparagraph (6) (b)3.b.,
5457 the association shall levy upon the association's policyholders,
5458 as part of its next rate filing, or by a separate rate filing
5459 solely for this purpose, a market equalization surcharge in a
5460 percentage equal to the total amount of such regular assessments
5461 divided by the aggregate statewide direct written premium for
5462 property insurance for member insurers for the prior calendar
5463 year. Market equalization surcharges under this sub-sub-
5464 subparagraph are not considered premium and are not subject to
5465 commissions, fees, or premium taxes; however, failure to pay a
5466 market equalization surcharge shall be treated as failure to pay
5467 premium.

5468 e. The governing body of any unit of local government, any
5469 residents of which are insured under the plan, may issue bonds as
5470 defined in s. 125.013 or s. 166.101 to fund an assistance
5471 program, in conjunction with the association, for the purpose of
5472 defraying deficits of the association. In order to avoid needless

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5473 | and indiscriminate proliferation, duplication, and fragmentation
5474 | of such assistance programs, any unit of local government, any
5475 | residents of which are insured by the association, may provide
5476 | for the payment of losses, regardless of whether or not the
5477 | losses occurred within or outside of the territorial jurisdiction
5478 | of the local government. Revenue bonds may not be issued until
5479 | validated pursuant to chapter 75, unless a state of emergency is
5480 | declared by executive order or proclamation of the Governor
5481 | pursuant to s. 252.36 making such findings as are necessary to
5482 | determine that it is in the best interests of, and necessary for,
5483 | the protection of the public health, safety, and general welfare
5484 | of residents of this state and the protection and preservation of
5485 | the economic stability of insurers operating in this state, and
5486 | declaring it an essential public purpose to permit certain
5487 | municipalities or counties to issue bonds as will provide relief
5488 | to claimants and policyholders of the association and insurers
5489 | responsible for apportionment of plan losses. Any such unit of
5490 | local government may enter into such contracts with the
5491 | association and with any other entity created pursuant to this
5492 | subsection as are necessary to carry out this paragraph. Any
5493 | bonds issued under this sub-subparagraph shall be payable from
5494 | and secured by moneys received by the association from
5495 | assessments under this subparagraph, and assigned and pledged to
5496 | or on behalf of the unit of local government for the benefit of
5497 | the holders of such bonds. The funds, credit, property, and
5498 | taxing power of the state or of the unit of local government
5499 | shall not be pledged for the payment of such bonds. If any of the
5500 | bonds remain unsold 60 days after issuance, the department shall
5501 | require all insurers subject to assessment to purchase the bonds,

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5502 | which shall be treated as admitted assets; each insurer shall be
5503 | required to purchase that percentage of the unsold portion of the
5504 | bond issue that equals the insurer's relative share of assessment
5505 | liability under this subsection. An insurer shall not be required
5506 | to purchase the bonds to the extent that the department
5507 | determines that the purchase would endanger or impair the
5508 | solvency of the insurer. The authority granted by this sub-
5509 | subparagraph is additional to any bonding authority granted by
5510 | subparagraph 6.

5511 | 3. The plan shall also provide that any member with a
5512 | surplus as to policyholders of \$20 million or less writing 25
5513 | percent or more of its total countrywide property insurance
5514 | premiums in this state may petition the department, within the
5515 | first 90 days of each calendar year, to qualify as a limited
5516 | apportionment company. The apportionment of such a member company
5517 | in any calendar year for which it is qualified shall not exceed
5518 | its gross participation, which shall not be affected by the
5519 | formula for voluntary writings. In no event shall a limited
5520 | apportionment company be required to participate in any
5521 | apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)
5522 | or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds
5523 | \$50 million after payment of available plan funds in any calendar
5524 | year. However, a limited apportionment company shall collect from
5525 | its policyholders any emergency assessment imposed under sub-sub-
5526 | subparagraph 2.d.(III). The plan shall provide that, if the
5527 | department determines that any regular assessment will result in
5528 | an impairment of the surplus of a limited apportionment company,
5529 | the department may direct that all or part of such assessment be
5530 | deferred. However, there shall be no limitation or deferment of

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5531 an emergency assessment to be collected from policyholders under
5532 sub-sub-subparagraph 2.d.(III).

5533 4. The plan shall provide for the deferment, in whole or in
5534 part, of a regular assessment of a member insurer under sub-sub-
5535 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but not
5536 for an emergency assessment collected from policyholders under
5537 sub-sub-subparagraph 2.d.(III), if, in the opinion of the
5538 commissioner, payment of such regular assessment would endanger
5539 or impair the solvency of the member insurer. In the event a
5540 regular assessment against a member insurer is deferred in whole
5541 or in part, the amount by which such assessment is deferred may
5542 be assessed against the other member insurers in a manner
5543 consistent with the basis for assessments set forth in sub-sub-
5544 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

5545 5.a. The plan of operation may include deductibles and
5546 rules for classification of risks and rate modifications
5547 consistent with the objective of providing and maintaining funds
5548 sufficient to pay catastrophe losses.

5549 b. The association may require arbitration of a rate filing
5550 under s. 627.062(6). It is the intent of the Legislature that the
5551 rates for coverage provided by the association be actuarially
5552 sound and not competitive with approved rates charged in the
5553 admitted voluntary market such that the association functions as
5554 a residual market mechanism to provide insurance only when the
5555 insurance cannot be procured in the voluntary market. The plan of
5556 operation shall provide a mechanism to assure that, beginning no
5557 later than January 1, 1999, the rates charged by the association
5558 for each line of business are reflective of approved rates in the

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5559 | voluntary market for hurricane coverage for each line of business
5560 | in the various areas eligible for association coverage.

5561 | c. The association shall provide for windstorm coverage on
5562 | residential properties in limits up to \$10 million for commercial
5563 | lines residential risks and up to \$1 million for personal lines
5564 | residential risks. If coverage with the association is sought for
5565 | a residential risk valued in excess of these limits, coverage
5566 | shall be available to the risk up to the replacement cost or
5567 | actual cash value of the property, at the option of the insured,
5568 | if coverage for the risk cannot be located in the authorized
5569 | market. The association must accept a commercial lines
5570 | residential risk with limits above \$10 million or a personal
5571 | lines residential risk with limits above \$1 million if coverage
5572 | is not available in the authorized market. The association may
5573 | write coverage above the limits specified in this subparagraph
5574 | with or without facultative or other reinsurance coverage, as the
5575 | association determines appropriate.

5576 | d. The plan of operation must provide objective criteria
5577 | and procedures, approved by the department, to be uniformly
5578 | applied for all applicants in determining whether an individual
5579 | risk is so hazardous as to be uninsurable. In making this
5580 | determination and in establishing the criteria and procedures,
5581 | the following shall be considered:

5582 | (I) Whether the likelihood of a loss for the individual
5583 | risk is substantially higher than for other risks of the same
5584 | class; and

5585 | (II) Whether the uncertainty associated with the individual
5586 | risk is such that an appropriate premium cannot be determined.

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5588 The acceptance or rejection of a risk by the association pursuant
5589 to such criteria and procedures must be construed as the private
5590 placement of insurance, and the provisions of chapter 120 do not
5591 apply.

5592 e. If the risk accepts an offer of coverage through the
5593 market assistance program or through a mechanism established by
5594 the association, either before the policy is issued by the
5595 association or during the first 30 days of coverage by the
5596 association, and the producing agent who submitted the
5597 application to the association is not currently appointed by the
5598 insurer, the insurer shall:

5599 (I) Pay to the producing agent of record of the policy, for
5600 the first year, an amount that is the greater of the insurer's
5601 usual and customary commission for the type of policy written or
5602 a fee equal to the usual and customary commission of the
5603 association; or

5604 (II) Offer to allow the producing agent of record of the
5605 policy to continue servicing the policy for a period of not less
5606 than 1 year and offer to pay the agent the greater of the
5607 insurer's or the association's usual and customary commission for
5608 the type of policy written.

5609
5610 If the producing agent is unwilling or unable to accept
5611 appointment, the new insurer shall pay the agent in accordance
5612 with sub-sub-subparagraph (I). Subject to the provisions of s.
5613 627.3517, the policies issued by the association must provide
5614 that if the association obtains an offer from an authorized
5615 insurer to cover the risk at its approved rates under either a
5616 standard policy including wind coverage or, if consistent with

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5617 | the insurer's underwriting rules as filed with the department, a
5618 | basic policy including wind coverage, the risk is no longer
5619 | eligible for coverage through the association. Upon termination
5620 | of eligibility, the association shall provide written notice to
5621 | the policyholder and agent of record stating that the association
5622 | policy must be canceled as of 60 days after the date of the
5623 | notice because of the offer of coverage from an authorized
5624 | insurer. Other provisions of the insurance code relating to
5625 | cancellation and notice of cancellation do not apply to actions
5626 | under this sub-subparagraph.

5627 | f. When the association enters into a contractual agreement
5628 | for a take-out plan, the producing agent of record of the
5629 | association policy is entitled to retain any unearned commission
5630 | on the policy, and the insurer shall:

5631 | (I) Pay to the producing agent of record of the association
5632 | policy, for the first year, an amount that is the greater of the
5633 | insurer's usual and customary commission for the type of policy
5634 | written or a fee equal to the usual and customary commission of
5635 | the association; or

5636 | (II) Offer to allow the producing agent of record of the
5637 | association policy to continue servicing the policy for a period
5638 | of not less than 1 year and offer to pay the agent the greater of
5639 | the insurer's or the association's usual and customary commission
5640 | for the type of policy written.

5641 |
5642 | If the producing agent is unwilling or unable to accept
5643 | appointment, the new insurer shall pay the agent in accordance
5644 | with sub-sub-subparagraph (I).

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5645 | 6.a. The plan of operation may authorize the formation of a
5646 | private nonprofit corporation, a private nonprofit unincorporated
5647 | association, a partnership, a trust, a limited liability company,
5648 | or a nonprofit mutual company which may be empowered, among other
5649 | things, to borrow money by issuing bonds or by incurring other
5650 | indebtedness and to accumulate reserves or funds to be used for
5651 | the payment of insured catastrophe losses. The plan may authorize
5652 | all actions necessary to facilitate the issuance of bonds,
5653 | including the pledging of assessments or other revenues.

5654 | b. Any entity created under this subsection, or any entity
5655 | formed for the purposes of this subsection, may sue and be sued,
5656 | may borrow money; issue bonds, notes, or debt instruments; pledge
5657 | or sell assessments, market equalization surcharges and other
5658 | surcharges, rights, premiums, contractual rights, projected
5659 | recoveries from the Florida Hurricane Catastrophe Fund, other
5660 | reinsurance recoverables, and other assets as security for such
5661 | bonds, notes, or debt instruments; enter into any contracts or
5662 | agreements necessary or proper to accomplish such borrowings; and
5663 | take other actions necessary to carry out the purposes of this
5664 | subsection. The association may issue bonds or incur other
5665 | indebtedness, or have bonds issued on its behalf by a unit of
5666 | local government pursuant to subparagraph (6)(p)2., in the
5667 | absence of a hurricane or other weather-related event, upon a
5668 | determination by the association subject to approval by the
5669 | department that such action would enable it to efficiently meet
5670 | the financial obligations of the association and that such
5671 | financings are reasonably necessary to effectuate the
5672 | requirements of this subsection. Any such entity may accumulate
5673 | reserves and retain surpluses as of the end of any association

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5674 | year to provide for the payment of losses incurred by the
5675 | association during that year or any future year. The association
5676 | shall incorporate and continue the plan of operation and articles
5677 | of agreement in effect on the effective date of chapter 76-96,
5678 | Laws of Florida, to the extent that it is not inconsistent with
5679 | chapter 76-96, and as subsequently modified consistent with
5680 | chapter 76-96. The board of directors and officers currently
5681 | serving shall continue to serve until their successors are duly
5682 | qualified as provided under the plan. The assets and obligations
5683 | of the plan in effect immediately prior to the effective date of
5684 | chapter 76-96 shall be construed to be the assets and obligations
5685 | of the successor plan created herein.

5686 | c. In recognition of s. 10, Art. I of the State
5687 | Constitution, prohibiting the impairment of obligations of
5688 | contracts, it is the intent of the Legislature that no action be
5689 | taken whose purpose is to impair any bond indenture or financing
5690 | agreement or any revenue source committed by contract to such
5691 | bond or other indebtedness issued or incurred by the association
5692 | or any other entity created under this subsection.

5693 | 7. On such coverage, an agent's remuneration shall be that
5694 | amount of money payable to the agent by the terms of his or her
5695 | contract with the company with which the business is placed.
5696 | However, no commission will be paid on that portion of the
5697 | premium which is in excess of the standard premium of that
5698 | company.

5699 | 8. Subject to approval by the department, the association
5700 | may establish different eligibility requirements and operational
5701 | procedures for any line or type of coverage for any specified
5702 | eligible area or portion of an eligible area if the board

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5703 determines that such changes to the eligibility requirements and
5704 operational procedures are justified due to the voluntary market
5705 being sufficiently stable and competitive in such area or for
5706 such line or type of coverage and that consumers who, in good
5707 faith, are unable to obtain insurance through the voluntary
5708 market through ordinary methods would continue to have access to
5709 coverage from the association. When coverage is sought in
5710 connection with a real property transfer, such requirements and
5711 procedures shall not provide for an effective date of coverage
5712 later than the date of the closing of the transfer as established
5713 by the transferor, the transferee, and, if applicable, the
5714 lender.

5715 9. Notwithstanding any other provision of law:

5716 a. The pledge or sale of, the lien upon, and the security
5717 interest in any rights, revenues, or other assets of the
5718 association created or purported to be created pursuant to any
5719 financing documents to secure any bonds or other indebtedness of
5720 the association shall be and remain valid and enforceable,
5721 notwithstanding the commencement of and during the continuation
5722 of, and after, any rehabilitation, insolvency, liquidation,
5723 bankruptcy, receivership, conservatorship, reorganization, or
5724 similar proceeding against the association under the laws of this
5725 state or any other applicable laws.

5726 b. No such proceeding shall relieve the association of its
5727 obligation, or otherwise affect its ability to perform its
5728 obligation, to continue to collect, or levy and collect,
5729 assessments, market equalization or other surcharges, projected
5730 recoveries from the Florida Hurricane Catastrophe Fund,

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5731 reinsurance recoverables, or any other rights, revenues, or other
5732 assets of the association pledged.

5733 c. Each such pledge or sale of, lien upon, and security
5734 interest in, including the priority of such pledge, lien, or
5735 security interest, any such assessments, emergency assessments,
5736 market equalization or renewal surcharges, projected recoveries
5737 from the Florida Hurricane Catastrophe Fund, reinsurance
5738 recoverables, or other rights, revenues, or other assets which
5739 are collected, or levied and collected, after the commencement of
5740 and during the pendency of or after any such proceeding shall
5741 continue unaffected by such proceeding.

5742 d. As used in this subsection, the term "financing
5743 documents" means any agreement, instrument, or other document now
5744 existing or hereafter created evidencing any bonds or other
5745 indebtedness of the association or pursuant to which any such
5746 bonds or other indebtedness has been or may be issued and
5747 pursuant to which any rights, revenues, or other assets of the
5748 association are pledged or sold to secure the repayment of such
5749 bonds or indebtedness, together with the payment of interest on
5750 such bonds or such indebtedness, or the payment of any other
5751 obligation of the association related to such bonds or
5752 indebtedness.

5753 e. Any such pledge or sale of assessments, revenues,
5754 contract rights or other rights or assets of the association
5755 shall constitute a lien and security interest, or sale, as the
5756 case may be, that is immediately effective and attaches to such
5757 assessments, revenues, contract, or other rights or assets,
5758 whether or not imposed or collected at the time the pledge or
5759 sale is made. Any such pledge or sale is effective, valid,

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5760 binding, and enforceable against the association or other entity
5761 making such pledge or sale, and valid and binding against and
5762 superior to any competing claims or obligations owed to any other
5763 person or entity, including policyholders in this state,
5764 asserting rights in any such assessments, revenues, contract, or
5765 other rights or assets to the extent set forth in and in
5766 accordance with the terms of the pledge or sale contained in the
5767 applicable financing documents, whether or not any such person or
5768 entity has notice of such pledge or sale and without the need for
5769 any physical delivery, recordation, filing, or other action.

5770 f. There shall be no liability on the part of, and no cause
5771 of action of any nature shall arise against, any member insurer
5772 or its agents or employees, agents or employees of the
5773 association, members of the board of directors of the
5774 association, or the department or its representatives, for any
5775 action taken by them in the performance of their duties or
5776 responsibilities under this subsection. Such immunity does not
5777 apply to actions for breach of any contract or agreement
5778 pertaining to insurance, or any willful tort.

5779 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

5780 (c) The plan of operation of the corporation:

5781 1. Must provide for adoption of residential property and
5782 casualty insurance policy forms and commercial residential and
5783 nonresidential property insurance forms, which forms must be
5784 approved by the office prior to use. The corporation shall adopt
5785 the following policy forms:

5786 a. Standard personal lines policy forms that are
5787 comprehensive multiperil policies providing full coverage of a

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5788 residential property equivalent to the coverage provided in the
5789 private insurance market under an HO-3, HO-4, or HO-6 policy.

5790 b. Basic personal lines policy forms that are policies
5791 similar to an HO-8 policy or a dwelling fire policy that provide
5792 coverage meeting the requirements of the secondary mortgage
5793 market, but which coverage is more limited than the coverage
5794 under a standard policy.

5795 c. Commercial lines residential and nonresidential policy
5796 forms that are generally similar to the basic perils of full
5797 coverage obtainable for commercial residential structures and
5798 commercial nonresidential structures in the admitted voluntary
5799 market.

