

20091284er

1
2 An act relating to the Florida Statutes; amending ss.
3 39.01, 39.806, 45.035, 61.122, 112.661, 121.051,
4 121.153, 161.085, 163.3177, 193.074, 193.1554,
5 193.1555, 201.15, 211.31, 215.50, 215.555, 215.5595,
6 218.409, 253.03, 259.032, 259.105, 259.1053, 282.201,
7 288.1089, 288.8175, 316.2128, 316.650, 319.001,
8 320.08058, 323.001, 336.41, 336.44, 364.051, 373.118,
9 373.4145, 374.977, 378.021, 378.403, 379.2495,
10 379.353, 379.407, 380.061, 380.510, 381.0063, 403.087,
11 403.0871, 403.511, 403.5115, 403.531, 403.7264,
12 403.813, 403.862, 403.890, 403.9416, 409.2598,
13 468.432, 489.145, 499.003, 499.012, 499.0121, 499.015,
14 500.12, 553.885, 553.975, 560.111, 560.124, 560.141,
15 560.142, 560.143, 560.209, 560.404, 560.406, 570.07,
16 597.004, 597.010, 624.4213, 626.8541, 626.8796,
17 626.8797, 627.0621, 627.0628, 627.736, 718.111,
18 718.112, 718.113, 718.501, 718.503, 828.25, 937.021,
19 1000.36, 1001.395, 1002.36, 1006.035, 1006.59,
20 1008.22, 1008.34, 1008.341, 1008.345, 1009.73,
21 1012.56, 1012.795, and 1013.12, F.S.; amending and
22 reenacting s. 409.2563, F.S.; and reenacting ss.
23 61.13001 and 627.351(2), F.S., pursuant to s. 11.242,
24 F.S.; deleting provisions that have expired, have
25 become obsolete, have had their effect, have served
26 their purpose, or have been impliedly repealed or
27 superseded; replacing incorrect cross-references and
28 citations; correcting grammatical, typographical, and
29 like errors; removing inconsistencies, redundancies,

20091284er

30 and unnecessary repetition in the statutes; improving
31 the clarity of the statutes and facilitating their
32 correct interpretation; and confirming the restoration
33 of provisions unintentionally omitted from
34 republication in the acts of the Legislature during
35 the amendatory process; providing an effective date.

36
37 Be It Enacted by the Legislature of the State of Florida:

38
39 Section 1. Subsection (10) of section 39.01, Florida
40 Statutes, is amended to read:

41 39.01 Definitions.—When used in this chapter, unless the
42 context otherwise requires:

43 (10) "Caregiver" means the parent, legal custodian,
44 permanent guardian, adult household member, or other person
45 responsible for a child's welfare as defined in subsection (47)
46 ~~(46)~~.

47 Reviser's note.—Amended to conform to the
48 redesignation of subsection (46) as subsection (47) by
49 s. 1, ch. 2008-245, Laws of Florida.

50 Section 2. Paragraph (k) of subsection (1) of section
51 39.806, Florida Statutes, is amended to read:

52 39.806 Grounds for termination of parental rights.—

53 (1) Grounds for the termination of parental rights may be
54 established under any of the following circumstances:

55 (k) A test administered at birth that indicated that the
56 child's blood, urine, or meconium contained any amount of
57 alcohol or a controlled substance or metabolites of such
58 substances, the presence of which was not the result of medical

20091284er

59 treatment administered to the mother or the newborn infant, and
60 the biological mother of the child is the biological mother of
61 at least one other child who was adjudicated dependent after a
62 finding of harm to the child's health or welfare due to exposure
63 to a controlled substance or alcohol as defined in s.
64 39.01(32)(g) ~~39.01(31)(g)~~, after which the biological mother had
65 the opportunity to participate in substance abuse treatment.

66 Reviser's note.—Amended to conform to the
67 redesignation of s. 39.01(31)(g) as s. 39.01(32)(g) by
68 s. 1, ch. 2008-245, Laws of Florida.

