

By Senator Peaden

2-03661A-08

20082102\_\_

1                                 A bill to be entitled  
 2             An act relating to trust funds of the Agency for Health  
 3             Care Administration; terminating the Florida Organ and  
 4             Tissue Donor Education and Procurement Trust Fund and the  
 5             Resident Protection Trust Fund; providing for the  
 6             disposition of the balances in and revenues of the trust  
 7             funds; prescribing procedures for the termination of the  
 8             trust funds; amending s. 20.425, F.S.; providing for the  
 9             administration of the Administrative Trust Fund, the  
 10            Grants and Donations Trust Fund, the Health Care Trust  
 11            Fund, the Medical Care Trust Fund, the Public Medical  
 12            Assistance Trust Fund, the Quality of Long-Term Care  
 13            Facility Improvement Trust Fund, and the Refugee  
 14            Assistance Trust Fund by the Agency for Health Care  
 15            Administration; providing for sources of funds and  
 16            purposes; providing for annual carryforward of funds;  
 17            revising the date for reversion of specified balances in  
 18            the Tobacco Settlement Trust Fund; amending ss. 215.20,  
 19            320.08047, 322.08, 393.0673, and 393.0678, F.S., to  
 20            conform; amending s. 394.903, F.S.; conforming a cross-  
 21            reference; repealing s. 394.904, F.S., which creates the  
 22            Health Care Trust Fund, to conform; amending s. 400.062,  
 23            F.S., to conform; clarifying provisions with respect to  
 24            amounts on deposit in the Health Care Trust Fund which  
 25            control the setting of specified rates that comprise a  
 26            portion of licensing fees for nursing homes and general  
 27            health care licensing; removing obsolete language, to  
 28            conform; amending ss. 400.063, 400.121, 400.126, 400.162,  
 29            400.966, and 765.515, F.S., to conform; repealing s.

2-03661A-08

20082102\_\_

30           765.52155, F.S., which creates the Florida Organ and  
31           Tissue Donor Education and Procurement Trust Fund, to  
32           conform; amending s. 765.544, F.S., to conform; providing  
33           an effective date.

34  
35 Be It Enacted by the Legislature of the State of Florida:

36  
37           Section 1. (1) The Florida Organ and Tissue Donor  
38 Education and Procurement Trust Fund within the Agency for Health  
39 Care Administration, FLAIR number 68-2-509, is terminated.

40           (2) All current balances remaining in, and all revenues of,  
41 the trust fund shall be transferred to the Health Care Trust Fund  
42 within the Agency for Health Care Administration, FLAIR number  
43 68-2-003.

44           (3) The Agency for Health Care Administration shall pay any  
45 outstanding debts and obligations of the terminated fund as soon  
46 as practicable, and the Chief Financial Officer shall close out  
47 and remove the terminated fund from the various state accounting  
48 systems using generally accepted accounting principles concerning  
49 warrants outstanding, assets, and liabilities.

50           Section 2. (1) The Resident Protection Trust Fund within  
51 the Agency for Health Care Administration, FLAIR number 68-2-522,  
52 is terminated.

53           (2) All current balances remaining in, and all revenues of,  
54 the trust fund shall be transferred to the Health Care Trust Fund  
55 within the Agency for Health Care Administration, FLAIR number  
56 68-2-003.

57           (3) The Agency for Health Care Administration shall pay any  
58 outstanding debts and obligations of the terminated fund as soon

2-03661A-08

20082102\_\_

59 as practicable, and the Chief Financial Officer shall close out  
60 and remove the terminated fund from the various state accounting  
61 systems using generally accepted accounting principles concerning  
62 warrants outstanding, assets, and liabilities.

63 Section 3. Section 20.425, Florida Statutes, is amended to  
64 read:

65 20.425 Agency for Health Care Administration; trust funds  
66 ~~Tobacco Settlement Trust Fund.~~ --The following trust funds shall  
67 be administered by the Agency for Health Care Administration:

68 (1) Administrative Trust Fund.