5800 d. Personal lines and commercial lines residential property
5801 insurance forms that cover the peril of wind only. The forms are
5802 applicable only to residential properties located in areas
5803 eligible for coverage under the high-risk account referred to in
5804 sub-subparagraph (b)2.a.

5805 e. Commercial lines nonresidential property insurance forms
5806 that cover the peril of wind only. The forms are applicable only
5807 to nonresidential properties located in areas eligible for
5808 coverage under the high-risk account referred to in sub-
5809 subparagraph (b)2.a.

5810 f. The corporation may adopt variations of the policy forms
5811 listed in sub-subparagraphs a.-e. that contain more restrictive
5812 coverage.

5813 2.a. Must provide that the corporation adopt a program in
5814 which the corporation and authorized insurers enter into quota
5815 share primary insurance agreements for hurricane coverage, as
5816 defined in s. 627.4025(2)(a), for eligible risks, and adopt

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5817 | property insurance forms for eligible risks which cover the peril
5818 | of wind only. As used in this subsection, the term:

5819 | (I) "Quota share primary insurance" means an arrangement in
5820 | which the primary hurricane coverage of an eligible risk is
5821 | provided in specified percentages by the corporation and an
5822 | authorized insurer. The corporation and authorized insurer are
5823 | each solely responsible for a specified percentage of hurricane
5824 | coverage of an eligible risk as set forth in a quota share
5825 | primary insurance agreement between the corporation and an
5826 | authorized insurer and the insurance contract. The responsibility
5827 | of the corporation or authorized insurer to pay its specified
5828 | percentage of hurricane losses of an eligible risk, as set forth
5829 | in the quota share primary insurance agreement, may not be
5830 | altered by the inability of the other party to the agreement to
5831 | pay its specified percentage of hurricane losses. Eligible risks
5832 | that are provided hurricane coverage through a quota share
5833 | primary insurance arrangement must be provided policy forms that
5834 | set forth the obligations of the corporation and authorized
5835 | insurer under the arrangement, clearly specify the percentages of
5836 | quota share primary insurance provided by the corporation and
5837 | authorized insurer, and conspicuously and clearly state that
5838 | neither the authorized insurer nor the corporation may be held
5839 | responsible beyond its specified percentage of coverage of
5840 | hurricane losses.

5841 | (II) "Eligible risks" means personal lines residential and
5842 | commercial lines residential risks that meet the underwriting
5843 | criteria of the corporation and are located in areas that were
5844 | eligible for coverage by the Florida Windstorm Underwriting
5845 | Association on January 1, 2002.

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5846 b. The corporation may enter into quota share primary
5847 insurance agreements with authorized insurers at corporation
5848 coverage levels of 90 percent and 50 percent.

5849 c. If the corporation determines that additional coverage
5850 levels are necessary to maximize participation in quota share
5851 primary insurance agreements by authorized insurers, the
5852 corporation may establish additional coverage levels. However,
5853 the corporation's quota share primary insurance coverage level
5854 may not exceed 90 percent.

5855 d. Any quota share primary insurance agreement entered into
5856 between an authorized insurer and the corporation must provide
5857 for a uniform specified percentage of coverage of hurricane
5858 losses, by county or territory as set forth by the corporation
5859 board, for all eligible risks of the authorized insurer covered
5860 under the quota share primary insurance agreement.

5861 e. Any quota share primary insurance agreement entered into
5862 between an authorized insurer and the corporation is subject to
5863 review and approval by the office. However, such agreement shall
5864 be authorized only as to insurance contracts entered into between
5865 an authorized insurer and an insured who is already insured by
5866 the corporation for wind coverage.

5867 f. For all eligible risks covered under quota share primary
5868 insurance agreements, the exposure and coverage levels for both
5869 the corporation and authorized insurers shall be reported by the
5870 corporation to the Florida Hurricane Catastrophe Fund. For all
5871 policies of eligible risks covered under quota share primary
5872 insurance agreements, the corporation and the authorized insurer
5873 shall maintain complete and accurate records for the purpose of
5874 exposure and loss reimbursement audits as required by Florida

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5875 Hurricane Catastrophe Fund rules. The corporation and the
5876 authorized insurer shall each maintain duplicate copies of policy
5877 declaration pages and supporting claims documents.

5878 g. The corporation board shall establish in its plan of
5879 operation standards for quota share agreements which ensure that
5880 there is no discriminatory application among insurers as to the
5881 terms of quota share agreements, pricing of quota share
5882 agreements, incentive provisions if any, and consideration paid
5883 for servicing policies or adjusting claims.

5884 h. The quota share primary insurance agreement between the
5885 corporation and an authorized insurer must set forth the specific
5886 terms under which coverage is provided, including, but not
5887 limited to, the sale and servicing of policies issued under the
5888 agreement by the insurance agent of the authorized insurer
5889 producing the business, the reporting of information concerning
5890 eligible risks, the payment of premium to the corporation, and
5891 arrangements for the adjustment and payment of hurricane claims
5892 incurred on eligible risks by the claims adjuster and personnel
5893 of the authorized insurer. Entering into a quota sharing
5894 insurance agreement between the corporation and an authorized
5895 insurer shall be voluntary and at the discretion of the
5896 authorized insurer.

5897 3. May provide that the corporation may employ or otherwise
5898 contract with individuals or other entities to provide
5899 administrative or professional services that may be appropriate
5900 to effectuate the plan. The corporation shall have the power to
5901 borrow funds, by issuing bonds or by incurring other
5902 indebtedness, and shall have other powers reasonably necessary to
5903 effectuate the requirements of this subsection, including,

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5904 | without limitation, the power to issue bonds and incur other
5905 | indebtedness in order to refinance outstanding bonds or other
5906 | indebtedness. The corporation may, but is not required to, seek
5907 | judicial validation of its bonds or other indebtedness under
5908 | chapter 75. The corporation may issue bonds or incur other
5909 | indebtedness, or have bonds issued on its behalf by a unit of
5910 | local government pursuant to subparagraph (p)2., in the absence
5911 | of a hurricane or other weather-related event, upon a
5912 | determination by the corporation, subject to approval by the
5913 | office, that such action would enable it to efficiently meet the
5914 | financial obligations of the corporation and that such financings
5915 | are reasonably necessary to effectuate the requirements of this
5916 | subsection. The corporation is authorized to take all actions
5917 | needed to facilitate tax-free status for any such bonds or
5918 | indebtedness, including formation of trusts or other affiliated
5919 | entities. The corporation shall have the authority to pledge
5920 | assessments, projected recoveries from the Florida Hurricane
5921 | Catastrophe Fund, other reinsurance recoverables, market
5922 | equalization and other surcharges, and other funds available to
5923 | the corporation as security for bonds or other indebtedness. In
5924 | recognition of s. 10, Art. I of the State Constitution,
5925 | prohibiting the impairment of obligations of contracts, it is the
5926 | intent of the Legislature that no action be taken whose purpose
5927 | is to impair any bond indenture or financing agreement or any
5928 | revenue source committed by contract to such bond or other
5929 | indebtedness.

5930 | 4.a. Must require that the corporation operate subject to
5931 | the supervision and approval of a board of governors consisting
5932 | of eight individuals who are residents of this state, from

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5933 | different geographical areas of this state. The Governor, the
5934 | Chief Financial Officer, the President of the Senate, and the
5935 | Speaker of the House of Representatives shall each appoint two
5936 | members of the board. At least one of the two members appointed
5937 | by each appointing officer must have demonstrated expertise in
5938 | insurance. The Chief Financial Officer shall designate one of the
5939 | appointees as chair. All board members serve at the pleasure of
5940 | the appointing officer. All members of the board of governors are
5941 | subject to removal at will by the officers who appointed them.
5942 | All board members, including the chair, must be appointed to
5943 | serve for 3-year terms beginning annually on a date designated by
5944 | the plan. Any board vacancy shall be filled for the unexpired
5945 | term by the appointing officer. The Chief Financial Officer shall
5946 | appoint a technical advisory group to provide information and
5947 | advice to the board of governors in connection with the board's
5948 | duties under this subsection. The executive director and senior
5949 | managers of the corporation shall be engaged by the board and
5950 | serve at the pleasure of the board. Any executive director
5951 | appointed on or after July 1, 2006, is subject to confirmation by
5952 | the Senate. The executive director is responsible for employing
5953 | other staff as the corporation may require, subject to review and
5954 | concurrence by the board.

5955 | b. The board shall create a Market Accountability Advisory
5956 | Committee to assist the corporation in developing awareness of
5957 | its rates and its customer and agent service levels in
5958 | relationship to the voluntary market insurers writing similar
5959 | coverage. The members of the advisory committee shall consist of
5960 | the following 11 persons, one of whom must be elected chair by
5961 | the members of the committee: four representatives, one appointed

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5962 | by the Florida Association of Insurance Agents, one by the
5963 | Florida Association of Insurance and Financial Advisors, one by
5964 | the Professional Insurance Agents of Florida, and one by the
5965 | Latin American Association of Insurance Agencies; three
5966 | representatives appointed by the insurers with the three highest
5967 | voluntary market share of residential property insurance business
5968 | in the state; one representative from the Office of Insurance
5969 | Regulation; one consumer appointed by the board who is insured by
5970 | the corporation at the time of appointment to the committee; one
5971 | representative appointed by the Florida Association of Realtors;
5972 | and one representative appointed by the Florida Bankers
5973 | Association. All members must serve for 3-year terms and may
5974 | serve for consecutive terms. The committee shall report to the
5975 | corporation at each board meeting on insurance market issues
5976 | which may include rates and rate competition with the voluntary
5977 | market; service, including policy issuance, claims processing,
5978 | and general responsiveness to policyholders, applicants, and
5979 | agents; and matters relating to depopulation.

5980 | 5. Must provide a procedure for determining the eligibility
5981 | of a risk for coverage, as follows:

5982 | a. Subject to the provisions of s. 627.3517, with respect
5983 | to personal lines residential risks, if the risk is offered
5984 | coverage from an authorized insurer at the insurer's approved
5985 | rate under either a standard policy including wind coverage or,
5986 | if consistent with the insurer's underwriting rules as filed with
5987 | the office, a basic policy including wind coverage, for a new
5988 | application to the corporation for coverage, the risk is not
5989 | eligible for any policy issued by the corporation unless the
5990 | premium for coverage from the authorized insurer is more than 15

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5991 | percent greater than the premium for comparable coverage from the
5992 | corporation. If the risk is not able to obtain any such offer,
5993 | the risk is eligible for either a standard policy including wind
5994 | coverage or a basic policy including wind coverage issued by the
5995 | corporation; however, if the risk could not be insured under a
5996 | standard policy including wind coverage regardless of market
5997 | conditions, the risk shall be eligible for a basic policy
5998 | including wind coverage unless rejected under subparagraph 8. 9.
5999 | However, with regard to a policyholder of the corporation or a
6000 | policyholder removed from the corporation through an assumption
6001 | agreement until the end of the assumption period, the
6002 | policyholder remains eligible for coverage from the corporation
6003 | regardless of any offer of coverage from an authorized insurer or
6004 | surplus lines insurer. The corporation shall determine the type
6005 | of policy to be provided on the basis of objective standards
6006 | specified in the underwriting manual and based on generally
6007 | accepted underwriting practices.

6008 | (I) If the risk accepts an offer of coverage through the
6009 | market assistance plan or an offer of coverage through a
6010 | mechanism established by the corporation before a policy is
6011 | issued to the risk by the corporation or during the first 30 days
6012 | of coverage by the corporation, and the producing agent who
6013 | submitted the application to the plan or to the corporation is
6014 | not currently appointed by the insurer, the insurer shall:

6015 | (A) Pay to the producing agent of record of the policy, for
6016 | the first year, an amount that is the greater of the insurer's
6017 | usual and customary commission for the type of policy written or
6018 | a fee equal to the usual and customary commission of the
6019 | corporation; or

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6020 (B) Offer to allow the producing agent of record of the
6021 policy to continue servicing the policy for a period of not less
6022 than 1 year and offer to pay the agent the greater of the
6023 insurer's or the corporation's usual and customary commission for
6024 the type of policy written.

6025

6026 If the producing agent is unwilling or unable to accept
6027 appointment, the new insurer shall pay the agent in accordance
6028 with sub-sub-sub-subparagraph (A).

6029 (II) When the corporation enters into a contractual
6030 agreement for a take-out plan, the producing agent of record of
6031 the corporation policy is entitled to retain any unearned
6032 commission on the policy, and the insurer shall:

6033 (A) Pay to the producing agent of record of the corporation
6034 policy, for the first year, an amount that is the greater of the
6035 insurer's usual and customary commission for the type of policy
6036 written or a fee equal to the usual and customary commission of
6037 the corporation; or

6038 (B) Offer to allow the producing agent of record of the
6039 corporation policy to continue servicing the policy for a period
6040 of not less than 1 year and offer to pay the agent the greater of
6041 the insurer's or the corporation's usual and customary commission
6042 for 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).

6047 b. With respect to commercial lines residential risks, for
6048 a new application to the corporation for coverage, if the risk is

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6049 | offered coverage under a policy including wind coverage from an
6050 | authorized insurer at its approved rate, the risk is not eligible
6051 | for any policy issued by the corporation unless the premium for
6052 | coverage from the authorized insurer is more than 15 percent
6053 | greater than the premium for comparable coverage from the
6054 | corporation. If the risk is not able to obtain any such offer,
6055 | the risk is eligible for a policy including wind coverage issued
6056 | by the corporation. However, with regard to a policyholder of the
6057 | corporation or a policyholder removed from the corporation
6058 | through an assumption agreement until the end of the assumption
6059 | period, the policyholder remains eligible for coverage from the
6060 | corporation regardless of any offer of coverage from an
6061 | authorized insurer or surplus lines insurer.

6062 | (I) If the risk accepts an offer of coverage through the
6063 | market assistance plan or an offer of coverage through a
6064 | mechanism established by the corporation before a policy is
6065 | issued to the risk by the corporation or during the first 30 days
6066 | of coverage by the corporation, and the producing agent who
6067 | submitted the application to the plan or the corporation is not
6068 | currently appointed by the insurer, the insurer shall:

6069 | (A) Pay to the producing agent of record of the policy, for
6070 | the first year, an amount that is the greater of the insurer's
6071 | usual and customary commission for the type of policy written or
6072 | a fee equal to the usual and customary commission of the
6073 | corporation; or

6074 | (B) Offer to allow the producing agent of record of the
6075 | policy to continue servicing the policy for a period of not less
6076 | than 1 year and offer to pay the agent the greater of the

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6077 insurer's or the corporation's usual and customary commission for
6078 the type of policy written.

6079

6080 If the producing agent is unwilling or unable to accept
6081 appointment, the new insurer shall pay the agent in accordance
6082 with sub-sub-sub-subparagraph (A).

6083 (II) When the corporation enters into a contractual
6084 agreement for a take-out plan, the producing agent of record of
6085 the corporation policy is entitled to retain any unearned
6086 commission on the policy, and the insurer shall:

6087 (A) Pay to the producing agent of record of the corporation
6088 policy, for the first year, an amount that is the greater of the
6089 insurer's usual and customary commission for the type of policy
6090 written or a fee equal to the usual and customary commission of
6091 the corporation; or

6092 (B) Offer to allow the producing agent of record of the
6093 corporation policy to continue servicing the policy for a period
6094 of not less than 1 year and offer to pay the agent the greater of
6095 the insurer's or the corporation's usual and customary commission
6096 for 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 c. For purposes of determining comparable coverage under
6102 sub-subparagraphs a. and b., the comparison shall be based on
6103 those forms and coverages that are reasonably comparable. The
6104 corporation may rely on a determination of comparable coverage
6105 and premium made by the producing agent who submits the

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6106 application to the corporation, made in the agent's capacity as
6107 the corporation's agent. A comparison may be made solely of the
6108 premium with respect to the main building or structure only on
6109 the following basis: the same coverage A or other building
6110 limits; the same percentage hurricane deductible that applies on
6111 an annual basis or that applies to each hurricane for commercial
6112 residential property; the same percentage of ordinance and law
6113 coverage, if the same limit is offered by both the corporation
6114 and the authorized insurer; the same mitigation credits, to the
6115 extent the same types of credits are offered both by the
6116 corporation and the authorized insurer; the same method for loss
6117 payment, such as replacement cost or actual cash value, if the
6118 same method is offered both by the corporation and the authorized
6119 insurer in accordance with underwriting rules; and any other form
6120 or coverage that is reasonably comparable as determined by the
6121 board. If an application is submitted to the corporation for
6122 wind-only coverage in the high-risk account, the premium for the
6123 corporation's wind-only policy plus the premium for the ex-wind
6124 policy that is offered by an authorized insurer to the applicant
6125 shall be compared to the premium for multiperil coverage offered
6126 by an authorized insurer, subject to the standards for comparison
6127 specified in this subparagraph. If the corporation or the
6128 applicant requests from the authorized insurer a breakdown of the
6129 premium of the offer by types of coverage so that a comparison
6130 may be made by the corporation or its agent and the authorized
6131 insurer refuses or is unable to provide such information, the
6132 corporation may treat the offer as not being an offer of coverage
6133 from an authorized insurer at the insurer's approved rate.

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6134 6. Must include rules for classifications of risks and
6135 rates therefor.

6136 7. Must provide that if premium and investment income for
6137 an account attributable to a particular calendar year are in
6138 excess of projected losses and expenses for the account
6139 attributable to that year, such excess shall be held in surplus
6140 in the account. Such surplus shall be available to defray
6141 deficits in that account as to future years and shall be used for
6142 that purpose prior to assessing assessable insurers and
6143 assessable insureds as to any calendar year.

