

1 A bill to be entitled
2 An act relating to pest control; creating s. 570.345,
3 F.S., the Pest Control Compact; providing for enactment of
4 the compact; requiring the Commissioner of Agriculture to
5 administer the compact; requiring that an application for
6 assistance under the compact be made by the commissioner;
7 providing for crediting of funds to appropriate accounts
8 of a state treasury under certain circumstances; providing
9 findings with respect to the need for all states to
10 cooperate in pest-eradication and control programs;
11 providing definitions; providing for the establishment of
12 the Pest Control Insurance Fund for the purpose of
13 financing pest-control operations under the compact;
14 specifying sources of funds deposited into the Pest
15 Control Insurance Fund and any conditions that may be
16 placed on such funds; providing for the Pest Control
17 Insurance Fund to be administered by a Governing Board and
18 Executive Committee; providing for the internal operations
19 and management of the Governing Board; requiring an annual
20 report to the Governor and Legislature of each state that
21 is a party to the compact; providing for the
22 administration of the compact and the Pest Control
23 Insurance Fund; providing procedures for applying for an
24 expenditure from the fund; providing for a determination
25 with respect to expenditures from the fund and for the
26 review thereof; authorizing the Governing Board to
27 establish advisory and technical committees; providing for
28 an application for assistance from the fund on behalf of a

29 nonparty state; providing requirements for the fund with
 30 respect to preparing budgets and maintaining financial
 31 assets; prohibiting a pledge of the assets of a state that
 32 is a party to the compact; providing for the compact to
 33 enter into force upon its enactment by five or more
 34 states; providing a procedure for a state to withdraw from
 35 the compact; providing for construction and severability;
 36 providing an effective date.

37

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

39

40 Section 1. Section 570.345, Florida Statutes, is created
 41 to read:

42 570.345 Pest Control Compact.--

43 (1) ENACTMENT OF COMPACT.--The Pest Control Compact is
 44 enacted into law and entered into with all other jurisdictions
 45 legally joining therein in the form substantially as provided in
 46 this section.

47 (a) Consistent with law and within available
 48 appropriations, the departments, agencies, and officers of this
 49 state may cooperate with the Insurance Fund established by the
 50 Pest Control Compact.

51 (b) Pursuant to paragraph (5) (h), copies of bylaws and
 52 amendments thereto shall be filed with the Commissioner of
 53 Agriculture.

54 (c) The compact administrator for this state shall be the
 55 Commissioner of Agriculture.

56 (d) Within the meaning of paragraph (7)(b) or paragraph
57 (9)(a), a request or application for assistance from the
58 Insurance Fund may be made by the Commissioner of Agriculture.

59 (e) The department, agency, or officer expending or
60 becoming liable for an expenditure on account of a control or
61 eradication program undertaken or intensified pursuant to the
62 compact shall have credited to the appropriate account in the
63 state treasury the amount or amounts of any payments made to
64 this state to defray the cost of such program, or any part
65 thereof, or as reimbursement thereof.

66 (f) As used in this compact, with reference to this state,
67 the term "executive head" means the Governor.

68 (2) FINDINGS.--

69 (a) In the absence of the higher degree of cooperation
70 possible under this compact, the annual loss of approximately
71 \$137 billion from the depredations of pests is virtually certain
72 to continue, if not to increase.

73 (b) Because of the varying climatic, geographic, and
74 economic factors, each state may be affected differently by
75 particular species of pests; but all states share the inability
76 to protect themselves fully against pests that present serious
77 dangers to them.

78 (c) The migratory character of pest infestations makes it
79 necessary for states both adjacent to and distant from one
80 another to complement each other's activities when faced with
81 conditions of infestation and reinfestation.

82 (d) While every state is seriously affected by a
83 substantial number of pests, and every state is susceptible to

84 infestation by many species of pests not now causing damage to
85 its crops and plant life and products, the fact that relatively
86 few species of pests present equal danger to or are of interest
87 to all states makes the establishment and operation of an
88 Insurance Fund, from which individual states may obtain
89 financial support for pest-control programs of benefit to them
90 in other states and to which they may contribute in accordance
91 with their relative interest, the most equitable means of
92 financing cooperative pest-eradication and control programs.