69 (a) Funds to be credited to and uses of the trust fund  
70 shall be administered in accordance with the provisions of s.  
71 215.32.

72 (b) Notwithstanding the provisions of s. 216.301 and  
73 pursuant to s. 216.351, any balance in the trust fund at the end  
74 of any fiscal year shall remain in the trust fund at the end of  
75 the year and shall be available for carrying out the purposes of  
76 the trust fund.

77 (2) Grants and Donations Trust Fund.

78 (a) Funds to be credited to and uses of the trust fund  
79 shall be administered in accordance with the provisions of ss.  
80 215.32 and 409.916.

81 (b) Notwithstanding the provisions of s. 216.301 and  
82 pursuant to s. 216.351, any balance in the trust fund at the end  
83 of any fiscal year shall remain in the trust fund at the end of  
84 the year and shall be available for carrying out the purposes of  
85 the trust fund.

86 (3) Health Care Trust Fund.

2-03661A-08

20082102\_\_

87        (a) Funds to be credited to and uses of the trust fund  
88 shall be administered in accordance with the provisions of ss.  
89 400.063 and 408.16.

90        (b) Notwithstanding the provisions of s. 216.301 and  
91 pursuant to s. 216.351, any balance in the trust fund at the end  
92 of any fiscal year shall remain in the trust fund at the end of  
93 the year and shall be available for carrying out the purposes of  
94 the trust fund.

95        (4) Medical Care Trust Fund.

96        (a) Funds to be credited to the trust fund shall consist of  
97 receipts from federal grants and shall be used for the purpose of  
98 providing health care services to individuals eligible pursuant  
99 to the requirement and limitation of Title XIX and Title XXI of  
100 the Social Security Act, as amended, and for other such purposes  
101 as may be appropriate.

102        (b) Notwithstanding the provisions of s. 216.301 and  
103 pursuant to s. 216.351, any balance in the trust fund at the end  
104 of any fiscal year shall remain in the trust fund at the end of  
105 the year and shall be available for carrying out the purposes of  
106 the trust fund.

107        (5) Public Medical Assistance Trust Fund.

108        (a) Funds to be credited to and uses of the trust fund  
109 shall be administered in accordance with the provisions of ss.  
110 394.4786 and 409.918.

111        (b) Notwithstanding the provisions of s. 216.301 and  
112 pursuant to s. 216.351, any balance in the trust fund at the end  
113 of any fiscal year shall remain in the trust fund at the end of  
114 the year and shall be available for carrying out the purposes of  
115 the trust fund.

2-03661A-08

20082102\_\_

116 (6) Quality of Long-Term Care Facility Improvement Trust  
 117 Fund.

118 (a) Funds to be credited to and uses of the trust fund  
 119 shall be administered in accordance with the provisions of s.  
 120 400.0239.

121 (b) Notwithstanding the provisions of s. 216.301 and  
 122 pursuant to s. 216.351, any balance in the trust fund at the end  
 123 of any fiscal year shall remain in the trust fund at the end of  
 124 the year and shall be available for carrying out the purposes of  
 125 the trust fund.

126 (7) Refugee Assistance Trust Fund.

127 (a) Funds to be credited to the trust fund shall consist of  
 128 federal grant funds under the Refugee Resettlement Program and  
 129 the Cuban/Haitian Entrant Program and shall be used for the  
 130 purpose of providing medical assistance to individuals eligible  
 131 pursuant to the requirements and limitations of 45 C.F.R. parts  
 132 400 and 401, as amended, or any other applicable federal  
 133 requirement or limitation.

134 (b) Notwithstanding the provisions of s. 216.301 and  
 135 pursuant to s. 216.351, any balance in the trust fund at the end  
 136 of any fiscal year shall remain in the trust fund at the end of  
 137 the year and shall be available for carrying out the purposes of  
 138 the trust fund.