69 Section 3. Subsection (3) of section 45.035, Florida
70 Statutes, is amended to read:

71 45.035 Clerk's fees.—In addition to other fees or service
72 charges authorized by law, the clerk shall receive service
73 charges related to the judicial sales procedure set forth in ss.
74 45.031-45.034 and this section:

75 (3) If the sale is conducted by electronic means, as
76 provided in s. 45.031(10), the clerk shall receive a service
77 charge of \$70 ~~\$60~~ as provided in subsection (1) for services in
78 conducting or contracting for the electronic sale, which service
79 charge shall be assessed as costs and shall be advanced by the
80 plaintiff before the sale. If the clerk requires advance
81 electronic deposits to secure the right to bid, such deposits
82 shall not be subject to the fee under s. 28.24(10). The portion
83 of an advance deposit from a winning bidder required by s.
84 45.031(3) shall, upon acceptance of the winning bid, be subject
85 to the fee under s. 28.24(10).

86 Reviser's note.—Amended to conform to the increase in
87 the service charge referenced in subsection (1) from

20091284er

88 \$60 to \$70 by s. 25, ch. 2008-111, Laws of Florida.

89 Section 4. Subsection (3) of section 61.122, Florida
90 Statutes, is amended to read:

91 61.122 Parenting plan recommendation; presumption of
92 psychologist's good faith; prerequisite to parent's filing suit;
93 award of fees, costs, reimbursement.-

94 (3) A parent who desires to file a legal action against a
95 court-appointed psychologist who has acted in good faith in
96 developing a parenting plan recommendation must petition the
97 judge who presided over the dissolution of marriage, case of
98 domestic violence, or paternity matter involving the
99 relationship of a child and a parent, including time-sharing of
100 children, to appoint another psychologist. Upon the parent's
101 showing of good cause, the court shall appoint another
102 psychologist. The court shall determine ~~as to~~ who is responsible
103 for all court costs and attorney's fees associated with making
104 such an appointment.

105 Reviser's note.-Amended to improve clarity.

106 Section 5. Section 61.13001, Florida Statutes, is reenacted
107 to read:

108 61.13001 Parental relocation with a child.-

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

110 (a) "Change of residence address" means the relocation of a
111 child to a principal residence more than 50 miles away from his
112 or her principal place of residence at the time of the entry of
113 the last order establishing or modifying the parenting plan or
114 the time-sharing schedule or both for the minor child, unless
115 the move places the principal residence of the minor child less
116 than 50 miles from either parent.

20091284er

117 (b) "Child" means any person who is under the jurisdiction
118 of a state court pursuant to the Uniform Child Custody
119 Jurisdiction and Enforcement Act or is the subject of any order
120 granting to a parent or other person any right to time-sharing,
121 residential care, kinship, or custody, as provided under state
122 law.

123 (c) "Court" means the circuit court in an original
124 proceeding which has proper venue and jurisdiction in accordance
125 with the Uniform Child Custody Jurisdiction and Enforcement Act,
126 the circuit court in the county in which either parent and the
127 child reside, or the circuit court in which the original action
128 was adjudicated.

129 (d) "Other person" means an individual who is not the
130 parent and who, by court order, maintains the primary residence
131 of a child or has visitation rights with a child.

132 (e) "Parent" means any person so named by court order or
133 express written agreement that is subject to court enforcement
134 or a person reflected as a parent on a birth certificate and in
135 whose home a child maintains a residence.

136 (f) "Relocation" means a change in the principal residence
137 of a child for a period of 60 consecutive days or more but does
138 not include a temporary absence from the principal residence for
139 purposes of vacation, education, or the provision of health care
140 for the child.

141 (2) RELOCATION BY AGREEMENT.—

142 (a) If the parents and every other person entitled to time-
143 sharing with the child agree to the relocation of the child,
144 they may satisfy the requirements of this section by signing a
145 written agreement that:

20091284er

146 1. Reflects the consent to the relocation;

147 2. Defines a time-sharing schedule for the nonrelocating
148 parent and any other persons who are entitled to time-sharing;
149 and

150 3. Describes, if necessary, any transportation arrangements
151 related to the visitation.

152 (b) If there is an existing cause of action, judgment, or
153 decree of record pertaining to the child's residence or a time-
154 sharing schedule, the parties shall seek ratification of the
155 agreement by court order without the necessity of an evidentiary
156 hearing unless a hearing is requested, in writing, by one or
157 more of the parties to the agreement within 10 days after the
158 date the agreement is filed with the court. If a hearing is not
159 timely requested, it shall be presumed that the relocation is in
160 the best interest of the child and the court may ratify the
161 agreement without an evidentiary hearing.