93 (3) DEFINITIONS.--As used in this compact, the term:

94 (a) "State" means a state, territory, or possession of the
95 United States, the District of Columbia, or the Commonwealth of
96 Puerto Rico.

97 (b) "Requesting state" means a state that invokes the
98 procedures of the compact to secure the undertaking or
99 intensification of measures to control or eradicate one or more
100 pests within one or more other states.

101 (c) "Responding state" means a state that is requested to
102 undertake or intensify the measures referred to in paragraph
103 (b).

104 (d) "Pest" means any invertebrate animal, pathogen,
105 parasitic plant, or similar or allied organism that can cause
106 disease or damage in any crops, trees, shrubs, grasses, or other
107 plants of substantial value.

108 (e) "Insurance Fund" means the Pest Control Insurance Fund
109 established pursuant to this compact.

110 (f) "Governing Board" means the administrators of this
111 compact representing all of the party states when such

112 administrators are acting as a body in pursuance of authority
 113 vested in them by this compact.

114 (g) "Executive Committee" means the committee established
 115 pursuant to paragraph (6) (e).

116 (4) INSURANCE FUND.--There is established a Pest Control
 117 Insurance Fund for the purpose of financing other than normal
 118 pest-control operations that states may be called upon to engage
 119 in pursuant to this compact. The Insurance Fund shall contain
 120 moneys appropriated to it by the party states and any donations
 121 and grants accepted by it. All appropriations, except as
 122 conditioned by the rights and obligations of party states
 123 expressly set forth in this compact, shall be unconditional and
 124 may not be restricted by the appropriating state to use in the
 125 control of any specified pest or pests. Donations and grants may
 126 be conditional or unconditional, except that the Insurance Fund
 127 may not accept any donation or grant whose terms are
 128 inconsistent with any provision of this compact.

129 (5) PEST CONTROL INSURANCE FUND; INTERNAL OPERATIONS AND
 130 MANAGEMENT.--

131 (a) The Insurance Fund shall be administered by a
 132 Governing Board and Executive Committee as hereinafter provided.
 133 The actions of the Governing Board and the Executive Committee
 134 pursuant to this compact shall be deemed the actions of the
 135 Insurance Fund.

136 (b) The members of the Governing Board are entitled to one
 137 vote on the board. Action by the Governing Board is not binding
 138 unless taken at a meeting at which a majority of the total
 139 number of votes on the Governing Board is cast in favor thereof.

140 Action of the Governing Board shall be taken only at a meeting
141 at which a majority of the members are present.

142 (c) The Insurance Fund shall have a seal that may be
143 employed as an official symbol and that may be affixed to
144 documents and otherwise used as the Governing Board may provide.

145 (d) The Governing Board shall elect annually, from among
146 its members, a chairperson, a vice chairperson, a secretary, and
147 a treasurer. The chairperson may not succeed himself or herself.
148 The Governing Board may appoint an executive director and fix
149 his or her duties and compensation, if any. Such executive
150 director shall serve at the pleasure of the Governing Board. The
151 Governing Board shall make provision for the bonding of such of
152 the officers and employees of the Insurance Fund as may be
153 appropriate.

154 (e) Irrespective of the civil service, personnel, or other
155 merit system laws of any of the party states, the executive
156 director or, if there is no executive director, the chairperson,
157 in accordance with such procedures as the bylaws may provide,
158 shall appoint, remove, or discharge such personnel as may be
159 necessary for the performance of the functions of the Insurance
160 Fund and shall fix the duties and compensation of such
161 personnel. The Governing Board in its bylaws shall provide for
162 the personnel policies and programs of the Insurance Fund.

163 (f) The Insurance Fund may borrow, accept, or contract for
164 the services of personnel from any state, the United States, or
165 any other governmental agency, or from any person, firm,
166 association, or corporation.