139 (8) Tobacco Settlement Trust Fund.

140 (a) ~~The Agency for Health Care Administration Tobacco~~  
 141 ~~Settlement Trust Fund is created within the agency.~~ Funds to be  
 142 credited to the trust fund shall consist of funds disbursed, by  
 143 nonoperating transfer, from the Department of Financial Services

2-03661A-08

20082102\_\_

144 Tobacco Settlement Clearing Trust Fund in amounts equal to the  
145 annual appropriations made from this trust fund.

146 (b) (2) Notwithstanding the provisions of s. 216.301 and  
147 pursuant to s. 216.351, any unencumbered balance in the trust  
148 fund at the end of any fiscal year and any encumbered balance  
149 remaining undisbursed on September 30 ~~December 31~~ of the same  
150 calendar year shall revert to the Department of Financial  
151 Services Tobacco Settlement Clearing Trust Fund.

152 Section 4. Paragraph (a) of subsection (4) of section  
153 215.20, Florida Statutes, is amended to read:

154 215.20 Certain income and certain trust funds to contribute  
155 to the General Revenue Fund.--

156 (4) The income of a revenue nature deposited in the  
157 following described trust funds, by whatever name designated, is  
158 that from which the appropriations authorized by subsection (3)  
159 shall be made:

160 (a) Within the Agency for Health Care Administration, ÷

161 ~~1. The Florida Organ and Tissue Donor Education and  
162 Procurement Trust Fund.~~

163 ~~2. the Health Care Trust Fund.~~

164 ~~3. The Resident Protection Trust Fund.~~

165

166 The enumeration of the foregoing moneys or trust funds shall not  
167 prohibit the applicability thereto of s. 215.24 should the  
168 Governor determine that for the reasons mentioned in s. 215.24  
169 the money or trust funds should be exempt herefrom, as it is the  
170 purpose of this law to exempt income from its force and effect  
171 when, by the operation of this law, federal matching funds or

2-03661A-08

20082102\_\_

172 contributions or private grants to any trust fund would be lost  
173 to the state.

174 Section 5. Section 320.08047, Florida Statutes, is amended  
175 to read:

176 320.08047 Voluntary contribution for organ and tissue donor  
177 education.--As a part of the collection process for license taxes  
178 as specified in s. 320.08, individuals shall be permitted to make  
179 a voluntary contribution of \$1, which contribution shall be  
180 deposited into the Health Care Trust Fund ~~Florida Organ and~~  
181 ~~Tissue Donor Education and Procurement Trust Fund~~ for organ and  
182 tissue donor education and for maintaining the organ and tissue  
183 donor registry.

184 Section 6. Paragraph (b) of subsection (6) of section  
185 322.08, Florida Statutes, is amended to read:

186 322.08 Application for license.--

187 (6) The application form for a driver's license or  
188 duplicate thereof shall include language permitting the  
189 following:

190 (b) A voluntary contribution of \$1 per applicant, which  
191 contribution shall be deposited into the Health Care Trust Fund  
192 ~~Florida Organ and Tissue Donor Education and Procurement Trust~~  
193 ~~Fund~~ for organ and tissue donor education and for maintaining the  
194 organ and tissue donor registry.

195  
196 A statement providing an explanation of the purpose of the trust  
197 funds shall also be included. For the purpose of applying the  
198 service charge provided in s. 215.20, contributions received  
199 under paragraphs (c), (d), (e), and (f) and under s. 322.18(9)(a)  
200 are not income of a revenue nature.