6144 8. Must provide objective criteria and procedures to be
6145 uniformly applied for all applicants in determining whether an
6146 individual risk is so hazardous as to be uninsurable. In making
6147 this determination and in establishing the criteria and
6148 procedures, the following shall be considered:

6149 a. Whether the likelihood of a loss for the individual risk
6150 is substantially higher than for other risks of the same class;
6151 and

6152 b. Whether the uncertainty associated with the individual
6153 risk is such that an appropriate premium cannot be determined.

6154
6155 The acceptance or rejection of a risk by the corporation shall be
6156 construed as the private placement of insurance, and the
6157 provisions of chapter 120 shall not apply.

6158 9. Must provide that the corporation shall make its best
6159 efforts to procure catastrophe reinsurance at reasonable rates,
6160 to cover its projected 100-year probable maximum loss as
6161 determined by the board of governors.

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6162 10. Must provide that in the event of regular deficit
6163 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
6164 (b)3.b., in the personal lines account, the commercial lines
6165 residential account, or the high-risk account, the corporation
6166 shall levy upon corporation policyholders in its next rate
6167 filing, or by a separate rate filing solely for this purpose, a
6168 Citizens policyholder surcharge arising from a regular assessment
6169 in such account in a percentage equal to the total amount of such
6170 regular assessments divided by the aggregate statewide direct
6171 written premium for subject lines of business for the prior
6172 calendar year. For purposes of calculating the Citizens
6173 policyholder surcharge to be levied under this subparagraph, the
6174 total amount of the regular assessment to which this surcharge is
6175 related shall be determined as set forth in subparagraph (b)3.,
6176 without deducting the estimated Citizens policyholder surcharge.
6177 Citizens policyholder surcharges under this subparagraph are not
6178 considered premium and are not subject to commissions, fees, or
6179 premium taxes; however, failure to pay a market equalization
6180 surcharge shall be treated as failure to pay premium.

6181 11. The policies issued by the corporation must provide
6182 that, if the corporation or the market assistance plan obtains an
6183 offer from an authorized insurer to cover the risk at its
6184 approved rates, the risk is no longer eligible for renewal
6185 through the corporation, except as otherwise provided in this
6186 subsection.

6187 12. Corporation policies and applications must include a
6188 notice that the corporation policy could, under this section, be
6189 replaced with a policy issued by an authorized insurer that does
6190 not provide coverage identical to the coverage provided by the

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6191 corporation. The notice shall also specify that acceptance of
6192 corporation coverage creates a conclusive presumption that the
6193 applicant or policyholder is aware of this potential.

6194 13. May establish, subject to approval by the office,
6195 different eligibility requirements and operational procedures for
6196 any line or type of coverage for any specified county or area if
6197 the board determines that such changes to the eligibility
6198 requirements and operational procedures are justified due to the
6199 voluntary market being sufficiently stable and competitive in
6200 such area or for such line or type of coverage and that consumers
6201 who, in good faith, are unable to obtain insurance through the
6202 voluntary market through ordinary methods would continue to have
6203 access to coverage from the corporation. When coverage is sought
6204 in connection with a real property transfer, such requirements
6205 and procedures shall not provide for an effective date of
6206 coverage later than the date of the closing of the transfer as
6207 established by the transferor, the transferee, and, if
6208 applicable, the lender.

6209 14. Must provide that, with respect to the high-risk
6210 account, any assessable insurer with a surplus as to
6211 policyholders of \$25 million or less writing 25 percent or more
6212 of its total countrywide property insurance premiums in this
6213 state may petition the office, within the first 90 days of each
6214 calendar year, to qualify as a limited apportionment company. A
6215 regular assessment levied by the corporation on a limited
6216 apportionment company for a deficit incurred by the corporation
6217 for the high-risk account in 2006 or thereafter may be paid to
6218 the corporation on a monthly basis as the assessments are
6219 collected by the limited apportionment company from its insureds

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6220 pursuant to s. 627.3512, but the regular assessment must be paid
6221 in full within 12 months after being levied by the corporation. A
6222 limited apportionment company shall collect from its
6223 policyholders any emergency assessment imposed under sub-
6224 subparagraph (b)3.d. The plan shall provide that, if the office
6225 determines that any regular assessment will result in an
6226 impairment of the surplus of a limited apportionment company, the
6227 office may direct that all or part of such assessment be deferred
6228 as provided in subparagraph (p)4. However, there shall be no
6229 limitation or deferment of an emergency assessment to be
6230 collected from policyholders under sub-subparagraph (b)3.d.

6231 15. Must provide that the corporation appoint as its
6232 licensed agents only those agents who also hold an appointment as
6233 defined in s. 626.015(3) with an insurer who at the time of the
6234 agent's initial appointment by the corporation is authorized to
6235 write and is actually writing personal lines residential property
6236 coverage, commercial residential property coverage, or commercial
6237 nonresidential property coverage within the state.

6238 16. Must provide, by July 1, 2007, a premium payment plan
6239 option to its policyholders which allows at a minimum for
6240 quarterly and semiannual payment of premiums. A monthly payment
6241 plan may, but is not required to, be offered.

6242 17. Must limit coverage on mobile homes or manufactured
6243 homes built prior to 1994 to actual cash value of the dwelling
6244 rather than replacement costs of the dwelling.

6245 18. May provide such limits of coverage as the board
6246 determines, consistent with the requirements of this subsection.

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6247 | 19. May require commercial property to meet specified
6248 | hurricane mitigation construction features as a condition of
6249 | eligibility for coverage.

6250 | (n) If coverage in an account is deactivated pursuant to
6251 | paragraph (o), coverage through the corporation shall be
6252 | reactivated by order of the office only under one of the
6253 | following circumstances:

6254 | 1. If the market assistance plan receives a minimum of 100
6255 | applications for coverage within a 3-month period, or 200
6256 | applications for coverage within a 1-year period or less for
6257 | residential coverage, unless the market assistance plan provides
6258 | a quotation from admitted carriers at their filed rates for at
6259 | least 90 percent of such applicants. Any market assistance plan
6260 | application that is rejected because an individual risk is so
6261 | hazardous as to be uninsurable using the criteria specified in
6262 | subparagraph (c)8. ~~(e)9.~~ shall not be included in the minimum
6263 | percentage calculation provided herein. In the event that there
6264 | is a legal or administrative challenge to a determination by the
6265 | office that the conditions of this subparagraph have been met for
6266 | eligibility for coverage in the corporation, any eligible risk
6267 | may obtain coverage during the pendency of such challenge.

6268 | 2. In response to a state of emergency declared by the
6269 | Governor under s. 252.36, the office may activate coverage by
6270 | order for the period of the emergency upon a finding by the
6271 | office that the emergency significantly affects the availability
6272 | of residential property insurance.

6273 | (v) Notwithstanding any other provision of law:

6274 | 1. The pledge or sale of, the lien upon, and the security
6275 | interest in any rights, revenues, or other assets of the

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6276 corporation created or purported to be created pursuant to any
6277 financing documents to secure any bonds or other indebtedness of
6278 the corporation shall be and remain valid and enforceable,
6279 notwithstanding the commencement of and during the continuation
6280 of, and after, any rehabilitation, insolvency, liquidation,
6281 bankruptcy, receivership, conservatorship, reorganization, or
6282 similar proceeding against the corporation under the laws of this
6283 state.

6284 2. No such proceeding shall relieve the corporation of its
6285 obligation, or otherwise affect its ability to perform its
6286 obligation, to continue to collect, or levy and collect,
6287 assessments, market equalization or other surcharges under
6288 subparagraph (c)10. ~~(e)11.~~, or any other rights, revenues, or
6289 other assets of the corporation pledged pursuant to any financing
6290 documents.

6291 3. Each such pledge or sale of, lien upon, and security
6292 interest in, including the priority of such pledge, lien, or
6293 security interest, any such assessments, market equalization or
6294 other surcharges, or other rights, revenues, or other assets
6295 which are collected, or levied and collected, after the
6296 commencement of and during the pendency of, or after, any such
6297 proceeding shall continue unaffected by such proceeding. As used
6298 in this subsection, the term "financing documents" means any
6299 agreement or agreements, instrument or instruments, or other
6300 document or documents now existing or hereafter created
6301 evidencing any bonds or other indebtedness of the corporation or
6302 pursuant to which any such bonds or other indebtedness has been
6303 or may be issued and pursuant to which any rights, revenues, or
6304 other assets of the corporation are pledged or sold to secure the

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6305 repayment of such bonds or indebtedness, together with the
6306 payment of interest on such bonds or such indebtedness, or the
6307 payment of any other obligation or financial product, as defined
6308 in the plan of operation of the corporation related to such bonds
6309 or indebtedness.

6310 4. Any such pledge or sale of assessments, revenues,
6311 contract rights, or other rights or assets of the corporation
6312 shall constitute a lien and security interest, or sale, as the
6313 case may be, that is immediately effective and attaches to such
6314 assessments, revenues, or contract rights or other rights or
6315 assets, whether or not imposed or collected at the time the
6316 pledge or sale is made. Any such pledge or sale is effective,
6317 valid, binding, and enforceable against the corporation or other
6318 entity making such pledge or sale, and valid and binding against
6319 and superior to any competing claims or obligations owed to any
6320 other person or entity, including policyholders in this state,
6321 asserting rights in any such assessments, revenues, or contract
6322 rights or other rights or assets to the extent set forth in and
6323 in accordance with the terms of the pledge or sale contained in
6324 the applicable financing documents, whether or not any such
6325 person or entity has notice of such pledge or sale and without
6326 the need for any physical delivery, recordation, filing, or other
6327 action.

6328 5. As long as the corporation has any bonds outstanding,
6329 the corporation may not file a voluntary petition under chapter 9
6330 of the federal Bankruptcy Code or such corresponding chapter or
6331 sections as may be in effect, from time to time, and a public
6332 officer or any organization, entity, or other person may not
6333 authorize the corporation to be or become a debtor under chapter

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6334 | 9 of the federal Bankruptcy Code or such corresponding chapter or
6335 | sections as may be in effect, from time to time, during any such
6336 | period.

6337 | 6. If ordered by a court of competent jurisdiction, the
6338 | corporation may assume policies or otherwise provide coverage for
6339 | policyholders of an insurer placed in liquidation under chapter
6340 | 631, under such forms, rates, terms, and conditions as the
6341 | corporation deems appropriate, subject to approval by the office.

6342 | (w)1. The following records of the corporation are
6343 | confidential and exempt from the provisions of s. 119.07(1) and
6344 | s. 24(a), Art. I of the State Constitution:

6345 | a. Underwriting files, except that a policyholder or an
6346 | applicant shall have access to his or her own underwriting files.

6347 | b. Claims files, until termination of all litigation and
6348 | settlement of all claims arising out of the same incident,
6349 | although portions of the claims files may remain exempt, as
6350 | otherwise provided by law. Confidential and exempt claims file
6351 | records may be released to other governmental agencies upon
6352 | written request and demonstration of need; such records held by
6353 | the receiving agency remain confidential and exempt as provided
6354 | for herein.

6355 | c. Records obtained or generated by an internal auditor
6356 | pursuant to a routine audit, until the audit is completed, or if
6357 | the audit is conducted as part of an investigation, until the
6358 | investigation is closed or ceases to be active. An investigation
6359 | is considered "active" while the investigation is being conducted
6360 | with a reasonable, good faith belief that it could lead to the
6361 | filing of administrative, civil, or criminal proceedings.

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6362 d. Matters reasonably encompassed in privileged attorney-
6363 client communications.

6364 e. Proprietary information licensed to the corporation
6365 under contract and the contract provides for the confidentiality
6366 of such proprietary information.

6367 f. All information relating to the medical condition or
6368 medical status of a corporation employee which is not relevant to
6369 the employee's capacity to perform his or her duties, except as
6370 otherwise provided in this paragraph. Information which is exempt
6371 shall include, but is not limited to, information relating to
6372 workers' compensation, insurance benefits, and retirement or
6373 disability benefits.

6374 g. Upon an employee's entrance into the employee assistance
6375 program, a program to assist any employee who has a behavioral or
6376 medical disorder, substance abuse problem, or emotional
6377 difficulty which affects the employee's job performance, all
6378 records relative to that participation shall be confidential and
6379 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
6380 of the State Constitution, except as otherwise provided in s.
6381 112.0455(11).

6382 h. Information relating to negotiations for financing,
6383 reinsurance, depopulation, or contractual services, until the
6384 conclusion of the negotiations.

6385 i. Minutes of closed meetings regarding underwriting files,
6386 and minutes of closed meetings regarding an open claims file
6387 until termination of all litigation and settlement of all claims
6388 with regard to that claim, except that information otherwise
6389 confidential or exempt by law will be redacted.

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6391 | When an authorized insurer is considering underwriting a risk
6392 | insured by the corporation, relevant underwriting files and
6393 | confidential claims files may be released to the insurer provided
6394 | the insurer agrees in writing, notarized and under oath, to
6395 | maintain the confidentiality of such files. When a file is
6396 | transferred to an insurer that file is no longer a public record
6397 | because it is not held by an agency subject to the provisions of
6398 | the public records law. Underwriting files and confidential
6399 | claims files may also be released to staff of and the board of
6400 | governors of the market assistance plan established pursuant to
6401 | s. 627.3515, who must retain the confidentiality of such files,
6402 | except such files may be released to authorized insurers that are
6403 | considering assuming the risks to which the files apply, provided
6404 | the insurer agrees in writing, notarized and under oath, to
6405 | maintain the confidentiality of such files. Finally, the
6406 | corporation or the board or staff of the market assistance plan
6407 | may make the following information obtained from underwriting
6408 | files and confidential claims files available to licensed general
6409 | lines insurance agents: name, address, and telephone number of
6410 | the residential property owner or insured; location of the risk;
6411 | rating information; loss history; and policy type. The receiving
6412 | licensed general lines insurance agent must retain the
6413 | confidentiality of the information received.

6414 | 2. Portions of meetings of the corporation are exempt from
6415 | the provisions of s. 286.011 and s. 24(b), Art. I of the State
6416 | Constitution wherein confidential underwriting files or
6417 | confidential open claims files are discussed. All portions of
6418 | corporation meetings which are closed to the public shall be
6419 | recorded by a court reporter. The court reporter shall record the

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6420 | times of commencement and termination of the meeting, all
6421 | discussion and proceedings, the names of all persons present at
6422 | any time, and the names of all persons speaking. No portion of
6423 | any closed meeting shall be off the record. Subject to the
6424 | provisions hereof and s. 119.07(1)(d)-(f) ~~119.07(1)(e)-(g)~~, the
6425 | court reporter's notes of any closed meeting shall be retained by
6426 | the corporation for a minimum of 5 years. A copy of the
6427 | transcript, less any exempt matters, of any closed meeting
6428 | wherein claims are discussed shall become public as to individual
6429 | claims after settlement of the claim.

6430 | Reviser's note.--Paragraph (2)(b) is amended to conform to
6431 | the redesignation of Dade County as Miami-Dade County by s.
6432 | 1-4.2 of the Miami-Dade County Code. Paragraphs (6)(c) and
6433 | (6)(n) are amended to conform to the redesignation of
6434 | subparagraph (c)8. as subparagraph (c)9. by s. 15, ch. 2006-
6435 | 12, Laws of Florida, and further redesignation as
6436 | subparagraph (c)8. by s. 11, ch. 2007-90, Laws of Florida.
6437 | Paragraph (6)(v) is amended to conform to the redesignation
6438 | of subparagraph (c)10. as subparagraph (c)11. by s. 15, ch.
6439 | 2006-12, and further redesignation as subparagraph (c)10. by
6440 | s. 11, ch. 2007-90. Paragraph (6)(w) is amended to conform
6441 | to the redesignation of s. 119.07(1)(b)-(d) as s.
6442 | 119.07(1)(d)-(f) by s. 1, ch. 2007-39, Laws of Florida, and
6443 | to correct the reference by s. 4, ch. 2007-39.

6444 | Section 149. Paragraph (a) of subsection (3) and paragraph
6445 | (b) of subsection (6) of section 627.3511, Florida Statutes, are
6446 | amended to read:

6447 | 627.3511 Depopulation of Citizens Property Insurance
6448 | Corporation.--

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6449 (3) EXEMPTION FROM DEFICIT ASSESSMENTS.--

6450 (a) The calculation of an insurer's assessment liability
6451 under s. 627.351(6)(b)3.a. or b. shall, for an insurer that in
6452 any calendar year removes 50,000 or more risks from the Citizens
6453 Property Insurance Corporation, either by issuance of a policy
6454 upon expiration or cancellation of the corporation policy or by
6455 assumption of the corporation's obligations with respect to in-
6456 force policies, exclude such removed policies for the succeeding
6457 3 years, as follows:

6458 1. In the first year following removal of the risks, the
6459 risks are excluded from the calculation to the extent of 100
6460 percent.

6461 2. In the second year following removal of the risks, the
6462 risks are excluded from the calculation to the extent of 75
6463 percent.

6464 3. In the third year following removal of the risks, the
6465 risks are excluded from the calculation to the extent of 50
6466 percent.

6467
6468 If the removal of risks is accomplished through assumption of
6469 obligations with respect to in-force policies, the corporation
6470 shall pay to the assuming insurer all unearned premium with
6471 respect to such policies less any policy acquisition costs agreed
6472 to by the corporation and assuming insurer. The term "policy
6473 acquisition costs" is defined as costs of issuance of the policy
6474 by the corporation which includes agent commissions, servicing
6475 company fees, and premium tax. This paragraph does not apply to
6476 an insurer that, at any time within 5 years before removing the
6477 risks, had a market share in excess of 0.1 percent of the

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6478 statewide aggregate gross direct written premium for any line of
6479 property insurance, or to an affiliate of such an insurer. This
6480 paragraph does not apply unless either at least 40 percent of the
6481 risks removed from the corporation are located in Miami-Dade
6482 ~~Dade~~, Broward, and Palm Beach Counties, or at least 30 percent of
6483 the risks removed from the corporation are located in such
6484 counties and an additional 50 percent of the risks removed from
6485 the corporation are located in other coastal counties.