167 (g) The Insurance Fund may accept for any of its purposes
168 and functions under this compact any and all donations and
169 grants of money, equipment, supplies, materials, and services,
170 conditional or otherwise, from any state, the United States, or
171 any other governmental agency, or from any person, firm,
172 association, or corporation, and may receive, use, and dispose
173 of the same. Any donation, gift, or grant accepted by the
174 Governing Board pursuant to this paragraph or services borrowed
175 pursuant to paragraph (f) shall be reported in the annual report
176 of the Insurance Fund. Such report must include the nature,
177 amount, and conditions, if any, of the donation, gift, grant, or
178 services borrowed and the identity of the donor or lender.

179 (h) The Governing Board shall adopt bylaws for the conduct
180 of the business of the Insurance Fund and shall have the power
181 to amend and to rescind these bylaws. The Insurance Fund shall
182 publish its bylaws in a convenient form and shall file a copy
183 thereof and a copy of any amendment thereto with the appropriate
184 agency or officer in each of the party states.

185 (i) The Insurance Fund shall make an annual report to the
186 Governor and Legislature of each party state which covers its
187 activities for the preceding year. The Insurance Fund may make
188 such additional reports as it may deem desirable.

189 (j) In addition to the powers and duties specifically
190 authorized and imposed, the Insurance Fund may do such other
191 things as are necessary and incidental to the conduct of its
192 affairs pursuant to this compact.

193 (6) COMPACT AND INSURANCE FUND ADMINISTRATION.--

194 (a) In each party state there shall be a compact
195 administrator who shall be selected and serve in such manner as
196 the laws of his or her state may provide, who shall assist in
197 the coordination of activities pursuant to the compact in his or
198 her state, and who shall represent his or her state on the
199 Governing Board of the Insurance Fund.

200 (b) If the laws of the United States specifically so
201 provide, or if administrative provision is made therefor within
202 the Federal Government, the United States may be represented on
203 the Governing Board of the Insurance Fund by not more than three
204 representatives. Any such representative or representatives of
205 the United States shall be appointed and serve in such manner as
206 may be provided by or pursuant to federal law, but no such
207 representative shall have a vote on the Governing Board or the
208 Executive Committee thereof.

209 (c) The Governing Board shall meet at least once each year
210 for the purpose of determining policies and procedures in the
211 administration of the Insurance Fund and, consistent with the
212 provisions of the compact, supervising and giving direction to
213 the expenditure of moneys from the Insurance Fund. Additional
214 meetings of the Governing Board shall be held at the call of the
215 chairperson, the Executive Committee, or a majority of the
216 membership of the Governing Board.

217 (d) At such times as it may be meeting, the Governing
218 Board shall pass upon applications for assistance from the
219 Insurance Fund and authorize disbursements therefrom. When the
220 Governing Board is not in session, the Executive Committee

221 thereof shall act as agent of the Governing Board, and has full
 222 authority to act for it in passing upon such applications.

223 (e) The Executive Committee shall be composed of the
 224 chairperson of the Governing Board and four additional members
 225 of the Governing Board chosen by it so that there shall be one
 226 member representing each of four geographic groupings of party
 227 states. The Governing Board shall make such geographic
 228 groupings. If there is representation of the United States on
 229 the Governing Board, one such representative may meet with the
 230 Executive Committee. The chairperson of the Governing Board
 231 shall be the chairperson of the Executive Committee. No action
 232 of the Executive Committee shall be binding unless taken at a
 233 meeting at which at least four members of such committee are
 234 present and vote in favor thereof. Necessary expenses of each of
 235 the five members of the Executive Committee incurred in
 236 attending meetings of such committee, when not held at the same
 237 time and place as a meeting of the Governing Board, shall be
 238 charged against the Insurance Fund.