2-03661A-08

20082102\_\_

201           Section 7. Subsection (3) of section 393.0673, Florida  
202 Statutes, is amended to read:

203           393.0673 Denial, suspension, revocation of license;  
204 moratorium on admissions; administrative fines; procedures.--

205           (3) The agency, as a part of any final order issued by it  
206 under this chapter, may impose such fine as it deems proper,  
207 except that such fine may not exceed \$1,000 for each violation.  
208 Each day a violation of this chapter occurs constitutes a  
209 separate violation and is subject to a separate fine, but in no  
210 event may the aggregate amount of any fine exceed \$10,000. Fines  
211 paid by any facility licensee under the provisions of this  
212 subsection shall be deposited in the Health Care Trust Fund  
213 ~~Resident Protection Trust Fund~~ and expended as provided in s.  
214 400.063.

215           Section 8. Subsection (11) of section 393.0678, Florida  
216 Statutes, is amended to read:

217           393.0678 Receivership proceedings.--

218           (11) Nothing in this section shall be deemed to relieve any  
219 owner, operator, or employee of a facility placed in receivership  
220 of any civil or criminal liability incurred, or any duty imposed  
221 by law, by reason of acts or omissions of the owner, operator, or  
222 employee before the appointment of a receiver; nor shall anything  
223 contained in this section be construed to suspend during the  
224 receivership any obligation of the owner, operator, or employee  
225 for payment of taxes or other operating and maintenance expenses  
226 of the facility or any obligation of the owner, operator, or  
227 employee or any other person for the payment of mortgages or  
228 liens. The owner shall retain the right to sell or mortgage any  
229 facility under receivership, subject to the approval of the court



2-03661A-08

20082102\_\_

230 | which ordered the receivership. A receivership imposed under the  
231 | provisions of this chapter shall be subject to the Health Care  
232 | Trust Fund ~~Resident Protection Trust Fund~~ pursuant to s. 400.063.  
233 | The owner of a facility placed in receivership by the court shall  
234 | be liable for all expenses and costs incurred by the Health Care  
235 | Trust Fund ~~Resident Protection Trust Fund~~ which occur as a result  
236 | of the receivership.

237 |       Section 9. Subsection (11) of section 394.903, Florida  
238 | Statutes, is amended to read:

239 |       394.903 Receivership proceedings.--

240 |       (11) Nothing in this section shall be construed to relieve  
241 | any owner, operator, or employee of a unit or facility placed in  
242 | receivership of any civil or criminal liability incurred, or any  
243 | duty imposed by law, by reason of acts or omissions of the owner,  
244 | operator, or employee prior to the appointment of a receiver; nor  
245 | shall anything contained in this section be construed to suspend  
246 | during the receivership any obligation of the owner, operator, or  
247 | employee for payment of taxes or other operating and maintenance  
248 | expenses of the unit or facility or of the owner, operator, or  
249 | employee or any other person for the payment of mortgages or  
250 | liens. The owner shall retain the right to sell or mortgage any  
251 | unit or facility under receivership, subject to approval of the  
252 | court which ordered the receivership. Receivership imposed under  
253 | the provisions of this chapter shall be subject to the Health  
254 | Care Trust Fund pursuant to s. 408.16 ~~394.904~~. The owner of a  
255 | facility placed in receivership by the court shall be liable for  
256 | all expenses and costs incurred by the Health Care Trust Fund  
257 | which occur as a result of the receivership.

258 |       Section 10. Section 394.904, Florida Statutes, is repealed.