162 (3) NOTICE OF INTENT TO RELOCATE WITH A CHILD.—Unless an
163 agreement has been entered as described in subsection (2), a
164 parent who is entitled to time-sharing with the child shall
165 notify the other parent, and every other person entitled to
166 time-sharing with the child, of a proposed relocation of the
167 child's residence. The form of notice shall be according to this
168 section:

169 (a) The parent seeking to relocate shall prepare a Notice
170 of Intent to Relocate. The following information must be
171 included with the Notice of Intent to Relocate and signed under
172 oath under penalty of perjury:

173 1. A description of the location of the intended new
174 residence, including the state, city, and specific physical

20091284er

175 address, if known.

176 2. The mailing address of the intended new residence, if
177 not the same as the physical address, if known.

178 3. The home telephone number of the intended new residence,
179 if known.

180 4. The date of the intended move or proposed relocation.

181 5. A detailed statement of the specific reasons for the
182 proposed relocation of the child. If one of the reasons is based
183 upon a job offer which has been reduced to writing, that written
184 job offer must be attached to the Notice of Intent to Relocate.

185 6. A proposal for the revised postrelocation schedule of
186 time-sharing together with a proposal for the postrelocation
187 transportation arrangements necessary to effectuate time-sharing
188 with the child. Absent the existence of a current, valid order
189 abating, terminating, or restricting visitation or other good
190 cause predating the Notice of Intent to Relocate, failure to
191 comply with this provision renders the Notice of Intent to
192 Relocate legally insufficient.

193 7. Substantially the following statement, in all capital
194 letters and in the same size type, or larger, as the type in the
195 remainder of the notice:

196

197 AN OBJECTION TO THE PROPOSED RELOCATION MUST BE MADE IN WRITING,
198 FILED WITH THE COURT, AND SERVED ON THE PARENT OR OTHER PERSON
199 SEEKING TO RELOCATE WITHIN 30 DAYS AFTER SERVICE OF THIS NOTICE
200 OF INTENT TO RELOCATE. IF YOU FAIL TO TIMELY OBJECT TO THE
201 RELOCATION, THE RELOCATION WILL BE ALLOWED, UNLESS IT IS NOT IN
202 THE BEST INTERESTS OF THE CHILD, WITHOUT FURTHER NOTICE AND
203 WITHOUT A HEARING.

20091284er

204 8. The mailing address of the parent or other person
205 seeking to relocate to which the objection filed under
206 subsection (5) to the Notice of Intent to Relocate should be
207 sent.

208
209 The contents of the Notice of Intent to Relocate are not
210 privileged. For purposes of encouraging amicable resolution of
211 the relocation issue, a copy of the Notice of Intent to Relocate
212 shall initially not be filed with the court but instead served
213 upon the nonrelocating parent, other person, and every other
214 person entitled to time-sharing with the child, and the original
215 thereof shall be maintained by the parent or other person
216 seeking to relocate.

217 (b) The parent seeking to relocate shall also prepare a
218 Certificate of Serving Notice of Intent to Relocate. The
219 certificate shall certify the date that the Notice of Intent to
220 Relocate was served on the other parent and on every other
221 person entitled to time-sharing with the child.

222 (c) The Notice of Intent to Relocate, and the Certificate
223 of Serving Notice of Intent to Relocate, shall be served on the
224 other parent and on every other person entitled to time-sharing
225 with the child. If there is a pending court action regarding the
226 child, service of process may be according to court rule.
227 Otherwise, service of process shall be according to chapters 48
228 and 49 or via certified mail, restricted delivery, return
229 receipt requested.

230 (d) A person giving notice of a proposed relocation or
231 change of residence address under this section has a continuing
232 duty to provide current and updated information required by this

20091284er

233 section when that information becomes known.