6486 (6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.--

6487 (b) In order for a plan to qualify for approval:

6488 1. At least 40 percent of the policies removed from the
6489 corporation under the plan must be located in Miami-Dade ~~Dade~~,
6490 Broward, and Palm Beach Counties, or at least 30 percent of the
6491 policies removed from the corporation under the plan must be
6492 located in such counties and an additional 50 percent of the
6493 policies removed from the corporation must be located in other
6494 coastal counties.

6495 2. The insurer must renew the replacement policy at
6496 approved rates on substantially similar terms for two additional
6497 1-year terms, unless canceled or nonrenewed by the insurer for a
6498 lawful reason other than reduction of hurricane exposure. If an
6499 insurer assumes the corporation's obligations for a policy, it
6500 must issue a replacement policy for a 1-year term upon expiration
6501 of the corporation policy and must renew the replacement policy
6502 at approved rates on substantially similar terms for two
6503 additional 1-year terms, unless canceled by the insurer for a
6504 lawful reason other than reduction of hurricane exposure. For
6505 each replacement policy canceled or nonrenewed by the insurer for
6506 any reason during the 3-year coverage period required by this

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6507 | subparagraph, the insurer must remove from the corporation one
6508 | additional policy covering a risk similar to the risk covered by
6509 | the canceled or nonrenewed policy.

6510 | Reviser's note.--Amended to conform to the redesignation of
6511 | Dade County as Miami-Dade County by s. 1-4.2 of the Miami-
6512 | Dade County Code.

6513 | Section 150. Paragraph (b) of subsection (2) of section
6514 | 627.4133, Florida Statutes, is amended to read:

6515 | 627.4133 Notice of cancellation, nonrenewal, or renewal
6516 | premium.--

6517 | (2) With respect to any personal lines or commercial
6518 | residential property insurance policy, including, but not limited
6519 | to, any homeowner's, mobile home owner's, farmowner's,
6520 | condominium association, condominium unit owner's, apartment
6521 | building, or other policy covering a residential structure or its
6522 | contents:

6523 | (b) The insurer shall give the named insured written notice
6524 | of nonrenewal, cancellation, or termination at least 100 days
6525 | prior to the effective date of the nonrenewal, cancellation, or
6526 | termination. However, the insurer shall give at least 100 days'
6527 | written notice, or written notice by June 1, whichever is
6528 | earlier, for any nonrenewal, cancellation, or termination that
6529 | would be effective between June 1 and November 30. The notice
6530 | must include the reason or reasons for the nonrenewal,
6531 | cancellation, or termination, except that:

6532 | 1. When cancellation is for nonpayment of premium, at least
6533 | 10 days' written notice of cancellation accompanied by the reason
6534 | therefor shall be given. As used in this subparagraph, the term
6535 | "nonpayment of premium" means failure of the named insured to

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6536 discharge when due any of her or his obligations in connection
6537 with the payment of premiums on a policy or any installment of
6538 such premium, whether the premium is payable directly to the
6539 insurer or its agent or indirectly under any premium finance plan
6540 or extension of credit, or failure to maintain membership in an
6541 organization if such membership is a condition precedent to
6542 insurance coverage. "Nonpayment of premium" also means the
6543 failure of a financial institution to honor an insurance
6544 applicant's check after delivery to a licensed agent for payment
6545 of a premium, even if the agent has previously delivered or
6546 transferred the premium to the insurer. If a dishonored check
6547 represents the initial premium payment, the contract and all
6548 contractual obligations shall be void ab initio unless the
6549 nonpayment is cured within the earlier of 5 days after actual
6550 notice by certified mail is received by the applicant or 15 days
6551 after notice is sent to the applicant by certified mail or
6552 registered mail, and if the contract is void, any premium
6553 received by the insurer from a third party shall be refunded to
6554 that party in full.

6555 2. When such cancellation or termination occurs during the
6556 first 90 days during which the insurance is in force and the
6557 insurance is canceled or terminated for reasons other than
6558 nonpayment of premium, at least 20 days' written notice of
6559 cancellation or termination accompanied by the reason therefor
6560 shall be given except where there has been a material
6561 misstatement or misrepresentation or failure to comply with the
6562 underwriting requirements established by the insurer.

6563 3. The requirement for providing written notice of
6564 nonrenewal by June 1 of any nonrenewal that would be effective

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6565 | between June 1 and November 30 does not apply to the following
6566 | situations, but the insurer remains subject to the requirement to
6567 | provide such notice at least 100 days prior to the effective date
6568 | of nonrenewal:

6569 | a. A policy that is nonrenewed due to a revision in the
6570 | coverage for sinkhole losses and catastrophic ground cover
6571 | collapse pursuant to s. 627.706 ~~627.730~~, as amended by s. 30,
6572 | chapter 2007-1, Laws of Florida.

6573 | b. A policy that is nonrenewed by Citizens Property
6574 | Insurance Corporation, pursuant to s. 627.351(6), for a policy
6575 | that has been assumed by an authorized insurer offering
6576 | replacement or renewal coverage to the policyholder.

6577 |
6578 | After the policy has been in effect for 90 days, the policy shall
6579 | not be canceled by the insurer except when there has been a
6580 | material misstatement, a nonpayment of premium, a failure to
6581 | comply with underwriting requirements established by the insurer
6582 | within 90 days of the date of effectuation of coverage, or a
6583 | substantial change in the risk covered by the policy or when the
6584 | cancellation is for all insureds under such policies for a given
6585 | class of insureds. This paragraph does not apply to individually
6586 | rated risks having a policy term of less than 90 days.

6587 | Reviser's note.--Amended to correct a reference and conform
6588 | to context. Section 627.730 is the short title of the
6589 | Florida Motor Vehicle No-Fault Law; s. 627.706 relates to
6590 | coverage for sinkhole losses and catastrophic ground cover
6591 | collapse.

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6592 Section 151. Paragraph (a) of subsection (3) and paragraph
6593 (c) of subsection (6) of section 627.701, Florida Statutes, are
6594 amended to read:

6595 627.701 Liability of insureds; coinsurance; deductibles.--

6596 (3)(a) Except as otherwise provided in this subsection,
6597 prior to issuing a personal lines residential property insurance
6598 policy, the insurer must offer alternative deductible amounts
6599 applicable to hurricane losses equal to \$500, 2 percent, 5
6600 percent, and 10 percent of the policy dwelling limits, unless the
6601 specific percentage deductible is less than \$500. The written
6602 notice of the offer shall specify the hurricane deductible to be
6603 applied in the event that the applicant or policyholder fails to
6604 affirmatively choose a hurricane deductible. The insurer must
6605 provide such policyholder with notice of the availability of the
6606 deductible amounts specified in this subsection ~~paragraph~~ in a
6607 form approved by the office in conjunction with each renewal of
6608 the policy. The failure to provide such notice constitutes a
6609 violation of this code but does not affect the coverage provided
6610 under the policy.

6611 (6)

6612 (c) A secured hurricane deductible must include the
6613 substance of the following:

6614 1. The first \$500 of any claim, regardless of the peril
6615 causing the loss, is fully deductible.

6616 2. With respect to hurricane losses only, the next \$5,000
6617 in losses are fully insured, subject only to a copayment
6618 requirement of 10 percent.

6619 3. With respect to hurricane losses only, the remainder of
6620 the claim is subject to a deductible equal to a specified

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6621 | percentage of the policy dwelling limits in excess of the
6622 | deductible allowed under former paragraph (3) (a) but no higher
6623 | than 10 percent of the policy dwelling limits.

6624 | 4. The insurer agrees to renew the coverage on a guaranteed
6625 | basis for a period of years after initial issuance of the secured
6626 | deductible equal to at least 1 year for each 2 percentage points
6627 | of deductible specified in subparagraph 3. unless the policy is
6628 | canceled for nonpayment of premium or the insured fails to
6629 | maintain the certificate of security. Such renewal shall be at
6630 | the same premium as the initial policy except for premium changes
6631 | attributable to changes in the value of the property.

6632 | Reviser's note.--Paragraph (3) (a) is amended to conform to
6633 | context and correct a reference. Paragraph (6) (c) is amended
6634 | to clarify the status of former paragraph (3) (a), which was
6635 | deleted by s. 28, ch. 2007-1, Laws of Florida.

6636 | Section 152. Paragraph (b) of subsection (2) of section
6637 | 627.7261, Florida Statutes, is amended to read:

6638 | 627.7261 Refusal to issue policy.--

6639 | (2)

6640 | (b) As used in this section, the term "volunteer driver"
6641 | means a person who provides services, including transporting
6642 | individuals or goods, without compensation in excess of expenses
6643 | to a private nonprofit agency as defined in s. 273.01(3) or a
6644 | charitable organization as defined in s. 736.1201 ~~737.501(2)~~.

6645 | Reviser's note.--Amended to correct a reference and improve
6646 | clarity. Section 737.501 was repealed by s. 48, ch. 2006-
6647 | 217, Laws of Florida; s. 736.1201, created by s. 12, ch.
6648 | 2006-217, now provides the definition of the term
6649 | "charitable organization" previously found in s. 737.501(2).

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6650 Section 153. Paragraphs (a) and (e) of subsection (5) of
6651 section 627.736, Florida Statutes, as revived, reenacted, and
6652 amended by sections 13 and 20 of chapter 2007-324, Laws of
6653 Florida, are amended to read:

6654 627.736 Required personal injury protection benefits;
6655 exclusions; priority; claims.--

6656 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

6657 (a)1. Any physician, hospital, clinic, or other person or
6658 institution lawfully rendering treatment to an injured person for
6659 a bodily injury covered by personal injury protection insurance
6660 may charge the insurer and injured party only a reasonable amount
6661 pursuant to this section for the services and supplies rendered,
6662 and the insurer providing such coverage may pay for such charges
6663 directly to such person or institution lawfully rendering such
6664 treatment, if the insured receiving such treatment or his or her
6665 guardian has countersigned the properly completed invoice, bill,
6666 or claim form approved by the office upon which such charges are
6667 to be paid for as having actually been rendered, to the best
6668 knowledge of the insured or his or her guardian. In no event,
6669 however, may such a charge be in excess of the amount the person
6670 or institution customarily charges for like services or supplies.
6671 With respect to a determination of whether a charge for a
6672 particular service, treatment, or otherwise is reasonable,
6673 consideration may be given to evidence of usual and customary
6674 charges and payments accepted by the provider involved in the
6675 dispute, and reimbursement levels in the community and various
6676 federal and state medical fee schedules applicable to automobile
6677 and other insurance coverages, and other information relevant to

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6678 | the reasonableness of the reimbursement for the service,
6679 | treatment, or supply.

6680 | 2. The insurer may limit reimbursement to 80 percent of the
6681 | following schedule of maximum charges:

6682 | a. For emergency transport and treatment by providers
6683 | licensed under chapter 401, 200 percent of Medicare.

6684 | b. For emergency services and care provided by a hospital
6685 | licensed under chapter 395, 75 percent of the hospital's usual
6686 | and customary charges.

6687 | c. For emergency services and care as defined by s.
6688 | 395.002(9) ~~395.002(10)~~ provided in a facility licensed under
6689 | chapter 395 rendered by a physician or dentist, and related
6690 | hospital inpatient services rendered by a physician or dentist,
6691 | the usual and customary charges in the community.

6692 | d. For hospital inpatient services, other than emergency
6693 | services and care, 200 percent of the Medicare Part A prospective
6694 | payment applicable to the specific hospital providing the
6695 | inpatient services.

6696 | e. For hospital outpatient services, other than emergency
6697 | services and care, 200 percent of the Medicare Part A Ambulatory
6698 | Payment Classification for the specific hospital providing the
6699 | outpatient services.

6700 | f. For all other medical services, supplies, and care, 200
6701 | percent of the applicable Medicare Part B fee schedule. However,
6702 | if such services, supplies, or care is not reimbursable under
6703 | Medicare Part B, the insurer may limit reimbursement to 80
6704 | percent of the maximum reimbursable allowance under workers'
6705 | compensation, as determined under s. 440.13 and rules adopted
6706 | thereunder which are in effect at the time such services,

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6707 | supplies, or care is provided. Services, supplies, or care that
6708 | is not reimbursable under Medicare or workers' compensation is
6709 | not required to be reimbursed by the insurer.

6710 | 3. For purposes of subparagraph 2., the applicable fee
6711 | schedule or payment limitation under Medicare is the fee schedule
6712 | or payment limitation in effect at the time the services,
6713 | supplies, or care was rendered and for the area in which such
6714 | services were rendered, except that it may not be less than the
6715 | applicable 2007 Medicare Part B fee schedule for medical
6716 | services, supplies, and care subject to Medicare Part B.

6717 | 4. Subparagraph 2. does not allow the insurer to apply any
6718 | limitation on the number of treatments or other utilization
6719 | limits that apply under Medicare or workers' compensation. An
6720 | insurer that applies the allowable payment limitations of
6721 | subparagraph 2. must reimburse a provider who lawfully provided
6722 | care or treatment under the scope of his or her license,
6723 | regardless of whether such provider would be entitled to
6724 | reimbursement under Medicare due to restrictions or limitations
6725 | on the types or discipline of health care providers who may be
6726 | reimbursed for particular procedures or procedure codes.

6727 | 5. If an insurer limits payment as authorized by
6728 | subparagraph 2., the person providing such services, supplies, or
6729 | care may not bill or attempt to collect from the insured any
6730 | amount in excess of such limits, except for amounts that are not
6731 | covered by the insured's personal injury protection coverage due
6732 | to the coinsurance amount or maximum policy limits.

6733 | (e)1. At the initial treatment or service provided, each
6734 | physician, other licensed professional, clinic, or other medical
6735 | institution providing medical services upon which a claim for

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6736 personal injury protection benefits is based shall require an
6737 insured person, or his or her guardian, to execute a disclosure
6738 and acknowledgment form, which reflects at a minimum that:
6739 a. The insured, or his or her guardian, must countersign
6740 the form attesting to the fact that the services set forth
6741 therein were actually rendered;
6742 b. The insured, or his or her guardian, has both the right
6743 and affirmative duty to confirm that the services were actually
6744 rendered;
6745 c. The insured, or his or her guardian, was not solicited
6746 by any person to seek any services from the medical provider;
6747 d. ~~That~~ The physician, other licensed professional, clinic,
6748 or other medical institution rendering services for which payment
6749 is being claimed explained the services to the insured or his or
6750 her guardian; and
6751 e. If the insured notifies the insurer in writing of a
6752 billing error, the insured may be entitled to a certain
6753 percentage of a reduction in the amounts paid by the insured's
6754 motor vehicle insurer.

6755 2. The physician, other licensed professional, clinic, or
6756 other medical institution rendering services for which payment is
6757 being claimed has the affirmative duty to explain the services
6758 rendered to the insured, or his or her guardian, so that the
6759 insured, or his or her guardian, countersigns the form with
6760 informed consent.

6761 3. Countersignature by the insured, or his or her guardian,
6762 is not required for the reading of diagnostic tests or other
6763 services that are of such a nature that they are not required to
6764 be performed in the presence of the insured.

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6765 4. The licensed medical professional rendering treatment
6766 for which payment is being claimed must sign, by his or her own
6767 hand, the form complying with this paragraph.

6768 5. The original completed disclosure and acknowledgment
6769 form shall be furnished to the insurer pursuant to paragraph
6770 (4) (b) and may not be electronically furnished.

6771 6. This disclosure and acknowledgment form is not required
6772 for services billed by a provider for emergency services as
6773 defined in s. 395.002, for emergency services and care as defined
6774 in s. 395.002 rendered in a hospital emergency department, or for
6775 transport and treatment rendered by an ambulance provider
6776 licensed pursuant to part III of chapter 401.

6777 7. The Financial Services Commission shall adopt, by rule,
6778 a standard disclosure and acknowledgment form that shall be used
6779 to fulfill the requirements of this paragraph, effective 90 days
6780 after such form is adopted and becomes final. The commission
6781 shall adopt a proposed rule by October 1, 2003. Until the rule is
6782 final, the provider may use a form of its own which otherwise
6783 complies with the requirements of this paragraph.

6784 8. As used in this paragraph, "countersigned" means a
6785 second or verifying signature, as on a previously signed
6786 document, and is not satisfied by the statement "signature on
6787 file" or any similar statement.

6788 9. The requirements of this paragraph apply only with
6789 respect to the initial treatment or service of the insured by a
6790 provider. For subsequent treatments or service, the provider must
6791 maintain a patient log signed by the patient, in chronological
6792 order by date of service, that is consistent with the services
6793 being rendered to the patient as claimed. The requirements of

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6794 | this subparagraph for maintaining a patient log signed by the
6795 | patient may be met by a hospital that maintains medical records
6796 | as required by s. 395.3025 and applicable rules and makes such
6797 | records available to the insurer upon request.

6798 | Reviser's note.--Paragraph (5) (a) is amended to correct an
6799 | erroneous reference. "Emergency services and care" is
6800 | defined in s. 395.002(9); s. 395.002(10) defines "[g]eneral
6801 | hospital." Paragraph (5) (e) is amended to correct
6802 | construction and eliminate redundancy.