2-03661A-08

20082102\_\_

259 Section 11. Subsection (3) of section 400.062, Florida  
260 Statutes, is amended to read:

261 400.062 License required; fee; disposition.--

262 (3) In accordance with s. 408.805, an applicant or licensee  
263 shall pay a fee for each license application submitted under this  
264 part, part II of chapter 408, and applicable rules. The license  
265 fee shall be comprised of two parts. Part I of the license fee  
266 shall be the basic license fee. The rate per bed for the basic  
267 license fee shall be established biennially and shall be \$100 per  
268 bed unless modified by rule. Part II of the license fee shall be  
269 the resident protection fee, which shall be at the rate of not  
270 less than 50 cents per bed. The rate per bed shall be the minimum  
271 rate per bed, and such rate shall remain in effect until the  
272 effective date of a rate per bed adopted by rule by the agency  
273 pursuant to this part. At such time as the amount on deposit in  
274 the Health Care Trust Fund Resident Protection Trust Fund for  
275 resident protection is less than \$1 million, the agency may adopt  
276 rules to establish a rate which may not exceed \$20 per bed. The  
277 rate per bed shall revert back to the minimum rate per bed when  
278 the amount on deposit in the Health Care Trust Fund Resident  
279 Protection Trust Fund for resident protection reaches \$1 million,  
280 except that any rate established by rule shall remain in effect  
281 until such time as the rate has been equally required for each  
282 license issued under this part. Any amount in the fund in excess  
283 of \$2 million ~~shall revert to the Health Care Trust Fund and~~ may  
284 not be expended without prior approval of the Legislature. The  
285 agency may prorate the biennial license fee for those licenses  
286 which it issues under this part for less than 2 years. The  
287 resident protection fee collected shall be deposited in the

2-03661A-08

20082102\_\_

288 Health Care Trust Fund ~~Resident Protection Trust Fund~~ for the  
289 sole purpose of paying, in accordance with the provisions of s.  
290 400.063, for the appropriate alternate placement, care, and  
291 treatment of a resident removed from a nursing home facility on a  
292 temporary, emergency basis or for the maintenance and care of  
293 residents in a nursing home facility pending removal and  
294 alternate placement.

295 Section 12. Section 400.063, Florida Statutes, is amended  
296 to read:

297 400.063 Resident protection ~~Trust Fund~~.--

298 (1) The Health Care Trust Fund ~~A Resident Protection Trust~~  
299 ~~Fund~~ shall be used ~~established~~ for the purpose of collecting and  
300 disbursing funds generated from the license fees and  
301 administrative fines as provided for in ss. 393.0673(3)~~(2)~~,  
302 400.062(3), 400.121(2), and 400.23(8). Such funds shall be for  
303 the sole purpose of paying for the appropriate alternate  
304 placement, care, and treatment of residents who are removed from  
305 a facility licensed under this part or a facility specified in s.  
306 393.0678(1) in which the agency determines that existing  
307 conditions or practices constitute an immediate danger to the  
308 health, safety, or security of the residents. If the agency  
309 determines that it is in the best interest of the health, safety,  
310 or security of the residents to provide for an orderly removal of  
311 the residents from the facility, the agency may utilize such  
312 funds to maintain and care for the residents in the facility  
313 pending removal and alternative placement. The maintenance and  
314 care of the residents shall be under the direction and control of  
315 a receiver appointed pursuant to s. 393.0678(1) or s. 400.126(1).  
316 However, funds may be expended in an emergency upon a filing of a

2-03661A-08

20082102\_\_

317 petition for a receiver, upon the declaration of a state of local  
318 emergency pursuant to s. 252.38(3)(a)5., or upon a duly  
319 authorized local order of evacuation of a facility by emergency  
320 personnel to protect the health and safety of the residents.

321 (2) The agency is authorized to establish for each  
322 facility, subject to intervention by the agency, a separate bank  
323 account for the deposit to the credit of the agency of any moneys  
324 received from the Health Care Trust Fund ~~Resident Protection~~  
325 ~~Trust Fund~~ or any other moneys received for the maintenance and  
326 care of residents in the facility, and the agency is authorized  
327 to disburse moneys from such account to pay obligations incurred  
328 for the purposes of this section. The agency is authorized to  
329 requisition moneys from the Health Care Trust Fund ~~Resident~~  
330 ~~Protection Trust Fund~~ in advance of an actual need for cash on  
331 the basis of an estimate by the agency of moneys to be spent  
332 under the authority of this section. Any bank account established  
333 under this section need not be approved in advance of its  
334 creation as required by s. 17.58, but shall be secured by  
335 depository insurance equal to or greater than the balance of such  
336 account or by the pledge of collateral security in conformance  
337 with criteria established in s. 18.11. The agency shall notify  
338 the Chief Financial Officer of any such account so established  
339 and shall make a quarterly accounting to the Chief Financial  
340 Officer for all moneys deposited in such account.