234 (e) If the other parent and any other person entitled to
235 time-sharing with the child fails to timely file an objection,
236 it shall be presumed that the relocation is in the best interest
237 of the child, the relocation shall be allowed, and the court
238 shall, absent good cause, enter an order, attaching a copy of
239 the Notice of Intent to Relocate, reflecting that the order is
240 entered as a result of the failure to object to the Notice of
241 Intent to Relocate, and adopting the time-sharing schedule and
242 transportation arrangements contained in the Notice of Intent to
243 Relocate. The order may issue in an expedited manner without the
244 necessity of an evidentiary hearing. If an objection is timely
245 filed, the burden returns to the parent or person seeking to
246 relocate to initiate court proceedings to obtain court
247 permission to relocate before doing so.

248 (f) The act of relocating the child after failure to comply
249 with the notice of intent to relocate procedure described in
250 this subsection subjects the party in violation thereof to
251 contempt and other proceedings to compel the return of the child
252 and may be taken into account by the court in any initial or
253 postjudgment action seeking a determination or modification of
254 the parenting plan or the time-sharing schedule, or both, as:

255 1. A factor in making a determination regarding the
256 relocation of a child.

257 2. A factor in determining whether the parenting plan or
258 the time-sharing schedule should be modified.

259 3. A basis for ordering the temporary or permanent return
260 of the child.

261 4. Sufficient cause to order the parent or other person

20091284er

262 seeking to relocate the child to pay reasonable expenses and
263 attorney's fees incurred by the party objecting to the
264 relocation.

265 5. Sufficient cause for the award of reasonable attorney's
266 fees and costs, including interim travel expenses incident to
267 time-sharing or securing the return of the child.

268 (4) APPLICABILITY OF PUBLIC RECORDS LAW.—If the parent or
269 other person seeking to relocate a child, or the child, is
270 entitled to prevent disclosure of location information under any
271 public records exemption applicable to that person, the court
272 may enter any order necessary to modify the disclosure
273 requirements of this section in compliance with the public
274 records exemption.

275 (5) CONTENT OF OBJECTION TO RELOCATION.—An objection
276 seeking to prevent the relocation of a child must be verified
277 and served within 30 days after service of the Notice of Intent
278 to Relocate. The objection must include the specific factual
279 basis supporting the reasons for seeking a prohibition of the
280 relocation, including a statement of the amount of participation
281 or involvement the objecting party currently has or has had in
282 the life of the child.

283 (6) TEMPORARY ORDER.—

284 (a) The court may grant a temporary order restraining the
285 relocation of a child or ordering the return of the child, if a
286 relocation has previously taken place, or other appropriate
287 remedial relief, if the court finds:

288 1. The required notice of a proposed relocation of a child
289 was not provided in a timely manner;

290 2. The child already has been relocated without notice or

20091284er

291 written agreement of the parties or without court approval; or

292 3. From an examination of the evidence presented at the
293 preliminary hearing that there is a likelihood that upon final
294 hearing the court will not approve the relocation of the child.

295 (b) The court may grant a temporary order permitting the
296 relocation of the child pending final hearing, if the court:

297 1. Finds that the required Notice of Intent to Relocate was
298 provided in a timely manner; and

299 2. Finds from an examination of the evidence presented at
300 the preliminary hearing that there is a likelihood that on final
301 hearing the court will approve the relocation of the child,
302 which findings must be supported by the same factual basis as
303 would be necessary to support the permitting of relocation in a
304 final judgment.

305 (c) If the court has issued a temporary order authorizing a
306 party seeking to relocate or move a child before a final
307 judgment is rendered, the court may not give any weight to the
308 temporary relocation as a factor in reaching its final decision.

309 (d) If temporary relocation of a child is permitted, the
310 court may require the person relocating the child to provide
311 reasonable security, financial or otherwise, and guarantee that
312 the court-ordered contact with the child will not be interrupted
313 or interfered with by the relocating party.

314 (7) NO PRESUMPTION; FACTORS TO DETERMINE CONTESTED
315 RELOCATION.—A presumption does not arise in favor of or against
316 a request to relocate with the child when a parent seeks to move
317 the child and the move will materially affect the current
318 schedule of contact, access, and time-sharing with the
319 nonrelocating parent or other person. In reaching its decision

20091284er

320 regarding a proposed temporary or permanent relocation, the
321 court shall evaluate all of the following factors:

322 (a) The nature, quality, extent of involvement, and
323 duration of the child's relationship with the parent proposing
324 to relocate with the child and with the nonrelocating parent,
325 other persons, siblings, half-siblings, and other significant
326 persons in the child's life.