6803 | Section 154. Paragraph (b) of subsection (1) of section
6804 | 628.461, Florida Statutes, is amended to read:

6805 | 628.461 Acquisition of controlling stock.--

6806 | (1) A person may not, individually or in conjunction with
6807 | any affiliated person of such person, acquire directly or
6808 | indirectly, conclude a tender offer or exchange offer for, enter
6809 | into any agreement to exchange securities for, or otherwise
6810 | finally acquire 5 percent or more of the outstanding voting
6811 | securities of a domestic stock insurer or of a controlling
6812 | company, unless:

6813 | (b) The person or affiliated person has filed with the
6814 | office a statement as specified in subsection (3). The statement
6815 | must be completed and filed within 30 days after:

6816 | 1. Any definitive acquisition agreement is entered;
6817 | 2. Any form of tender offer or exchange offer is proposed;
6818 | or

6819 | 3. The acquisition of the securities, if no definitive
6820 | acquisition agreement, tender offer, or exchange offer is
6821 | involved; and
6822 |

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6823 | In lieu of a filing as required under this subsection, a party
6824 | acquiring less than 10 percent of the outstanding voting
6825 | securities of an insurer may file a disclaimer of affiliation and
6826 | control. The disclaimer shall fully disclose all material
6827 | relationships and basis for affiliation between the person and
6828 | the insurer as well as the basis for disclaiming the affiliation
6829 | and control. After a disclaimer has been filed, the insurer shall
6830 | be relieved of any duty to register or report under this section
6831 | which may arise out of the insurer's relationship with the person
6832 | unless and until the office disallows the disclaimer. The office
6833 | shall disallow a disclaimer only after furnishing all parties in
6834 | interest with notice and opportunity to be heard and after making
6835 | specific findings of fact to support the disallowance. A filing
6836 | as required under this subsection must be made as to any
6837 | acquisition that equals or exceeds 10 percent of the outstanding
6838 | voting securities.

6839 | Reviser's note.--Amended to confirm the editorial insertion
6840 | of the words "[t]he person or affiliated person" to improve
6841 | clarity.

6842 | Section 155. Paragraph (b) of subsection (2) of section
6843 | 628.4615, Florida Statutes, is amended to read:

6844 | 628.4615 Specialty insurers; acquisition of controlling
6845 | stock, ownership interest, assets, or control; merger or
6846 | consolidation.--

6847 | (2) A person may not, individually or in conjunction with
6848 | any affiliated person of such person, directly or indirectly,
6849 | conclude a tender offer or exchange offer for, enter into any
6850 | agreement to exchange securities for, or otherwise finally
6851 | acquire, 10 percent or more of the outstanding voting securities

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6852 of a specialty insurer which is a stock corporation or of a
6853 controlling company of a specialty insurer which is a stock
6854 corporation; or conclude an acquisition of, or otherwise finally
6855 acquire, 10 percent or more of the ownership interest of a
6856 specialty insurer which is not a stock corporation or of a
6857 controlling company of a specialty insurer which is not a stock
6858 corporation, unless:

6859 (b) The person or affiliated person has filed with the
6860 office an application signed under oath and prepared on forms
6861 prescribed by the commission which contains the information
6862 specified in subsection (4). The application must be completed
6863 and filed within 30 days after any form of tender offer or
6864 exchange offer is proposed, or after the acquisition of the
6865 securities if no tender offer or exchange offer is involved; and
6866 Reviser's note.--Amended to confirm the editorial insertion
6867 of the words "[t]he person or affiliated person" to improve
6868 clarity.

6869 Section 156. Subsection (5) of section 633.01, Florida
6870 Statutes, is amended to read:

6871 633.01 State Fire Marshal; powers and duties; rules.--

6872 (5) It is the intent of the Legislature that there are to
6873 be no conflicting requirements between the Florida Fire
6874 Prevention Code and the Life Safety Code authorized by this
6875 chapter and the provisions of the Florida Building Code or
6876 conflicts in their enforcement and interpretation. Potential
6877 conflicts shall be resolved through coordination and cooperation
6878 of the State Fire Marshal and the Florida Building Commission as
6879 provided by this chapter and part IV ~~VII~~ of chapter 553.

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6880 Reviser's note.--Amended to correct an erroneous reference.
6881 Part VII of chapter 553 relates to standards for radon-
6882 resistant buildings; part IV of chapter 553 relates to the
6883 Florida Building Code.

6884 Section 157. Subsection (4) of section 633.025, Florida
6885 Statutes, is amended to read:

6886 633.025 Minimum firesafety standards.--

6887 (4) Such codes shall be minimum codes and a municipality,
6888 county, or special district with firesafety responsibilities may
6889 adopt more stringent firesafety standards, subject to the
6890 requirements of this subsection. Such county, municipality, or
6891 special district may establish alternative requirements to those
6892 requirements which are required under the minimum firesafety
6893 standards on a case-by-case basis, in order to meet special
6894 situations arising from historic, geographic, or unusual
6895 conditions, if the alternative requirements result in a level of
6896 protection to life, safety, or property equal to or greater than
6897 the applicable minimum firesafety standards. For the purpose of
6898 this subsection, the term "historic" means that the building or
6899 structure is listed on the National Register of Historic Places
6900 of the United States Department of the Interior.

6901 (a) The local governing body shall determine, following a
6902 public hearing which has been advertised in a newspaper of
6903 general circulation at least 10 days before the hearing, if there
6904 is a need to strengthen the requirements of the minimum
6905 firesafety code adopted by such governing body. The determination
6906 must be based upon a review of local conditions by the local
6907 governing body, which review demonstrates that local conditions
6908 justify more stringent requirements than those specified in the

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6909 | minimum firesafety code for the protection of life and property
6910 | or justify requirements that meet special situations arising from
6911 | historic, geographic, or unusual conditions.

6912 | (b) Such additional requirements shall not be
6913 | discriminatory as to materials, products, or construction
6914 | techniques of demonstrated capabilities.

6915 | (c) Paragraphs (a) and (b) apply solely to the local
6916 | enforcing agency's adoption of requirements more stringent than
6917 | those specified in the Florida Fire Prevention Code and the Life
6918 | Safety Code that have the effect of amending building
6919 | construction standards. Upon request, the enforcing agency shall
6920 | provide a person making application for a building permit, or any
6921 | state agency or board with construction-related regulation
6922 | responsibilities, a listing of all such requirements and codes.

6923 | (d) A local government which adopts amendments to the
6924 | minimum firesafety code must provide a procedure by which the
6925 | validity of such amendments may be challenged by any
6926 | substantially affected party to test the amendment's compliance
6927 | with the provisions of this section.

6928 | 1. Unless the local government agrees to stay enforcement
6929 | of the amendment, or other good cause is shown, the challenging
6930 | party shall be entitled to a hearing on the challenge within 45
6931 | days.

6932 | 2. For purposes of such challenge, the burden of proof
6933 | shall be on the challenging party, but the amendment shall not be
6934 | presumed to be valid or invalid.

6935 |
6936 | This subsection gives local government the authority to establish
6937 | firesafety codes that exceed the minimum firesafety codes and

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6938 standards adopted by the State Fire Marshal. The Legislature
6939 intends that local government give proper public notice and hold
6940 public hearings before adopting more stringent firesafety codes
6941 and standards. A substantially affected person may appeal, to the
6942 department, the local government's resolution of the challenge,
6943 and the department shall determine if the amendment complies with
6944 this section. Actions of the department are subject to judicial
6945 review pursuant to s. 120.68. The department shall consider
6946 reports of the Florida Building Commission, pursuant to part IV
6947 ~~VII~~ of chapter 553, when evaluating building code enforcement.

6948 Reviser's note.--Amended to correct an erroneous reference.
6949 Part VII of chapter 553 relates to standards for radon-
6950 resistant buildings; part IV of chapter 553 relates to the
6951 Florida Building Code.

6952 Section 158. Paragraph (b) of subsection (3) of section
6953 660.417, Florida Statutes, is amended to read:

6954 660.417 Investment of fiduciary funds in investment
6955 instruments; permissible activity under certain circumstances;
6956 limitations.--

6957 (3) The fact that such bank or trust company or an
6958 affiliate of the bank or trust company owns or controls
6959 investment instruments shall not preclude the bank or trust
6960 company acting as a fiduciary from investing or reinvesting in
6961 such investment instruments, provided such investment
6962 instruments:

6963 (b) When sold to accounts for which the bank or trust
6964 company is acting as a trustee of a trust as defined in s.
6965 731.201(37) ~~731.201(35)~~:

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6966 1. Are available for sale to accounts of other customers;
6967 and

6968 2. If sold to other customers, are not sold to the trust
6969 accounts upon terms that are less favorable to the buyer than the
6970 terms upon which they are normally sold to the other customers.

6971 Reviser's note.--Amended to conform to the redesignation of
6972 s. 731.201(35) as s. 731.201(37) by s. 3, ch. 2007-74, Laws
6973 of Florida.

6974 Section 159. Paragraph (f) of subsection (5) of section
6975 736.0802, Florida Statutes, is amended to read:

6976 736.0802 Duty of loyalty.--

6977 (5)

6978 (f)1. The trustee of a trust described in s. 731.201(37)
6979 ~~731.201(35)~~ may request authority to invest in investment
6980 instruments described in this subsection other than a qualified
6981 investment instrument, by providing to all qualified
6982 beneficiaries a written request containing the following:

6983 a. The name, telephone number, street address, and mailing
6984 address of the trustee and of any individuals who may be
6985 contacted for further information.

6986 b. A statement that the investment or investments cannot be
6987 made without the consent of a majority of each class of the
6988 qualified beneficiaries.

6989 c. A statement that, if a majority of each class of
6990 qualified beneficiaries consent, the trustee will have the right
6991 to make investments in investment instruments, as defined in s.
6992 660.25(6), which are owned or controlled by the trustee or its
6993 affiliate, or from which the trustee or its affiliate receives
6994 compensation for providing services in a capacity other than as

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6995 trustee, that such investment instruments may include investment
6996 instruments sold primarily to trust accounts, and that the
6997 trustee or its affiliate may receive fees in addition to the
6998 trustee's compensation for administering the trust.

6999 d. A statement that the consent may be withdrawn
7000 prospectively at any time by written notice given by a majority
7001 of any class of the qualified beneficiaries.

7002

7003 A statement by the trustee is not delivered if the statement is
7004 accompanied by another written communication other than a written
7005 communication by the trustee that refers only to the statement.

7006 2. For purposes of paragraph (e) and this paragraph:

7007 a. "Majority of the qualified beneficiaries" means:

7008 (I) If at the time the determination is made there are one
7009 or more beneficiaries as described in s. 736.0103(14)(c), at
7010 least a majority in interest of the beneficiaries described in s.
7011 736.0103(14)(a), at least a majority in interest of the
7012 beneficiaries described in s. 736.0103(14)(b), and at least a
7013 majority in interest of the beneficiaries described in s.
7014 736.0103(14)(c), if the interests of the beneficiaries are
7015 reasonably ascertainable; otherwise, a majority in number of each
7016 such class; or

7017 (II) If there is no beneficiary as described in s.
7018 736.0103(14)(c), at least a majority in interest of the
7019 beneficiaries described in s. 736.0103(14)(a) and at least a
7020 majority in interest of the beneficiaries described in s.
7021 736.0103(14)(b), if the interests of the beneficiaries are
7022 reasonably ascertainable; otherwise, a majority in number of each
7023 such class.

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7024 b. "Qualified investment instrument" means a mutual fund,
7025 common trust fund, or money market fund described in and governed
7026 by s. 736.0816(3).

7027 c. An irrevocable trust is created upon execution of the
7028 trust instrument. If a trust that was revocable when created
7029 thereafter becomes irrevocable, the irrevocable trust is created
7030 when the right of revocation terminates.

7031 Reviser's note.--Amended to conform to the redesignation of
7032 s. 731.201(35) as s. 731.201(37) by s. 3, ch. 2007-74, Laws
7033 of Florida.

7034 Section 160. Subsection (3) of section 741.3165, Florida
7035 Statutes, is amended to read:

7036 741.3165 Certain information exempt from disclosure.--

7037 (3) This section is subject to the Open Government Sunset
7038 Review Act ~~of 1995~~ in accordance with s. 119.15, and shall stand
7039 repealed on October 2, 2010, unless reviewed and saved from
7040 repeal through reenactment by the Legislature.

7041 Reviser's note.--Amended to conform to the renaming of the
7042 "Open Government Sunset Review Act of 1995" as the "Open
7043 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws
7044 of Florida.

7045 Section 161. Subsection (4) of section 744.1076, Florida
7046 Statutes, is amended to read:

7047 744.1076 Court orders appointing court monitors and
7048 emergency court monitors; reports of court monitors; findings of
7049 no probable cause; public records exemptions.--

7050 (4) This section is subject to the Open Government Sunset
7051 Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand

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7052 repealed on October 2, 2011, unless reviewed and saved from
7053 repeal through reenactment by the Legislature.

7054 Reviser's note.--Amended to conform to the renaming of the
7055 "Open Government Sunset Review Act of 1995" as the "Open
7056 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws
7057 of Florida.

7058 Section 162. Section 812.1725, Florida Statutes, is amended
7059 to read:

7060 812.1725 Preemption.--A political subdivision of this state
7061 may not adopt, for convenience businesses, security standards
7062 which differ from those contained in ss. 812.173 and 812.174, and
7063 all such differing standards, whether existing or proposed, are
7064 hereby preempted and superseded by general law, ~~except any local~~
7065 ~~ordinance in effect prior to September 1988 and determined by the~~
7066 ~~Department of Legal Affairs to provide more stringent security~~
7067 ~~standards than those contained in ss. 812.173 and 812.174 shall~~
7068 ~~not be preempted and superseded by general law for a period of 2~~
7069 ~~years from December 31, 1992.~~

7070 Reviser's note.--Amended to delete an obsolete exemption
7071 relating to preemption.

7072 Section 163. Paragraph (c) of subsection (2) of section
7073 817.625, Florida Statutes, is amended to read:

7074 817.625 Use of scanning device or reencoder to defraud;
7075 penalties.--

7076 (2)

7077 (c) Any person who violates subparagraph (a)1. or
7078 subparagraph (a)2. shall also be subject to the provisions of ss.
7079 932.701-932.706 ~~932.701-932.707~~.

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7080 Reviser's note.--Amended to conform to the repeal of s.
7081 932.707 by s. 21, ch. 2006-176, Laws of Florida. The last
7082 section in the range is now s. 932.706.

7083 Section 164. Paragraph (a) of subsection (4) of section
7084 832.062, Florida Statutes, is amended to read:

7085 832.062 Prosecution for worthless checks, drafts, debit
7086 card orders, or electronic funds transfers made to pay any tax or
7087 associated amount administered by the Department of Revenue.--

7088 (4) (a) In any prosecution or action under this section, the
7089 making, drawing, uttering, or delivery of a check, draft, or
7090 order; the making, sending, instructing, ordering, or initiating
7091 of any electronic funds transfer; or causing the making, sending,
7092 instructing, ordering, or initiating of any electronic transfer
7093 payment, any of which are refused by the drawee because of lack
7094 of funds or credit, is prima facie evidence of intent to defraud
7095 or knowledge of insufficient funds in, or credit with, such bank,
7096 banking institution, trust company, or other depository, unless
7097 the maker, drawer, sender, instructor, orderer, or initiator, or
7098 someone for him or her, has paid the holder thereof the amount
7099 due thereon, together with a service charge, which may not exceed
7100 the service fees authorized under s. 832.08(5), or an amount of
7101 up to 5 percent of the face amount of the check or the amount of
7102 the electronic funds transfer, whichever is greater, within 15
7103 days after written notice has been sent to the address printed on
7104 the check, or given or on file at the time of issuance, that such
7105 check, draft, order, or electronic funds transfer has not been
7106 paid to the holder thereof, and has paid the bank fees incurred
7107 by the holder. In the event of legal action for recovery, the
7108 maker, drawer, sender, instructor, orderer, or initiator may be

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7109 | additionally liable for court costs and reasonable attorney's
7110 | fees. Notice mailed by certified or registered mail that is
7111 | evidenced by return receipt, or by first-class mail that is
7112 | evidenced by an affidavit of service of mail, to the address
7113 | printed on the check or given or on file at the time of issuance
7114 | shall be deemed sufficient and equivalent to notice having been
7115 | received by the maker, drawer, sender, instructor, orderer, or
7116 | initiator, whether such notice is returned undelivered or not.
7117 | The form of the notice shall be substantially as follows:

7118 |
7119 | "You are hereby notified that a check or electronic funds
7120 | transfer, numbered _____, in the face amount of \$_____,
7121 | issued or initiated by you on (date) , drawn upon
7122 | (name of bank) , and payable to _____, has been
7123 | dishonored. Pursuant to Florida law, you have 15 days
7124 | following the date of this notice to tender payment of
7125 | the full amount of such check or electronic funds
7126 | transfer plus a service charge of \$25, if the face value
7127 | does not exceed \$50; \$30, if the face value exceeds \$50
7128 | but does not exceed \$300; \$40, if the face value exceeds
7129 | \$300; or an amount of up to 5 percent of the face amount
7130 | of the check, whichever is greater, the total amount due
7131 | being \$_____ and _____ cents. Unless this amount is paid
7132 | in full within the time specified above, the holder of
7133 | such check or electronic funds transfer may turn over the
7134 | dishonored check or electronic funds transfer and all
7135 | other available information relating to this incident to
7136 | the state attorney for criminal prosecution. You may be
7137 | additionally liable in a civil action for triple the

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7138 amount of the check or electronic funds transfer, but in
7139 no case less than \$50, together with the amount of the
7140 check or electronic funds transfer, a service charge,
7141 court costs, reasonable attorney's fees, and incurred
7142 bank fees, as provided in s. 68.065, Florida Statutes."
7143

7144 Subsequent persons receiving a check, draft, order, or electronic
7145 funds transfer from the original payee or a successor endorsee
7146 have the same rights that the original payee has against the
7147 maker of the instrument if the subsequent persons give notice in
7148 a substantially similar form to that provided above. Subsequent
7149 persons providing such notice are immune from civil liability for
7150 the giving of such notice and for proceeding under the forms of
7151 such notice so long as the maker of the instrument has the same
7152 defenses against these subsequent persons as against the original
7153 payee. However, the remedies available under this section may be
7154 exercised only by one party in interest.