341 (3) Funds authorized under this section shall be expended  
342 on behalf of all residents transferred to an alternate placement,  
343 at the usual and customary charges of the facility used for the  
344 alternate placement, provided no other source of private or  
345 public funding is available. However, such funds may not be

2-03661A-08

20082102\_\_

346 expended on behalf of a resident who is eligible for Title XIX of  
347 the Social Security Act, if the alternate placement accepts Title  
348 XIX of the Social Security Act. Funds shall be utilized for  
349 maintenance and care of residents in a facility in receivership  
350 only to the extent private or public funds, including funds  
351 available under Title XIX of the Social Security Act, are not  
352 available or are not sufficient to adequately manage and operate  
353 the facility, as determined by the agency. The existence of the  
354 Health Care Trust Fund ~~Resident Protection Trust Fund~~ shall not  
355 make the agency liable for the maintenance of any resident in any  
356 facility. The state shall be liable for the cost of alternate  
357 placement of residents removed from a deficient facility, or for  
358 the maintenance of residents in a facility in receivership, only  
359 to the extent that funds are available in the Health Care Trust  
360 Fund ~~Resident Protection Trust Fund~~.

361 (4) The agency is authorized to adopt rules necessary to  
362 implement this section.

363 Section 13. Subsection (2) of section 400.121, Florida  
364 Statutes, is amended to read:

365 400.121 Denial, suspension, revocation of license;  
366 administrative fines; procedure; order to increase staffing.--

367 (2) Except as provided in s. 400.23(8), a \$500 fine shall  
368 be imposed for each violation. Each day a violation of this part  
369 or part II of chapter 408 occurs constitutes a separate violation  
370 and is subject to a separate fine, but in no event may any fine  
371 aggregate more than \$5,000. A fine may be levied pursuant to this  
372 section in lieu of and notwithstanding the provisions of s.

373 400.23. Fines paid shall be deposited in the Health Care Trust

2-03661A-08

20082102\_\_

374 ~~Fund Resident Protection Trust Fund~~ and expended as provided in  
375 s. 400.063.

376 Section 14. Subsection (11) of section 400.126, Florida  
377 Statutes, is amended to read:

378 400.126 Receivership proceedings.--

379 (11) Nothing in this section shall be deemed to relieve any  
380 owner, administrator, or employee of a facility placed in  
381 receivership of any civil or criminal liability incurred, or of  
382 any duty imposed by law, by reason of acts or omissions of the  
383 owner, administrator, or employee prior to the appointment of a  
384 receiver; nor shall anything contained in this section be  
385 construed to suspend during the receivership any obligation of  
386 the owner, administrator, or employee for payment of taxes or  
387 other operating and maintenance expenses of the facility, or of  
388 the owner, administrator, employee, or any other person for the  
389 payment of mortgages or liens. The owner shall retain the right  
390 to sell or mortgage any facility under receivership, subject to  
391 approval of the court which ordered the receivership. A licensee  
392 that is placed in receivership by the court is liable for all  
393 expenses and costs incurred by the Health Care Trust Fund  
394 ~~Resident Protection Trust Fund~~ that are related to capital  
395 improvement and operating costs and are no more than 10 percent  
396 above the facility's Medicaid rate which occur as a result of the  
397 receivership.