327 (b) The age and developmental stage of the child, the needs
328 of the child, and the likely impact the relocation will have on
329 the child's physical, educational, and emotional development,
330 taking into consideration any special needs of the child.

331 (c) The feasibility of preserving the relationship between
332 the nonrelocating parent or other person and the child through
333 substitute arrangements that take into consideration the
334 logistics of contact, access, and time-sharing, as well as the
335 financial circumstances of the parties; whether those factors
336 are sufficient to foster a continuing meaningful relationship
337 between the child and the nonrelocating parent or other person;
338 and the likelihood of compliance with the substitute
339 arrangements by the relocating parent once he or she is out of
340 the jurisdiction of the court.

341 (d) The child's preference, taking into consideration the
342 age and maturity of the child.

343 (e) Whether the relocation will enhance the general quality
344 of life for both the parent seeking the relocation and the
345 child, including, but not limited to, financial or emotional
346 benefits or educational opportunities.

347 (f) The reasons of each parent or other person for seeking
348 or opposing the relocation.

20091284er

349 (g) The current employment and economic circumstances of
350 each parent or other person and whether or not the proposed
351 relocation is necessary to improve the economic circumstances of
352 the parent or other person seeking relocation of the child.

353 (h) That the relocation is sought in good faith and the
354 extent to which the objecting parent has fulfilled his or her
355 financial obligations to the parent or other person seeking
356 relocation, including child support, spousal support, and
357 marital property and marital debt obligations.

358 (i) The career and other opportunities available to the
359 objecting parent or objecting other person if the relocation
360 occurs.

361 (j) A history of substance abuse or domestic violence as
362 defined in s. 741.28 or which meets the criteria of s.
363 39.806(1)(d) by either parent, including a consideration of the
364 severity of such conduct and the failure or success of any
365 attempts at rehabilitation.

366 (k) Any other factor affecting the best interest of the
367 child or as set forth in s. 61.13.

368 (8) BURDEN OF PROOF.—The parent or other person wishing to
369 relocate has the burden of proof if an objection is filed and
370 must then initiate a proceeding seeking court permission for
371 relocation. The initial burden is on the parent or person
372 wishing to relocate to prove by a preponderance of the evidence
373 that relocation is in the best interest of the child. If that
374 burden of proof is met, the burden shifts to the nonrelocating
375 parent or other person to show by a preponderance of the
376 evidence that the proposed relocation is not in the best
377 interest of the child.

20091284er

378 (9) ORDER REGARDING RELOCATION.—If relocation is permitted:

379 (a) The court may, in its discretion, order contact with
380 the nonrelocating parent, including access, time-sharing,
381 telephone, Internet, webcam, and other arrangements sufficient
382 to ensure that the child has frequent, continuing, and
383 meaningful contact, access, and time-sharing with the
384 nonrelocating parent or other persons, if contact is financially
385 affordable and in the best interest of the child.

386 (b) If applicable, the court shall specify how the
387 transportation costs will be allocated between the parents and
388 other persons entitled to contact, access, and time-sharing and
389 may adjust the child support award, as appropriate, considering
390 the costs of transportation and the respective net incomes of
391 the parents in accordance with the state child support
392 guidelines schedule.

393 (10) PRIORITY FOR HEARING OR TRIAL.—An evidentiary hearing
394 or nonjury trial on a pleading seeking temporary or permanent
395 relief filed under this section shall be accorded priority on
396 the court's calendar.

397 (11) APPLICABILITY.—

398 (a) This section applies:

399 1. To orders entered before October 1, 2006, if the
400 existing order defining custody, primary residence, time-
401 sharing, or visitation of or with the child does not expressly
402 govern the relocation of the child.

403 2. To an order, whether temporary or permanent, regarding
404 the parenting plan, custody, primary residence, time-sharing, or
405 visitation of or with the child entered on or after October 1,
406 2006.

20091284er

407 3. To any relocation or proposed relocation, whether
408 permanent or temporary, of a child during any proceeding pending
409 on October 1, 2006, wherein the parenting plan, custody, primary
410 residence, time-sharing, or visitation of or with the child is
411 an issue.