239 (7) ASSISTANCE AND REIMBURSEMENT.--

240 (a) Each party state pledges to each other party state
 241 that it will employ its best efforts to eradicate, or control
 242 within the strictest practicable limits, any and all pests. It
 243 is recognized that performance of this responsibility involves:

244 1. The maintenance of pest-control and eradication
 245 activities of interstate significance by a party state at a
 246 level that would be reasonable for its own protection in the
 247 absence of this compact.

248 2. The meeting of emergency outbreaks or infestations of
 249 interstate significance to no less an extent than would have
 250 been done in the absence of this compact.

251 (b) Whenever a party state is threatened by a pest not
 252 present within its borders but present within another party
 253 state, or whenever a party state is undertaking or engaged in
 254 activities for the control or eradication of a pest or pests and
 255 finds that such activities are or would be impracticable or
 256 substantially more difficult by reason of failure of another
 257 party state to cope with infestation or threatened infestation,
 258 that state may request the Governing Board to authorize
 259 expenditures from the Insurance Fund for eradication or control
 260 measures to be taken by one or more of such other party states
 261 at a level sufficient to prevent, or to reduce to the greatest
 262 practicable extent, infestation or reinfestation of the
 263 requesting state. Upon such authorization, the responding state
 264 or states shall take or increase such eradication or control
 265 measures as may be warranted. A responding state shall use
 266 moneys available from the Insurance Fund expeditiously and
 267 efficiently to assist in affording the protection requested.

268 (c) In order to apply for expenditures from the Insurance
 269 Fund, a requesting state shall submit the following in writing:

270 1. A detailed statement of the circumstances that occasion
 271 the request for invoking the compact.

272 2. Evidence that the pest for which eradication or control
 273 assistance is requested constitutes a danger to an agricultural
 274 or forest crop, product, tree, shrub, grass, or other plant
 275 having a substantial value to the requesting state.

276 3. A statement of the extent of the present and projected
277 program of the requesting state and its subdivisions, including
278 full information as to the legal authority for the conduct of
279 such program or programs and the expenditures being made, or
280 budgeted therefor, in connection with the eradication, control,
281 or prevention of introduction of the pest concerned.

282 4. Proof that the expenditures being made or budgeted as
283 detailed in subparagraph 3. do not constitute a reduction of the
284 effort for the control or eradication of the pest concerned or,
285 if there is a reduction, the reasons why the level of program
286 detailed in subparagraph 3. constitutes a normal level of pest-
287 control activity.

288 5. A declaration as to whether, to the best of the
289 requesting state's knowledge and belief, the conditions that
290 occasion the invoking of the compact in the particular instance
291 can be abated by a program undertaken with the aid of moneys
292 from the Insurance Fund within 1 year or less, or whether the
293 request is for an installment in a program that is likely to
294 continue for a longer period of time.

295 6. Such other information as the Governing Board may
296 require consistent with the provisions of this compact.

297 (d) The Governing Board or Executive Committee shall give
298 due notice of any meeting at which an application for assistance
299 from the Insurance Fund is to be considered. Such notice shall
300 be given to the compact administrator of each party state and to
301 such other officers and agencies as may be designated by the
302 laws of the party states. The requesting state and any other

303 party state is entitled to be represented and present evidence
304 and argument at such meeting.

305 (e) Upon the submission of the information required by
306 paragraph (c) and such other information as the requesting state
307 may have or acquire, and upon determining that an expenditure of
308 funds is within the purposes of this compact and justified
309 thereby, the Governing Board or Executive Committee shall
310 authorize support of the program. The Governing Board or
311 Executive Committee may meet at any time or place for the
312 purpose of receiving and considering an application. Any and all
313 determinations of the Governing Board or Executive Committee,
314 with respect to an application, together with the reasons
315 therefor shall be recorded and subscribed in such manner as to
316 show and preserve the votes of the individual members thereof.

317 (f) A requesting state that is dissatisfied with a
318 determination of the Executive Committee shall, upon notice in
319 writing given within 20 days after the determination with which
320 it is dissatisfied, be entitled to receive a review thereof at
321 the next meeting of the Governing Board. Determinations of the
322 Executive Committee shall be reviewable only by the Governing
323 Board at one of its regular meetings or at a special meeting
324 held in such manner as the Governing Board may authorize.