398 Section 15. Subsection (6) of section 400.162, Florida  
399 Statutes, is amended to read:

400 400.162 Property and personal affairs of residents.--

401 (6) In the event of the death of a resident, a licensee  
402 shall return all refunds and funds held in trust to the

2-03661A-08

20082102\_\_

403 resident's personal representative, if one has been appointed at  
404 the time the nursing home disburses such funds, and if not, to  
405 the resident's spouse or adult next of kin named in a beneficiary  
406 designation form provided by the nursing home to the resident. In  
407 the event the resident has no spouse or adult next of kin or such  
408 person cannot be located, funds due to the resident shall be  
409 placed in an interest-bearing account in a bank, savings  
410 association, trust company, or credit union located in this state  
411 and, if possible, located within the same district in which the  
412 facility is located, which funds shall not be represented as part  
413 of the assets of the facility on a financial statement, and the  
414 licensee shall maintain such account until such time as the trust  
415 funds are disbursed pursuant to the provisions of the Florida  
416 Probate Code. All other property of a deceased resident being  
417 held in trust by the licensee shall be returned to the resident's  
418 personal representative, if one has been appointed at the time  
419 the nursing home disburses such property, and if not, to the  
420 resident's spouse or adult next of kin named in a beneficiary  
421 designation form provided by the nursing home to the resident. In  
422 the event the resident has no spouse or adult next of kin or such  
423 person cannot be located, property being held in trust shall be  
424 safeguarded until such time as the property is disbursed pursuant  
425 to the provisions of the Florida Probate Code. The trust funds  
426 and property of deceased residents shall be kept separate from  
427 the funds and the property of the licensee and from the funds and  
428 property of the residents of the facility. The nursing home needs  
429 to maintain only one account in which the trust funds amounting  
430 to less than \$100 of deceased residents are placed. However, it  
431 shall be the obligation of the nursing home to maintain adequate

2-03661A-08

20082102\_\_

432 records to permit compilation of interest due each individual  
433 resident's account. Separate accounts shall be maintained with  
434 respect to trust funds of deceased residents equal to or in  
435 excess of \$100. In the event the trust funds of the deceased  
436 resident are not disbursed pursuant to the provisions of the  
437 Florida Probate Code within 2 years of the death of the resident,  
438 the trust funds shall be deposited in the Health Care Trust Fund  
439 ~~Resident Protection Trust Fund~~ and expended as provided for in s.  
440 400.063, notwithstanding the provisions of any other law of this  
441 state. Any other property of a deceased resident held in trust by  
442 a licensee which is not disbursed in accordance with the  
443 provisions of the Florida Probate Code shall escheat to the state  
444 as provided by law.

445 Section 16. Subsection (14) of section 400.966, Florida  
446 Statutes, is amended to read:

447 400.966 Receivership proceeding.--

448 (14) This section does not relieve any owner, operator, or  
449 employee of a facility placed in receivership of any civil or  
450 criminal liability incurred, or any duty imposed by law, by  
451 reason of acts or omissions of the owner, operator, or employee  
452 before the appointment of a receiver, and this section does not  
453 suspend during the receivership any obligation of the owner,  
454 operator, or employee for payment of taxes or other operating and  
455 maintenance expenses of the facility or any obligation of the  
456 owner, operator, or employee or any other person for the payment  
457 of mortgages or liens. The owner shall retain the right to sell  
458 or mortgage any facility under receivership, subject to the  
459 approval of the court that ordered the receivership. A  
460 receivership imposed under this section is subject to the Health



2-03661A-08

20082102\_\_

461 | Care Trust Fund ~~Resident Protection Trust Fund~~ pursuant to s.  
462 | 400.063. The owner of a facility placed in receivership by the  
463 | court is liable for all expenses and costs incurred by the Health  
464 | Care Trust Fund ~~Resident Protection Trust Fund~~ which occur as a  
465 | result of the receivership.