7155 Reviser's note.--Amended to confirm the editorial insertion
7156 of the word "or" to improve clarity.

7157 Section 165. Paragraph (c) of subsection (3) of section
7158 921.0022, Florida Statutes, is amended to read:

7159 921.0022 Criminal Punishment Code; offense severity ranking
7160 chart.--

7161 (3) OFFENSE SEVERITY RANKING CHART

7162 (c) LEVEL 3

7163

Florida Statute	Felony Degree	Description
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7164

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7165	119.10 (2) (b)	3rd	Unlawful use of confidential information from police reports.
7166	316.066 (6) (b) - (d)	3rd	Unlawfully obtaining or using confidential crash reports.
7167	316.193 (2) (b)	3rd	Felony DUI, 3rd conviction.
7168	316.1935 (2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
7169	319.30 (4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
	319.33 (1) (a)	3rd	Alter or forge any

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7170	319.33 (1) (c)	3rd	certificate of title to a motor vehicle or mobile home.
7171	319.33 (4)	3rd	Procure or pass title on stolen vehicle.
7172	327.35 (2) (b)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
7173	328.05 (2)	3rd	Felony BUI.
7174	328.07 (4)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
			Manufacture, exchange, or possess vessel with counterfeit or wrong

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7175			ID number.
	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 Marine Turtle Protection Act.
7176			
	370.12 (1) (e) 6.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
7177			
	376.302 (5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.

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7178	<u>400.9935 (4)</u> 400.903 (3)	3rd	Operating a clinic without a license or filing false license application or other required information.
7179	440.1051 (3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
7180	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
7181	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
7182	624.401 (4) (b) 1.	3rd	Transacting insurance without a

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7183			certificate of authority; premium collected less than \$20,000.
7183	626.902 (1) (a) & (b)	3rd	Representing an unauthorized insurer.
7184	697.08	3rd	Equity skimming.
7185	790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.
7186	796.05 (1)	3rd	Live on earnings of a prostitute.
7187	806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
7188	806.10 (2)	3rd	Interferes with or assaults firefighter in performance of

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7189	810.09 (2) (c)	3rd	duty. Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
7190	812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
7191	812.0145 (2) (c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
7192	815.04 (4) (b)	2nd	Computer offense devised to defraud or obtain property.
7193	817.034 (4) (a) 3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
7194			

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7195	817.233	3rd	Burning to defraud insurer.
7196	817.234 (8) (b) - (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
7197	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
7198	817.236	3rd	Filing a false motor vehicle insurance application.
7199	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
7200	817.413 (2)	3rd	Sale of used goods as new.
7201	817.505 (4)	3rd	Patient brokering.
	828.12 (2)	3rd	Tortures any animal

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7202	831.28 (2) (a)	3rd	with intent to inflict intense pain, serious physical injury, or death.
7203	831.29	2nd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
7204	838.021 (3) (b)	3rd	Possession of instruments for counterfeiting drivers' licenses or identification cards.
7205	843.19	3rd	Threatens unlawful harm to public servant.
7206			Injure, disable, or kill police dog or horse.

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7207	860.15 (3)	3rd	Overcharging for repairs and parts.
7208	870.01 (2)	3rd	Riot; inciting or encouraging.
7209	893.13 (1) (a) 2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs).
7210	893.13 (1) (d) 2.	2nd	Sell, manufacture, or deliver s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs within 1,000 feet of university.
	893.13 (1) (f) 2.	2nd	Sell, manufacture, or deliver s.

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7211	893.13 (6) (a)	3rd	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.
7212	893.13 (7) (a) 8.	3rd	Possession of any controlled substance other than felony possession of cannabis.
7213	893.13 (7) (a) 9.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
			Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation,

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7214	893.13 (7) (a) 10.	3rd	etc. Affix false or forged label to package of controlled substance.
7215	893.13 (7) (a) 11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
7216	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.
7217			

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7218	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.
7219	893.13 (8) (a) 3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
7220	893.13 (8) (a) 4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
	918.13 (1) (a)	3rd	Alter, destroy, or

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7221	944.47 (1) (a) 1.-2.	3rd	conceal investigation evidence. Introduce contraband to correctional facility.
7222	944.47 (1) (c)	2nd	Possess contraband while upon the grounds of a correctional institution.
7223	985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
7224			
7225	Reviser's note.--Amended to correct an apparent error.		
7226	Section 400.9935(4) addresses both unlicensed activity and		
7227	falsified applications.		
7228	Section 166. Subsection (1) of section 932.701, Florida		
7229	Statutes, is amended to read:		
7230	932.701 Short title; definitions.--		
7231	(1) Sections <u>932.701-932.706</u> 932.701-932.707 shall be known		
7232	and may be cited as the "Florida Contraband Forfeiture Act."		

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7233 Reviser's note.--Amended to conform to the repeal of s.
7234 932.707 by s. 21, ch. 2006-176, Laws of Florida. The last
7235 section in the range is now s. 932.706.

7236 Section 167. Subsection (1) of section 940.05, Florida
7237 Statutes, is amended to read:

7238 940.05 Restoration of civil rights.--Any person who has
7239 been convicted of a felony may be entitled to the restoration of
7240 all the rights of citizenship enjoyed by him or her prior to
7241 conviction if the person has:

7242 (1) Received a full pardon from the Board of Executive
7243 Clemency ~~board of pardons~~;

7244 Reviser's note.--Amended to improve clarity and conform to
7245 the proper name of the board.

7246 Section 168. Subsection (3) of section 943.0314, Florida
7247 Statutes, is amended to read:

7248 943.0314 Public records and public meetings exemptions;
7249 Domestic Security Oversight Council.--

7250 (3) This section is subject to the Open Government Sunset
7251 Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand
7252 repealed on October 2, 2010, unless reviewed and saved from
7253 repeal through reenactment by the Legislature.

7254 Reviser's note.--Amended to conform to the renaming of the
7255 "Open Government Sunset Review Act of 1995" as the "Open
7256 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws
7257 of Florida.

7258 Section 169. Subsection (2) of section 943.32, Florida
7259 Statutes, is amended to read:

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7260 943.32 Statewide criminal analysis laboratory
7261 system.--There is established a statewide criminal analysis
7262 laboratory system to be composed of:

7263 (2) The existing locally funded laboratories in Broward,
7264 ~~Dade~~, Indian River, Miami-Dade, Monroe, Palm Beach, and Pinellas
7265 Counties, specifically designated in s. 943.35 to be eligible for
7266 state matching funds; and

7267 Reviser's note.--Amended to conform to the redesignation of
7268 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-
7269 Dade County Code.

7270 Section 170. Paragraph (b) of subsection (1) of section
7271 943.35, Florida Statutes, is amended to read:

7272 943.35 Funding for existing laboratories.--

7273 (1) The following existing criminal analysis laboratories
7274 are eligible for receipt of state funding:

7275 (b) The Miami-Dade ~~Metro-Dade~~ Police Department Crime
7276 Laboratory;

7277 Reviser's note.--Amended to conform to the current name of
7278 the crime laboratory and the redesignation of Dade County as
7279 Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

7280 Section 171. Section 947.06, Florida Statutes, as amended
7281 by section 16 of chapter 90-211, Laws of Florida, is amended to
7282 read:

7283 947.06 Meeting; when commission may act.--The commission
7284 shall meet at regularly scheduled intervals and from time to time
7285 as may otherwise be determined by the chair. The making of
7286 recommendations to the Governor and Cabinet in matters relating
7287 to modifications of acts and decisions of the chair as provided
7288 in s. 947.04(1) shall be by a majority vote of the commission. No

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7289 prisoner shall be placed on parole except as provided in ss.
7290 947.172 and 947.174 by a panel of no fewer than two commissioners
7291 appointed by the chair. All matters relating to the granting,
7292 denying, or revoking of parole shall be decided in a meeting at
7293 which the public shall have the right to be present. Victims of
7294 the crime committed by the inmate shall be permitted to make an
7295 oral statement or submit a written statement regarding their
7296 views as to the granting, denying, or revoking of parole. Persons
7297 not members or employees of the commission or victims of the
7298 crime committed by the inmate may be permitted to participate in
7299 deliberations concerning the granting and revoking of paroles
7300 only upon the prior written approval of the chair of the
7301 commission. To facilitate the ability of victims and other
7302 persons to attend commission meetings, the commission shall meet
7303 in various counties including, but not limited to, Broward, ~~Dade,~~
7304 Duval, Escambia, Hillsborough, Leon, Miami-Dade, Orange, and Palm
7305 Beach, with the location chosen being as close as possible to the
7306 location where the parole-eligible inmate committed the offense
7307 for which the parole-eligible inmate was sentenced. The
7308 commission shall adopt rules governing the oral participation of
7309 victims and the submission of written statements by victims.

7310 Reviser's note.--Amended to conform to the redesignation of
7311 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-
7312 Dade County Code.

7313 Section 172. Section 947.06, Florida Statutes, as amended
7314 by section 22 of chapter 90-337, Laws of Florida, is amended to
7315 read:

7316 947.06 Meeting; when commission may act.--The commission
7317 shall meet at regularly scheduled intervals and from time to time

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7318 | as may otherwise be determined by the chair. The making of
7319 | recommendations to the Governor and Cabinet in matters relating
7320 | to modifications of acts and decisions of the chair as provided
7321 | in s. 947.04(1) shall be by a majority vote of the commission. No
7322 | prisoner shall be placed on parole except as provided in ss.
7323 | 947.172 and 947.174 by a panel of no fewer than two commissioners
7324 | appointed by the chair. All matters relating to the granting,
7325 | denying, or revoking of parole shall be decided in a meeting at
7326 | which the public shall have the right to be present. Victims of
7327 | the crime committed by the inmate shall be permitted to make an
7328 | oral statement or submit a written statement regarding their
7329 | views as to the granting, denying, or revoking of parole. Persons
7330 | not members or employees of the commission or victims of the
7331 | crime committed by the inmate may be permitted to participate in
7332 | deliberations concerning the granting and revoking of paroles
7333 | only upon the prior written approval of the chair of the
7334 | commission. To facilitate the ability of victims and other
7335 | persons to attend commission meetings, the commission shall meet
7336 | in counties including, but not limited to, Broward, ~~Dade~~, Duval,
7337 | Escambia, Hillsborough, Leon, Miami-Dade, Orange, and Palm Beach,
7338 | with the location chosen being as close as possible to the
7339 | location where the parolee or releasee committed the offense for
7340 | which the parolee or releasee was sentenced. The commission shall
7341 | adopt rules governing the oral participation of victims and the
7342 | submission of written statements by victims.

7343 | Reviser's note.--Amended to conform to the redesignation of
7344 | Dade County as Miami-Dade County by s. 1-4.2 of the Miami-
7345 | Dade County Code.

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7346 Section 173. Subsection (7) of section 1001.11, Florida
7347 Statutes, is amended to read:

7348 1001.11 Commissioner of Education; other duties.--

7349 (7) The commissioner shall make prominently available on
7350 the department's website the following: links to the Internet-
7351 based clearinghouse for professional development regarding
7352 physical education ~~which is established under s. 1012.98(4)(d);~~
7353 the school wellness and physical education policies and other
7354 resources required under s. 1003.453(1) and (2); and other
7355 Internet sites that provide professional development for
7356 elementary teachers of physical education as defined in s.
7357 1003.01(16). These links must provide elementary teachers with
7358 information concerning current physical education and nutrition
7359 philosophy and best practices that result in student
7360 participation in physical activities that promote lifelong
7361 physical and mental well-being.

7362 Reviser's note.--Amended to delete an erroneous reference.
7363 Section 1012.98(4)(d) does not exist.

7364 Section 174. Subsections (5) and (6) of section 1001.215,
7365 Florida Statutes, are amended to read:

7366 1001.215 Just Read, Florida! Office.--There is created in
7367 the Department of Education the Just Read, Florida! Office. The
7368 office shall be fully accountable to the Commissioner of
7369 Education and shall:

7370 (5) Provide technical assistance to school districts in the
7371 development and implementation of district plans for use of the
7372 research-based reading instruction allocation provided in s.
7373 1011.62(9) ~~1011.62(8)~~ and annually review and approve such plans.

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7374 (6) Review, evaluate, and provide technical assistance to
7375 school districts' implementation of the K-12 comprehensive
7376 reading plan required in s. 1011.62(9) ~~1011.62(8)~~.

7377 Reviser's note.--Amended to correct an erroneous reference
7378 and conform to context. The comprehensive reading plan is
7379 required by s. 1011.62(9).

7380 Section 175. Section 1001.395, Florida Statutes, is amended
7381 to read:

7382 1001.395 District school board members; compensation.--Each
7383 member of the district school board shall receive a base salary,
7384 the amounts indicated in this section, based on the population of
7385 the county the district school board member serves. In addition,
7386 compensation shall be made for population increments over the
7387 minimum for each population group, which shall be determined by
7388 multiplying the population in excess of the minimum for the group
7389 times the group rate. The product of such calculation shall be
7390 added to the base salary to determine the adjusted base salary.
7391 The adjusted base salaries of district school board members shall
7392 be increased annually as provided for in s. 145.19.

Pop. Group	County Pop.	Range	Base Salary	Group Rate
	Minimum	Maximum		
I	-0-	9,999	\$5,000	\$0.08330
II	10,000	<u>49,999</u> 49,000	5,833	0.020830
III	50,000	99,999	6,666	0.016680

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7397					
	IV	100,000	199,999	7,500	0.008330
7398					
	V	200,000	399,999	8,333	0.004165
7399					
	VI	400,000	999,999	9,166	0.001390
7400					
	VII	1,000,000		10,000	0.000000

7401
7402 District school board member salaries negotiated on or after
7403 November of 2006 shall remain in effect up to the date of the
7404 2007-2008 calculation provided pursuant to s. 145.19.

7405 Reviser's note.--Amended to correct an apparent error.
7406 Section 176. Paragraph (a) of subsection (2) of section
7407 1002.35, Florida Statutes, is amended to read:

7408 1002.35 New World School of the Arts.--

7409 (2) (a) For purposes of governance, the New World School of
7410 the Arts is assigned to Miami Dade ~~Miami Dade~~ College, the Miami-
7411 Dade County Public Schools ~~Dade County School District~~, and one
7412 or more universities designated by the State Board of Education.
7413 The State Board of Education, in conjunction with the Board of
7414 Governors, shall assign to the New World School of the Arts a
7415 university partner or partners. In this selection, the State
7416 Board of Education and the Board of Governors shall consider the
7417 accreditation status of the core programs. Florida International
7418 University, in its capacity as the provider of university
7419 services to Miami-Dade ~~Dade~~ County, shall be a partner to serve
7420 the New World School of the Arts, upon meeting the accreditation
7421 criteria. The respective boards shall appoint members to an

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7422 executive board for administration of the school. The executive
7423 board may include community members and shall reflect
7424 proportionately the participating institutions. Miami Dade ~~Miami-~~
7425 ~~Dade~~ College shall serve as fiscal agent for the school.

7426 Reviser's note.--Amended to reflect the current names of
7427 Miami Dade College and the Miami-Dade County Public Schools
7428 and to conform to the redesignation of Dade County as Miami-
7429 Dade County by s. 1-4.2 of the Miami-Dade County Code.

7430 Section 177. Paragraph (c) of subsection (10) of section
7431 1002.39, Florida Statutes, is amended to read:

7432 1002.39 The John M. McKay Scholarships for Students with
7433 Disabilities Program.--There is established a program that is
7434 separate and distinct from the Opportunity Scholarship Program
7435 and is named the John M. McKay Scholarships for Students with
7436 Disabilities Program.

7437 (10) JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.--

7438 (c)1. The school district shall report all students who are
7439 attending a private school under this program. The students with
7440 disabilities attending private schools on John M. McKay
7441 Scholarships shall be reported separately from other students
7442 reported for purposes of the Florida Education Finance Program.

7443 2. For program participants who are eligible under
7444 subparagraph (2)(a)2., the school district that is used as the
7445 basis for the calculation of the scholarship amount as provided
7446 in subparagraph (a)3. shall:

7447 a. Report to the department all such students who are
7448 attending a private school under this program.

7449 b. Be held harmless for such students from the weighted
7450 enrollment ceiling for group 2 programs in s. 1011.62(1)(d)3.b.

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7451 | ~~1011.62(1)(d)3.a.~~ during the first school year in which the
7452 | students are reported.

7453 | Reviser's note.--Amended to correct an erroneous reference
7454 | and conform to context. The weighted enrollment ceiling for
7455 | group 2 programs is in s. 1011.62(1)(d)3.b.

7456 | Section 178. Subsection (4) of section 1002.72, Florida
7457 | Statutes, is amended to read:

7458 | 1002.72 Records of children in the Voluntary
7459 | Prekindergarten Education Program.--

7460 | (4) This section is subject to the Open Government Sunset
7461 | Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand
7462 | repealed October 2, 2010, unless reviewed and saved from repeal
7463 | through reenactment by the Legislature.

7464 | Reviser's note.--Amended to conform to the renaming of the
7465 | "Open Government Sunset Review Act of 1995" as the "Open
7466 | Government Sunset Review Act" by s. 37, ch. 2005-251, Laws
7467 | of Florida.