325 (g) Responding states required to undertake or increase
326 measures pursuant to this compact may receive moneys from the
327 Insurance Fund either at the time or times when such state
328 incurs expenditures on account of such measures or as
329 reimbursement for expenses incurred and chargeable to the
330 Insurance Fund. The Governing Board shall adopt, and from time

331 to time may amend or revise, procedures for submission of claims
 332 upon it and for payment thereof.

333 (h) Before authorizing the expenditure of moneys from the
 334 Insurance Fund pursuant to an application of a requesting state,
 335 the Insurance Fund shall ascertain the extent and nature of any
 336 timely assistance or participation that may be available from
 337 the Federal Government and shall request the appropriate agency
 338 or agencies of the Federal Government for such assistance and
 339 participation.

340 (i) The Insurance Fund may negotiate and execute a
 341 memorandum of understanding or other appropriate instrument
 342 defining the extent and degree of assistance or participation
 343 between and among the Insurance Fund, cooperating federal
 344 agencies, states, and any other entities concerned.

345 (8) ADVISORY AND TECHNICAL COMMITTEES.--The Governing
 346 Board may establish advisory and technical committees composed
 347 of state, local, and federal officials and private persons to
 348 advise it with respect to any one or more of its functions. Any
 349 such advisory or technical committee, or any member or members
 350 thereof, may meet with and participate in its deliberations upon
 351 request of the Governing Board or Executive Committee. An
 352 advisory or technical committee may furnish information and
 353 recommendations with respect to any application for assistance
 354 from the Insurance Fund being considered by the board or
 355 committee and the board or committee may receive and consider
 356 the same; except that any participant in a meeting of the
 357 Governing Board or Executive Committee held pursuant to
 358 paragraph (7) (d) is entitled to know the substance of any such

359 information and recommendations at the time of the meeting if
 360 made prior thereto or as a part thereof or, if made thereafter,
 361 no later than the time at which the Governing Board or Executive
 362 Committee makes its disposition of the application.

363 (9) RELATIONS AND NONPARTY JURISDICTIONS.--

364 (a) A party state may make application for assistance from
 365 the Insurance Fund with respect to a pest in a nonparty state.
 366 Such application shall be considered and disposed of by the
 367 Governing Board or Executive Committee in the same manner as an
 368 application with respect to a pest within a party state, except
 369 as provided in this subsection.

370 (b) At or in connection with any meeting of the Governing
 371 Board or Executive Committee held pursuant to paragraph (7) (d),
 372 a nonparty state is entitled to appear, participate, and receive
 373 information only to such extent as the Governing Board or
 374 Executive Committee may provide. A nonparty state is not
 375 entitled to review of any determination made by the Executive
 376 Committee.

377 (c) The Governing Board or Executive Committee shall
 378 authorize expenditures from the Insurance Fund to be made in a
 379 nonparty state only after determining that the conditions in
 380 such state and the value of such expenditures to the party
 381 states as a whole justify them. The Governing Board or Executive
 382 Committee may set any conditions that it deems appropriate with
 383 respect to the expenditure of moneys from the Insurance Fund in
 384 a nonparty state and may enter into such agreement or agreements
 385 with nonparty states and other jurisdictions or entities as it
 386 may deem necessary or appropriate to protect the interests of

387 the Insurance Fund with respect to expenditures and activities
 388 outside of party states.

389 (10) FINANCE.--

390 (a) The Insurance Fund shall submit to the executive head
 391 or designated officer or officers of each party state a budget
 392 for the Insurance Fund for such period as may be required by the
 393 laws of that party state for a presentation to the Legislature
 394 thereof.