466 |       Section 17. Subsection (4) of section 765.515, Florida  
467 | Statutes, is amended to read:

468 |       765.515 Delivery of document; organ and tissue donor  
469 | registry.--

470 |       (4) The Agency for Health Care Administration and the  
471 | Department of Highway Safety and Motor Vehicles shall develop and  
472 | implement an organ and tissue donor registry which shall record,  
473 | through electronic means, organ and tissue donation documents  
474 | submitted through the driver license identification program or by  
475 | other sources. The registry shall be maintained in a manner which  
476 | will allow, through electronic and telephonic methods, immediate  
477 | access to organ and tissue donation documents 24 hours a day, 7  
478 | days a week. Hospitals, organ and tissue procurement agencies,  
479 | and other parties identified by the agency by rule shall be  
480 | allowed access through coded means to the information stored in  
481 | the registry. Costs for the organ and tissue donor registry shall  
482 | be paid from the Health Care Trust Fund ~~Florida Organ and Tissue~~  
483 | ~~Donor Education and Procurement Trust Fund~~ created by s.  
484 | ~~765.52155~~. Funds deposited into the Health Care Trust Fund  
485 | ~~Florida Organ and Tissue Donor Education and Procurement Trust~~  
486 | ~~Fund~~ shall be utilized by the Agency for Health Care  
487 | Administration for maintaining the organ and tissue donor  
488 | registry and for organ and tissue donor education.

2-03661A-08

20082102\_\_

489           Section 18. Section 765.52155, Florida Statutes, is  
490 repealed.

491           Section 19. Section 765.544, Florida Statutes, is amended  
492 to read:

493           765.544 Fees; ~~Florida~~ organ and tissue donor education and  
494 procurement ~~Trust Fund~~.--

495           (1) In accordance with s. 408.805, an applicant or a  
496 certificateholder shall pay a fee for each application submitted  
497 under this part, part II of chapter 408, and applicable rules.  
498 The amount of the fee shall be as follows:

499           (a) An initial application fee of \$1,000 from organ  
500 procurement organizations and tissue banks and \$500 from eye  
501 banks.

502           (b) Annual fees to be used, in the following order of  
503 priority, for the certification program, the advisory board,  
504 maintenance of the organ and tissue donor registry, and the organ  
505 and tissue donor education program in the following amounts,  
506 which may not exceed \$35,000 per organization:

507           1. Each general organ procurement organization shall pay  
508 the greater of \$1,000 or 0.25 percent of its total revenues  
509 produced from procurement activity in this state by the  
510 certificateholder during its most recently completed fiscal year  
511 or operational year.

512           2. Each bone and tissue procurement agency or bone and  
513 tissue bank shall pay the greater of \$1,000 or 0.25 percent of  
514 its total revenues from procurement and processing activity in  
515 this state by the certificateholder during its most recently  
516 completed fiscal year or operational year.

2-03661A-08

20082102\_\_

517           3. Each eye bank shall pay the greater of \$500 or 0.25  
518 percent of its total revenues produced from procurement activity  
519 in this state by the certificateholder during its most recently  
520 completed fiscal year or operational year.

521           (2) The Agency for Health Care Administration shall specify  
522 by rule the administrative penalties for the purpose of ensuring  
523 adherence to the standards of quality and practice required by  
524 this chapter, part II of chapter 408, and applicable rules of the  
525 agency for continued certification.

526           (3) (a) Proceeds from fees, administrative penalties, and  
527 surcharges collected pursuant to this section must be deposited  
528 into the Health Care Trust Fund ~~Florida Organ and Tissue Donor~~  
529 ~~Education and Procurement Trust Fund created by s. 765.52155.~~

530           (b) Moneys deposited in the trust fund pursuant to this  
531 section must be used exclusively for the implementation,  
532 administration, and operation of the certification program and  
533 the advisory board, for maintaining the organ and tissue donor  
534 registry, and for organ and tissue donor education.

535           (4) As used in this section, the term "procurement activity  
536 in this state" includes the bringing into this state for  
537 processing, storage, distribution, or transplantation of organs  
538 or tissues that are initially procured in another state or  
539 country.

540           Section 20. This act shall take effect July 1, 2008.