7468 | Section 179. Paragraph (b) of subsection (1) of section
7469 | 1003.4156, Florida Statutes, is amended to read:

7470 | 1003.4156 General requirements for middle grades
7471 | promotion.--

7472 | (1) Beginning with students entering grade 6 in the 2006-
7473 | 2007 school year, promotion from a school composed of middle
7474 | grades 6, 7, and 8 requires that:

7475 | (b) For each year in which a student scores at Level 1 on
7476 | FCAT Reading, the student must be enrolled in and complete an
7477 | intensive reading course the following year. Placement of Level 2
7478 | readers in either an intensive reading course or a content area
7479 | course in which reading strategies are delivered shall be

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7480 | determined by diagnosis of reading needs. The department shall
7481 | provide guidance on appropriate strategies for diagnosing and
7482 | meeting the varying instructional needs of students reading below
7483 | grade level. Reading courses shall be designed and offered
7484 | pursuant to the comprehensive reading plan required by s.
7485 | 1011.62(9) ~~1011.62(8)~~.

7486 | Reviser's note.--Amended to correct an erroneous reference
7487 | and conform to context. The comprehensive reading plan is
7488 | required by s. 1011.62(9).

7489 | Section 180. Paragraph (b) of subsection (2) of section
7490 | 1003.428, Florida Statutes, is amended to read:

7491 | 1003.428 General requirements for high school graduation;
7492 | revised.--

7493 | (2) The 24 credits may be earned through applied,
7494 | integrated, and combined courses approved by the Department of
7495 | Education and shall be distributed as follows:

7496 | (b) Eight credits in majors, minors, or electives:

7497 | 1. Four credits in a major area of interest, such as
7498 | sequential courses in a career and technical program, fine and
7499 | performing arts, or academic content area, selected by the
7500 | student as part of the education plan required by s. 1003.4156.
7501 | Students may revise major areas of interest each year as part of
7502 | annual course registration processes and should update their
7503 | education plan to reflect such revisions. Annually by October 1,
7504 | the district school board shall approve major areas of interest
7505 | and submit the list of majors to the Commissioner of Education
7506 | for approval. Each major area of interest shall be deemed
7507 | approved unless specifically rejected by the commissioner within
7508 | 60 days. Upon approval, each district's major areas of interest

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7509 shall be available for use by all school districts and shall be
7510 posted on the department's website.

7511 2. Four credits in elective courses selected by the student
7512 as part of the education plan required by s. 1003.4156. These
7513 credits may be combined to allow for a second major area of
7514 interest pursuant to subparagraph 1., a minor area of interest,
7515 elective courses, or intensive reading or mathematics
7516 intervention courses as described in this subparagraph.

7517 a. Minor areas of interest are composed of three credits
7518 selected by the student as part of the education plan required by
7519 s. 1003.4156 and approved by the district school board.

7520 b. Elective courses are selected by the student in order to
7521 pursue a complete education program as described in s. 1001.41(3)
7522 and to meet eligibility requirements for scholarships.

7523 c. For each year in which a student scores at Level 1 on
7524 FCAT Reading, the student must be enrolled in and complete an
7525 intensive reading course the following year. Placement of Level 2
7526 readers in either an intensive reading course or a content area
7527 course in which reading strategies are delivered shall be
7528 determined by diagnosis of reading needs. The department shall
7529 provide guidance on appropriate strategies for diagnosing and
7530 meeting the varying instructional needs of students reading below
7531 grade level. Reading courses shall be designed and offered
7532 pursuant to the comprehensive reading plan required by s.
7533 1011.62(9) ~~1011.62(8)~~.

7534 d. For each year in which a student scores at Level 1 or
7535 Level 2 on FCAT Mathematics, the student must receive remediation
7536 the following year. These courses may be taught through applied,

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7537 integrated, or combined courses and are subject to approval by
7538 the department for inclusion in the Course Code Directory.

7539 Reviser's note.--Amended to correct an erroneous reference
7540 and conform to context. The comprehensive reading plan is
7541 required by s. 1011.62(9).

7542 Section 181. Paragraph (c) of subsection (8) of section
7543 1004.43, Florida Statutes, is amended to read:

7544 1004.43 H. Lee Moffitt Cancer Center and Research
7545 Institute.--There is established the H. Lee Moffitt Cancer Center
7546 and Research Institute at the University of South Florida.

7547 (8)

7548 (c) Subparagraphs 10. and 12. of paragraph (b) are subject
7549 to the Open Government Sunset Review Act ~~of 1995~~ in accordance
7550 with s. 119.15 and shall stand repealed on October 2, 2010,
7551 unless reviewed and saved from repeal through reenactment by the
7552 Legislature.

7553 Reviser's note.--Amended to conform to the renaming of the
7554 "Open Government Sunset Review Act of 1995" as the "Open
7555 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws
7556 of Florida.

7557 Section 182. Subsection (4) of section 1004.4472, Florida
7558 Statutes, is amended to read:

7559 1004.4472 Florida Institute for Human and Machine
7560 Cognition, Inc.; public records exemption; public meetings
7561 exemption.--

7562 (4) This section is subject to the Open Government Sunset
7563 Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand
7564 repealed on October 2, 2009, unless reviewed and saved from
7565 repeal through reenactment by the Legislature.

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7566 Reviser's note.--Amended to conform to the renaming of the
7567 "Open Government Sunset Review Act of 1995" as the "Open
7568 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws
7569 of Florida.

7570 Section 183. Paragraph (e) of subsection (1) of section
7571 1004.55, Florida Statutes, is amended to read:

7572 1004.55 Regional autism centers.--

7573 (1) Seven regional autism centers are established to
7574 provide nonresidential resource and training services for persons
7575 of all ages and of all levels of intellectual functioning who
7576 have autism, as defined in s. 393.063; who have a pervasive
7577 developmental disorder that is not otherwise specified; who have
7578 an autistic-like disability; who have a dual sensory impairment;
7579 or who have a sensory impairment with other handicapping
7580 conditions. Each center shall be operationally and fiscally
7581 independent and shall provide services within its geographical
7582 region of the state. Service delivery shall be consistent for all
7583 centers. Each center shall coordinate services within and between
7584 state and local agencies and school districts but may not
7585 duplicate services provided by those agencies or school
7586 districts. The respective locations and service areas of the
7587 centers are:

7588 (e) The Mailman Center for Child Development and the
7589 Department of Psychology at the University of Miami, which serves
7590 Broward, Miami-Dade ~~Dade~~, and Monroe Counties.

7591 Reviser's note.--Amended to conform to the redesignation of
7592 Dade County as Miami-Dade County by s. 1-4.2 of the Miami-
7593 Dade County Code.

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7594 Section 184. Subsection (2) of section 1004.76, Florida
7595 Statutes, is amended to read:

7596 1004.76 Florida Martin Luther King, Jr., Institute for
7597 Nonviolence.--

7598 (2) There is hereby created the Florida Martin Luther King,
7599 Jr., Institute for Nonviolence to be established at Miami Dade
7600 ~~Miami Dade Community~~ College. The institute shall have an
7601 advisory board consisting of 13 members as follows: the Attorney
7602 General, the Commissioner of Education, and 11 members to be
7603 appointed by the Governor, such members to represent the
7604 population of the state based on its ethnic, gender, and
7605 socioeconomic diversity. Of the members appointed by the
7606 Governor, one shall be a member of the Senate appointed by the
7607 Governor on the recommendation of the President of the Senate;
7608 one shall be a member of the Senate appointed by the Governor on
7609 the recommendation of the minority leader; one shall be a member
7610 of the House of Representatives appointed by the Governor on the
7611 recommendation of the Speaker of the House of Representatives;
7612 one shall be a member of the House of Representatives appointed
7613 by the Governor on the recommendation of the minority leader; and
7614 seven shall be members appointed by the Governor, no more than
7615 three of whom shall be members of the same political party. The
7616 following groups shall be represented by the seven members: the
7617 Florida Sheriffs Association; the Florida Association of
7618 Counties; the Florida League of Cities; state universities human
7619 services agencies; community relations or human relations
7620 councils; and youth. A chairperson shall be elected by the
7621 members and shall serve for a term of 3 years. Members of the

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7622 board shall serve the following terms of office which shall be
7623 staggered:

7624 (a) A member of the Legislature appointed to the board
7625 shall serve for a single term not to exceed 5 years and shall
7626 serve as a member only while he or she is a member of the
7627 Legislature.

7628 (b) Of the seven members who are not members of the
7629 Legislature, three shall serve for terms of 4 years, two shall
7630 serve for terms of 3 years, and one shall serve for a term of 1
7631 year. Thereafter, each member, except for a member appointed to
7632 fill an unexpired term, shall serve for a 5-year term. No member
7633 shall serve on the board for more than 10 years.

7634
7635 In the event of a vacancy occurring in the office of a member of
7636 the board by death, resignation, or otherwise, the Governor shall
7637 appoint a successor to serve for the balance of the unexpired
7638 term.

7639 Reviser's note.--Amended to conform to the redesignation of
7640 Miami-Dade Community College as Miami Dade College due to
7641 new baccalaureate degrees offered.

7642 Section 185. Paragraph (b) of subsection (6) of section
7643 1005.38, Florida Statutes, is amended to read:

7644 1005.38 Actions against a licensee and other penalties.--

7645 (6) The commission may conduct disciplinary proceedings
7646 through an investigation of any suspected violation of this
7647 chapter or any rule of the commission, including a finding of
7648 probable cause and making reports to any law enforcement agency
7649 or regulatory agency.

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7650 (b)1. All investigatory records held by the commission in
7651 conjunction with an investigation conducted pursuant to this
7652 subsection, including minutes and findings of an exempt probable
7653 cause panel meeting convened in conjunction with such
7654 investigation, are exempt from s. 119.07(1) and s. 24(a), Art. I
7655 of the State Constitution for a period not to exceed 10 days
7656 after the panel makes a determination regarding probable cause.

7657 2. Those portions of meetings of the probable cause panel
7658 at which records made exempt pursuant to subparagraph 1. are
7659 discussed are exempt from s. 286.011 and s. 24(b), Art. I of the
7660 State Constitution.

7661 3. This paragraph is subject to the Open Government Sunset
7662 Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand
7663 repealed on October 2, 2010, unless reviewed and saved from
7664 repeal through reenactment by the Legislature.

7665 Reviser's note.--Amended to conform to the renaming of the
7666 "Open Government Sunset Review Act of 1995" as the "Open
7667 Government Sunset Review Act" by s. 37, ch. 2005-251, Laws
7668 of Florida.

7669 Section 186. Paragraph (b) of subsection (4) of section
7670 1008.25, Florida Statutes, is amended to read:

7671 1008.25 Public school student progression; remedial
7672 instruction; reporting requirements.--

7673 (4) ASSESSMENT AND REMEDIATION.--

7674 (b) The school in which the student is enrolled must
7675 develop, in consultation with the student's parent, and must
7676 implement a progress monitoring plan. A progress monitoring plan
7677 is intended to provide the school district and the school
7678 flexibility in meeting the academic needs of the student and to

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7679 | reduce paperwork. A student who is not meeting the school
7680 | district or state requirements for proficiency in reading and
7681 | math shall be covered by one of the following plans to target
7682 | instruction and identify ways to improve his or her academic
7683 | achievement:

7684 | 1. A federally required student plan such as an individual
7685 | education plan;

7686 | 2. A schoolwide system of progress monitoring for all
7687 | students; or

7688 | 3. An individualized progress monitoring plan.

7689 |

7690 | The plan chosen must be designed to assist the student or the
7691 | school in meeting state and district expectations for
7692 | proficiency. If the student has been identified as having a
7693 | deficiency in reading, the K-12 comprehensive reading plan
7694 | required by s. 1011.62(9) ~~1011.62(8)~~ shall include instructional
7695 | and support services to be provided to meet the desired levels of
7696 | performance. District school boards may require low-performing
7697 | students to attend remediation programs held before or after
7698 | regular school hours or during the summer if transportation is
7699 | provided.

7700 | Reviser's note.--Amended to correct an erroneous reference
7701 | and conform to context. The comprehensive reading plan is
7702 | required by s. 1011.62(9).

7703 | Section 187. Subsection (5) of section 1008.345, Florida
7704 | Statutes, is amended to read:

7705 | 1008.345 Implementation of state system of school
7706 | improvement and education accountability.--

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7707 | (5) The commissioner shall report to the Legislature and
7708 | recommend changes in state policy necessary to foster school
7709 | improvement and education accountability. Included in the report
7710 | shall be a list of the schools, including schools operating for
7711 | the purpose of providing educational services to youth in
7712 | Department of Juvenile Justice programs, for which district
7713 | school boards have developed assistance and intervention plans
7714 | and an analysis of the various strategies used by the school
7715 | boards. School reports shall be distributed pursuant to this
7716 | subsection and s. 1001.42(16)(e) ~~1006.42(16)(e)~~ and according to
7717 | rules adopted by the State Board of Education.

7718 | Reviser's note.--Amended to correct an erroneous reference
7719 | and conform to context. The cite should be to s.
7720 | 1001.42(16)(e); s. 1006.42 does not contain a subsection
7721 | (16).

7722 | Section 188. Subsection (3) of section 1009.01, Florida
7723 | Statutes, is amended to read:

7724 | 1009.01 Definitions.--The term:

7725 | (3) "Tuition differential" means the supplemental fee
7726 | charged to a student for instruction provided by a public
7727 | university in this state pursuant to s. 1009.24(16) ~~1009.24(15)~~.

7728 | Reviser's note.--Amended to correct an erroneous reference
7729 | and conform to context. Tuition differential is covered in
7730 | s. 1009.24(16).

7731 | Section 189. Paragraph (f) of subsection (13) of section
7732 | 1009.24, Florida Statutes, as amended by section 5 of chapter
7733 | 2007-329, Laws of Florida, is amended to read:

7734 | 1009.24 State university student fees.--

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7735 (13) Each university board of trustees is authorized to
7736 establish the following fees:

7737 (f) A fee for miscellaneous health-related charges for
7738 services provided at cost by the university health center which
7739 are not covered by the health fee set under subsection (11) ~~(10)~~.

7740 Reviser's note.--Amended to conform to the addition of a new
7741 subsection (3) by s. 133, ch. 2007-217, Laws of Florida, and
7742 the redesignation of subsequent subsections by that
7743 provision.

7744 Section 190. Paragraph (b) of subsection (2) of section
7745 1009.98, Florida Statutes, is amended to read:

7746 1009.98 Stanley G. Tate Florida Prepaid College Program.--

7747 (2) PREPAID COLLEGE PLANS.--At a minimum, the board shall
7748 make advance payment contracts available for two independent
7749 plans to be known as the community college plan and the
7750 university plan. The board may also make advance payment
7751 contracts available for a dormitory residence plan. The board may
7752 restrict the number of participants in the community college
7753 plan, university plan, and dormitory residence plan,
7754 respectively. However, any person denied participation solely on
7755 the basis of such restriction shall be granted priority for
7756 participation during the succeeding year.

7757 (b)1. Through the university plan, the advance payment
7758 contract shall provide prepaid registration fees for a specified
7759 number of undergraduate semester credit hours not to exceed the
7760 average number of hours required for the conference of a
7761 baccalaureate degree. Qualified beneficiaries shall bear the cost
7762 of any laboratory fees associated with enrollment in specific
7763 courses. Each qualified beneficiary shall be classified as a

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7764 resident for tuition purposes pursuant to s. 1009.21, regardless
7765 of his or her actual legal residence.

7766 2. Effective July 1, 1998, the board may provide advance
7767 payment contracts for additional fees delineated in s.
7768 1009.24(9)-(12) ~~1009.24(8)-(11)~~, for a specified number of
7769 undergraduate semester credit hours not to exceed the average
7770 number of hours required for the conference of a baccalaureate
7771 degree, in conjunction with advance payment contracts for
7772 registration fees. Such contracts shall provide prepaid coverage
7773 for the sum of such fees, to a maximum of 45 percent of the cost
7774 of registration fees. University plan contracts purchased prior
7775 to July 1, 1998, shall be limited to the payment of registration
7776 fees as defined in s. 1009.97.

7777 3. Effective July 1, 2007, the board may provide advance
7778 payment contracts for the tuition differential authorized in s.
7779 1009.24(16) ~~1009.24(15)~~ for a specified number of undergraduate
7780 semester credit hours, which may not exceed the average number of
7781 hours required for the conference of a baccalaureate degree, in
7782 conjunction with advance payment contracts for registration fees.

7783 Reviser's note.--Amended to conform to the redesignation of
7784 subunits within s. 1009.24 by s. 133, ch. 2007-217, Laws of
7785 Florida. Paragraph (2)(b) was also amended to correct an
7786 erroneous reference and conform to context. Tuition
7787 differential is covered in s. 1009.24(16).

7788 Section 191. Subsection (5) of section 1011.48, Florida
7789 Statutes, is amended to read:

7790 1011.48 Establishment of educational research centers for
7791 child development.--

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7792 (5) Each educational research center for child development
7793 shall be funded by a portion of the Capital Improvement Trust
7794 Fund fee established by the Board of Governors pursuant to s.
7795 1009.24(8) ~~1009.24(7)~~. Each university that establishes a center
7796 shall receive a portion of such fees collected from the students
7797 enrolled at that university, usable only at that university,
7798 equal to 22.5 cents per student per credit hour taken per term,
7799 based on the summer term and fall and spring semesters. This
7800 allocation shall be used by the university only for the
7801 establishment and operation of a center as provided by this
7802 section and rules adopted hereunder. Said allocation may be made
7803 only after all bond obligations required to be paid from such
7804 fees have been met.