395 (b) Each of the budgets shall contain specific
 396 recommendations of the amount or amounts to be appropriated by
 397 each of the party states. The request for appropriations shall
 398 be apportioned among the party states as follows: one-tenth of
 399 the total budget in equal shares and the remainder in proportion
 400 to the value of agricultural and forest crops and products,
 401 excluding animals and animal products, produced in each party
 402 state. In determining the value of such crops and products, the
 403 Insurance Fund may employ such source or sources of information
 404 as in its judgment present the most equitable and accurate
 405 comparisons among the party states. Each of the budgets and
 406 requests for appropriations shall indicate the source or sources
 407 used in obtaining information concerning the value of products.

408 (c) The financial assets of the Insurance Fund shall be
 409 maintained in two accounts to be designated respectively as the
 410 "Operating Account" and the "Claims Account." The Operating
 411 Account shall consist only of those assets necessary for the
 412 administration of the Insurance Fund during the next ensuing 2-
 413 year period. The Claims Account shall contain all moneys not
 414 included in the Operating Account and may not exceed the amount

415 reasonably estimated to be sufficient to pay all legitimate
416 claims against the Insurance Fund for a period of 3 years. At
417 any time when the Claims Account has reached its maximum limit
418 or would reach its maximum limit by the addition of moneys
419 requested for appropriation by the party states, the Governing
420 Board shall reduce its budget requests on a pro rata basis in
421 such manner as to keep the Claims Account within such maximum
422 limit. Any moneys in the Claims Account by virtue of conditional
423 donations, grants, or gifts shall be included in calculations
424 made pursuant to this paragraph only to the extent that such
425 moneys are available to meet demands arising out of the claims.

426 (d) The Insurance Fund shall not pledge the credit of any
427 party state. The Insurance Fund may meet any of its obligations
428 in whole or in part with moneys available to it under paragraph
429 (5) (g), provided that the Governing Board takes specific action
430 setting aside such moneys prior to incurring any obligation to
431 be met in whole or in part in such manner. Except where the
432 Insurance Fund makes use of moneys available to it under
433 paragraph (5) (g), the Insurance Fund shall not incur any
434 obligation prior to the allotment of moneys by the party states
435 adequate to meet the same.

436 (e) The Insurance Fund shall keep accurate accounts of all
437 receipts and disbursements. The receipts and disbursements of
438 the Insurance Fund shall be subject to the audit and accounting
439 procedures established under its bylaws. However, all receipts
440 and disbursements of funds handled by the Insurance Fund shall
441 be audited yearly by a certified or licensed public accountant

442 and a report of the audit shall be included in and become part
443 of the annual report of the Insurance Fund.

444 (f) The accounts of the Insurance Fund shall be open at
445 any reasonable time for inspection by duly authorized officers
446 of the party states and by any persons authorized by the
447 Insurance Fund.

448 (11) ENTRY INTO FORCE AND WITHDRAWAL.--

449 (a) This compact shall enter into force when enacted into
450 law by any five or more states. Thereafter, this compact shall
451 become effective as to any other state upon its enactment
452 thereof.

453 (b) Any party state may withdraw from this compact by
454 enacting a statute repealing the same, but no such withdrawal
455 shall take effect until 2 years after the executive head of the
456 withdrawing state has given notice in writing of the withdrawal
457 to the executive heads of all other party states. No withdrawal
458 shall affect any liability already incurred by or chargeable to
459 a party state prior to the time of such withdrawal.

460 (12) CONSTRUCTION AND SEVERABILITY.--This compact shall be
461 liberally construed so as to effectuate the purposes thereof.
462 The provisions of this compact are severable and if any phrase,
463 clause, sentence, or provision of this compact is declared to be
464 contrary to the constitution of any state or of the United
465 States or the applicability thereof to any government, agency,
466 person, or circumstance is held invalid, the validity of the
467 remainder of this compact and the applicability thereof to any
468 government, agency, person, or circumstance shall not be
469 affected thereby. If this compact is held contrary to the

CS/HB 197

2008

470 constitution of any state participating herein, the compact
471 shall remain in full force and effect as to the remaining party
472 states and in full force and effect as to the state affected as
473 to all severable matters.

474 Section 2. This act shall take effect upon becoming a law.