7805 Reviser's note.--Amended to conform to the redesignation of
7806 subunits within s. 1009.24 by s. 133, ch. 2007-217, Laws of
7807 Florida.

7808 Section 192. Paragraph (c) of subsection (2) of section
7809 1012.61, Florida Statutes, is amended to read:

7810 1012.61 Sick leave.--

7811 (2) PROVISIONS GOVERNING SICK LEAVE.--The following
7812 provisions shall govern sick leave:

7813 (c) Compensation.--Any employee having unused sick leave
7814 credit shall receive full-time compensation for the time
7815 justifiably absent on sick leave, but no compensation may be
7816 allowed beyond that which may be provided in subparagraph (2) (a) 4
7817 ~~subsection (4)~~.

7818 Reviser's note.--Amended to correct an erroneous reference
7819 and conform to context. The cited subsection does not exist.

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7820 Subparagraph (2)(a)4. relates to compensation for terminal
7821 pay for accumulated sick leave.

7822 Section 193. Section 1012.875, Florida Statutes, is amended
7823 to read:

7824 1012.875 State Community College System Optional Retirement
7825 Program.--Each community college may implement an optional
7826 retirement program, if such program is established therefor
7827 pursuant to s. 1001.64(20), under which annuity or other
7828 contracts providing retirement and death benefits may be
7829 purchased by, and on behalf of, eligible employees who
7830 participate in the program, in accordance with s. 403(b) of the
7831 Internal Revenue Code. Except as otherwise provided herein, this
7832 retirement program, which shall be known as the State Community
7833 College System Optional Retirement Program, may be implemented
7834 and administered only by an individual community college or by a
7835 consortium of community colleges.

7836 (1) As used in this section, the term:

7837 (a) "Activation" means the date upon which an optional
7838 retirement program is first made available by the program
7839 administrator to eligible employees.

7840 (b) "College" means community colleges as defined in s.
7841 1000.21.

7842 (c) "Department" means the Department of Management
7843 Services.

7844 (d) "Program administrator" means the individual college or
7845 consortium of colleges responsible for implementing and
7846 administering an optional retirement program.

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7847 (e) "Program participant" means an eligible employee who
7848 has elected to participate in an available optional retirement
7849 program as authorized by this section.

7850 (2) Participation in the optional retirement program
7851 provided by this section is limited to employees who satisfy the
7852 criteria set forth in s. 121.051(2)(c).

7853 (3)(a) With respect to any employee who is eligible to
7854 participate in the optional retirement program by reason of
7855 qualifying employment commencing before the program's activation:

7856 1. The employee may elect to participate in the optional
7857 retirement program in lieu of participation in the Florida
7858 Retirement System. To become a program participant, the employee
7859 must file with the personnel officer of the college, within 90
7860 days after the program's activation, a written election on a form
7861 provided by the Florida Retirement System and a completed
7862 application for an individual contract or certificate.

7863 2. An employee's participation in the optional retirement
7864 program commences on the first day of the next full calendar
7865 month following the filing of the election and completed
7866 application with the program administrator and receipt of such
7867 election by the department. An employee's membership in the
7868 Florida Retirement System terminates on this same date.

7869 3. Any such employee who fails to make an election to
7870 participate in the optional retirement program within 60 days
7871 after its activation has elected to retain membership in the
7872 Florida Retirement System.

7873 (b) With respect to any employee who becomes eligible to
7874 participate in an optional retirement program by reason of

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7875 | qualifying employment commencing on or after the program's
7876 | activation:

7877 | 1. The employee may elect to participate in the optional
7878 | retirement program in lieu of participation in the Florida
7879 | Retirement System. To become a program participant, the employee
7880 | must file with the personnel officer of the college, within 90
7881 | days after commencing qualifying employment as provided in s.
7882 | 121.051(2)(c)4., a written election on a form provided by the
7883 | Florida Retirement System and a completed application for an
7884 | individual contract or certificate.

7885 | 2. An employee's participation in the optional retirement
7886 | program commences retroactive to the first day of qualifying
7887 | employment following the filing of the election and completed
7888 | application with the program administrator and receipt of such
7889 | election by the department. An employee's membership in the
7890 | Florida Retirement System terminates on this same date.

7891 | 3. Any such employee who fails to make an election to
7892 | participate in the optional retirement program within 90 days
7893 | after commencing qualifying employment has elected to retain
7894 | membership in the Florida Retirement System.

7895 | (c) Any employee who, on or after an optional retirement
7896 | program's activation, becomes eligible to participate in the
7897 | program by reason of a change in status due to the subsequent
7898 | designation of the employee's position as one of those referenced
7899 | in subsection (2), or due to the employee's appointment,
7900 | promotion, transfer, or reclassification to a position referenced
7901 | in subsection (2), must be notified by the college of the
7902 | employee's eligibility to participate in the optional retirement
7903 | program in lieu of participation in the Florida Retirement

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7904 System. These eligible employees are subject to the provisions of
7905 paragraph (b) and may elect to participate in the optional
7906 retirement program in the same manner as those employees
7907 described in paragraph (b), except that the 90-day election
7908 period commences upon the date notice of eligibility is received
7909 by the employee and participation in the program begins the first
7910 day of the first full calendar month that the change in status
7911 becomes effective.

7912 (d) Program participants must be fully and immediately
7913 vested in the optional retirement program upon issuance of an
7914 optional retirement program contract.

7915 (e) The election by an eligible employee to participate in
7916 the optional retirement program is irrevocable for so long as the
7917 employee continues to meet the eligibility requirements set forth
7918 in this section and in s. 121.051(2)(c), except as provided in
7919 paragraph (i) or as provided in s. 121.051(2)(c)3.

7920 (f) If a program participant becomes ineligible to continue
7921 participating in the optional retirement program pursuant to the
7922 criteria referenced in subsection (2), the employee becomes a
7923 member of the Florida Retirement System if eligible. The college
7924 must notify the department of an employee's change in eligibility
7925 status within 30 days after the event that makes the employee
7926 ineligible to continue participation in the optional retirement
7927 program.

7928 (g) An eligible employee who is a member of the Florida
7929 Retirement System at the time of election to participate in the
7930 optional retirement program retains all retirement service credit
7931 earned under the Florida Retirement System at the rate earned.
7932 Additional service credit in the Florida Retirement System may

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7933 | not be earned while the employee participates in the optional
7934 | retirement program, nor is the employee eligible for disability
7935 | retirement under the Florida Retirement System. An eligible
7936 | employee may transfer from the Florida Retirement System to his
7937 | or her accounts under the State Community College System Optional
7938 | Retirement Program a sum representing the present value of his or
7939 | her service credit accrued under the defined benefit program of
7940 | the Florida Retirement System for the period between his or her
7941 | first eligible transfer date from the defined benefit plan to the
7942 | optional retirement program and the actual date of such transfer
7943 | as provided in s. 121.051(2)(c)7. Upon such transfer, all such
7944 | service credit previously earned under the defined benefit
7945 | program of the Florida Retirement System during this period shall
7946 | be nullified for purposes of entitlement to a future benefit
7947 | under the defined benefit program of the Florida Retirement
7948 | System.

7949 | (h) A program participant may not simultaneously
7950 | participate in any other state-administered retirement system,
7951 | plan, or class.

7952 | (i) Except as provided in s. 121.052(6)(d), a program
7953 | participant who is or who becomes dually employed in two or more
7954 | positions covered by the Florida Retirement System, one of which
7955 | is eligible for an optional retirement program pursuant to this
7956 | section and one of which is not, is subject to the dual
7957 | employment provisions of chapter 121.

7958 | (4)(a) Each college must contribute on behalf of each
7959 | program participant an amount equal to 10.43 percent of the
7960 | participant's gross monthly compensation. The college shall
7961 | deduct an amount approved by the district board of trustees of

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7962 | the college to provide for the administration of the optional
7963 | retirement program. Payment of this contribution must be made
7964 | either directly by the college or through the program
7965 | administrator to the designated company contracting for payment
7966 | of benefits to the program participant.

7967 | (b) Each college must contribute on behalf of each program
7968 | participant an amount equal to the unfunded actuarial accrued
7969 | liability portion of the employer contribution which would be
7970 | required if the program participant were a member of the Regular
7971 | Class of the Florida Retirement System. Payment of this
7972 | contribution must be made directly by the college to the
7973 | department for deposit in the Florida Retirement System Trust
7974 | Fund.

7975 | (c) Each program participant who has been issued an
7976 | optional retirement program contract may contribute by way of
7977 | salary reduction or deduction a percentage of the program
7978 | participant's gross compensation, but this percentage may not
7979 | exceed the corresponding percentage contributed by the community
7980 | college to the optional retirement program. Payment of this
7981 | contribution may be made either directly by the college or
7982 | through the program administrator to the designated company
7983 | contracting for payment of benefits to the program participant.

7984 | (d) Contributions to an optional retirement program by a
7985 | college or a program participant are in addition to, and have no
7986 | effect upon, contributions required now or in future by the
7987 | federal Social Security Act.

7988 | (e) The college may accept for deposit into participant
7989 | account or accounts contributions in the form of rollovers or
7990 | direct trustee-to-trustee transfers by or on behalf of

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7991 participants who are reasonably determined by the college to be
7992 eligible for rollover or transfer to the optional retirement
7993 program pursuant to the Internal Revenue Code, if such
7994 contributions are made in accordance with the applicable
7995 requirements of the college. Accounting for such contributions
7996 shall be in accordance with any applicable requirements of the
7997 Internal Revenue Code and the college.

7998 (5) (a) The benefits to be provided to program participants
7999 must be provided through contracts, including individual
8000 contracts or individual certificates issued for group annuity or
8001 other contracts, which may be fixed, variable, or both, in
8002 accordance with s. 403(b) of the Internal Revenue Code. Each
8003 individual contract or certificate must state the type of
8004 contract on its face page, and must include at least a statement
8005 of ownership, the contract benefits, distribution options,
8006 limitations, expense charges, and surrender charges, if any.

8007 (b) Benefits are payable under the optional retirement
8008 program to program participants or their beneficiaries, and the
8009 benefits must be paid only by the designated company in
8010 accordance with the terms of the contracts applicable to the
8011 program participant. Benefits shall accrue in individual accounts
8012 that are participant-directed, portable, and funded by employer
8013 contributions and the earnings thereon. Benefits funded by
8014 employer contributions are payable in accordance with the
8015 following terms and conditions:

8016 1. Benefits shall be payable only to a participant, to his
8017 or her beneficiaries, or to his or her estate, as designated by
8018 the participant.

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8019 2. Benefits shall be paid by the provider company or
8020 companies in accordance with the law, the provisions of the
8021 contract, and any applicable employer rule or policy.

8022 3. In the event of a participant's death, moneys
8023 accumulated by, or on behalf of, the participant, less
8024 withholding taxes remitted to the Internal Revenue Service, if
8025 any, shall be distributed to the participant's designated
8026 beneficiary or beneficiaries, or to the participant's estate, as
8027 if the participant retired on the date of death as provided in
8028 paragraph (d). No other death benefits shall be available for
8029 survivors of participants under the optional retirement program
8030 except for such benefits, or coverage for such benefits, as are
8031 separately afforded by the employer at the employer's discretion.

8032 (c) Upon receipt by the provider company of a properly
8033 executed application for distribution of benefits, the total
8034 accumulated benefits shall be payable to the participant as:

8035 1. A lump-sum distribution to the participant;

8036 2. A lump-sum direct rollover distribution whereby all
8037 accrued benefits, plus interest and investment earnings, are paid
8038 from the participant's account directly to an eligible retirement
8039 plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code,
8040 on behalf of the participant;

8041 3. Periodic distributions;

8042 4. A partial lump-sum payment whereby a portion of the
8043 accrued benefit is paid to the participant and the remaining
8044 amount is transferred to an eligible retirement plan, as defined
8045 in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
8046 participant; or

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8047 5. Such other distribution options as are provided for in
8048 the participant's optional retirement program contract.

8049 (d) Survivor benefits shall be payable as:

8050 1. A lump-sum distribution payable to the beneficiaries or
8051 to the deceased participant's estate;

8052 2. An eligible rollover distribution on behalf of the
8053 surviving spouse or beneficiary of a deceased participant whereby
8054 all accrued benefits, plus interest and investment earnings, are
8055 paid from the deceased participant's account directly to an
8056 eligible retirement plan, as described in s. 402(c)(8)(B) of the
8057 Internal Revenue Code, on behalf of the surviving spouse;

8058 3. Such other distribution options as are provided for in
8059 the participant's optional retirement program contract; or

8060 4. A partial lump-sum payment whereby a portion of the
8061 accrued benefits are paid to the deceased participant's surviving
8062 spouse or other designated beneficiaries, less withholding taxes
8063 remitted to the Internal Revenue Service, if any, and the
8064 remaining amount is transferred directly to an eligible
8065 retirement plan, as described in s. 402(c)(8)(B) of the Internal
8066 Revenue Code, on behalf of the surviving spouse. The proportions
8067 must be specified by the participant or the surviving
8068 beneficiary.

8069
8070 Nothing in this paragraph abrogates other applicable provisions
8071 of state or federal law providing payment of death benefits.

8072 (e) The benefits payable to any person under the optional
8073 retirement program, and any contribution accumulated under the
8074 program, are not subject to assignment, execution, attachment, or
8075 to any legal process whatsoever.

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8076 (6) (a) The optional retirement program authorized by this
8077 section must be implemented and administered by the program
8078 administrator under s. 403(b) of the Internal Revenue Code. The
8079 program administrator has the express authority to contract with
8080 a third party to fulfill any of the program administrator's
8081 duties.

8082 (b) The program administrator shall solicit competitive
8083 bids or issue a request for proposal and select no more than four
8084 companies from which optional retirement program contracts may be
8085 purchased under the optional retirement program. In making these
8086 selections, the program administrator shall consider the
8087 following factors:

8088 1. The financial soundness of the company.

8089 2. The extent of the company's experience in providing
8090 annuity or other contracts to fund retirement programs.

8091 3. The nature and extent of the rights and benefits
8092 provided to program participants in relation to the premiums
8093 paid.

8094 4. The suitability of the rights and benefits provided to
8095 the needs of eligible employees and the interests of the college
8096 in the recruitment and retention of employees.

8097
8098 In lieu of soliciting competitive bids or issuing a request for
8099 proposals, the program administrator may authorize the purchase
8100 of annuity contracts under the optional retirement program from
8101 those companies currently selected by the department to offer
8102 such contracts through the State University System Optional
8103 Retirement Program, as set forth in s. 121.35.

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8104 (c) Optional retirement program annuity contracts must be
8105 approved in form and content by the program administrator in
8106 order to qualify. The program administrator may use the same
8107 annuity contracts currently used within the State University
8108 System Optional Retirement Program, as set forth in s. 121.35.

8109 (d) The provision of each annuity contract applicable to a
8110 program participant must be contained in a written program
8111 description that includes a report of pertinent financial and
8112 actuarial information on the solvency and actuarial soundness of
8113 the program and the benefits applicable to the program
8114 participant. The company must furnish the description annually to
8115 the program administrator, and to each program participant upon
8116 commencement of participation in the program and annually
8117 thereafter.

8118 (e) The program administrator must ensure that each program
8119 participant is provided annually with an accounting of the total
8120 contributions and the annual contributions made by and on the
8121 behalf of the program participant.

8122 Reviser's note.--Amended to conform to the complete title of
8123 the State Community College System Optional Retirement
8124 Program as referenced in the section.

8125 Section 194. Subsection (1) of section 1013.73, Florida
8126 Statutes, is amended to read:

8127 1013.73 Effort index grants for school district
8128 facilities.--

8129 (1) The Legislature hereby allocates for effort index
8130 grants the sum of \$300 million from the funds appropriated from
8131 the Educational Enhancement Trust Fund by s. 46, chapter 97-384,
8132 Laws of Florida, contingent upon the sale of school capital

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8133 outlay bonds. From these funds, the Commissioner of Education
8134 shall allocate to the four school districts deemed eligible for
8135 an effort index grant by the SMART Schools Clearinghouse the sums
8136 of \$7,442,890 to the Clay County School District, \$62,755,920 to
8137 the Miami-Dade County Public Schools ~~Dade County School District~~,
8138 \$1,628,590 to the Hendry County School District, and \$414,950 to
8139 the Madison County School District. The remaining funds shall be
8140 allocated among the remaining district school boards that qualify
8141 for an effort index grant by meeting the local capital outlay
8142 effort criteria in paragraph (a) or paragraph (b).

8143 (a) Between July 1, 1995, and June 30, 1999, the school
8144 district received direct proceeds from the one-half-cent sales
8145 surtax for public school capital outlay authorized by s.
8146 212.055(6) or from the local government infrastructure sales
8147 surtax authorized by s. 212.055(2).

8148 (b) The school district met two of the following criteria:

8149 1. Levied the full 2 mills of nonvoted discretionary
8150 capital outlay authorized by s. 1011.71(2) during 1995-1996,
8151 1996-1997, 1997-1998, and 1998-1999.

8152 2. Levied a cumulative voted millage for capital outlay and
8153 debt service equal to 2.5 mills for fiscal years 1995 through
8154 1999.

8155 3. Received proceeds of school impact fees greater than
8156 \$500 per dwelling unit which were in effect on July 1, 1998.

8157 4. Received direct proceeds from either the one-half-cent
8158 sales surtax for public school capital outlay authorized by s.
8159 212.055(6) or from the local government infrastructure sales
8160 surtax authorized by s. 212.055(2).

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8161 | Reviser's note.--Amended to conform to the current name of
8162 | the school district and the redesignation of Dade County as
8163 | Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.
8164 | Section 195. This act shall take effect on the 60th day
8165 | after adjournment sine die of the session of the Legislature in
8166 | which enacted.