412 (b) To the extent that a provision of this section
413 conflicts with an order existing on October 1, 2006, this
414 section does not apply to the terms of that order which
415 expressly govern relocation of the child or a change in the
416 principal residence address of a parent.

417 Reviser's note.—Section 9, ch. 2008-61, Laws of
418 Florida, amended s. 61.13001 without publishing
419 existing subsection (8). Absent affirmative evidence
420 of legislative intent to repeal existing subsection
421 (8), s. 61.13001 is reenacted to confirm that the
422 omission was not intended.

423 Section 6. Paragraph (a) of subsection (5) of section
424 112.661, Florida Statutes, is amended to read:

425 112.661 Investment policies.—Investment of the assets of
426 any local retirement system or plan must be consistent with a
427 written investment policy adopted by the board. Such policies
428 shall be structured to maximize the financial return to the
429 retirement system or plan consistent with the risks incumbent in
430 each investment and shall be structured to establish and
431 maintain an appropriate diversification of the retirement system
432 or plan's assets.

433 (5) AUTHORIZED INVESTMENTS.—

434 (a) The investment policy shall list investments authorized
435 by the board. Investments not listed in the investment policy

20091284er

436 are prohibited. Unless otherwise authorized by law or ordinance,
437 the investment of the assets of any local retirement system or
438 plan covered by this part shall be subject to the limitations
439 and conditions set forth in s. 215.47(1)-(6), (8), (9), (11),
440 and (17) ~~215.47(1)-(8), (10), and (16)~~.

441 Reviser's note.—Amended to conform to the addition of
442 a new s. 215.47(7) by s. 3, ch. 2008-31, Laws of
443 Florida.

444 Section 7. Paragraph (a) of subsection (1) of section
445 121.051, Florida Statutes, is amended to read:

446 121.051 Participation in the system.—

447 (1) COMPULSORY PARTICIPATION.—

448 (a) The provisions of this law shall be compulsory as to
449 all officers and employees, except elected officers who meet the
450 requirements of s. 121.052(3), who are employed on or after
451 December 1, 1970, of an employer other than those referred to in
452 paragraph (2)(b), and each officer or employee, as a condition
453 of employment, shall become a member of the system as of his or
454 her date of employment, except that a person who is retired from
455 any state retirement system and is reemployed on or after
456 December 1, 1970, may not renew his or her membership in any
457 state retirement system except as provided in s. 121.091(4)(h)
458 for a person who recovers from disability, and as provided in s.
459 121.091(9)(b)8. for a person who is elected to public office,
460 and, effective July 1, 1991, as provided in s. 121.122 for all
461 other retirees. Officers and employees of the University
462 Athletic Association, Inc., a nonprofit association connected
463 with the University of Florida, employed on and after July 1,
464 1979, shall not participate in any state-supported retirement

20091284er

465 system.

466 1. Any person appointed on or after July 1, 1989, to a
467 faculty position in a college at the J. Hillis Miller Health
468 Center at the University of Florida or the Medical Center at the
469 University of South Florida which has a faculty practice plan
470 provided by rule adopted by the Board of Regents may not
471 participate in the Florida Retirement System. Effective July 1,
472 2008, any person appointed thereafter to a faculty position,
473 including clinical faculty, in a college at a state university
474 that has a faculty practice plan authorized by the Board of
475 Governors may not participate in the Florida Retirement System.
476 A faculty member so appointed shall participate in the optional
477 retirement program for the State University System
478 notwithstanding the provisions of s. 121.35(2) (a).

479 2. For purposes of this paragraph ~~subparagraph~~, the term
480 "faculty position" is defined as a position assigned the
481 principal responsibility of teaching, research, or public
482 service activities or administrative responsibility directly
483 related to the academic mission of the college. The term
484 "clinical faculty" is defined as a faculty position appointment
485 in conjunction with a professional position in a hospital or
486 other clinical environment at a college. The term "faculty
487 practice plan" includes professional services to patients,
488 institutions, or other parties which are rendered by the
489 clinical faculty employed by a college that has a faculty
490 practice plan at a state university authorized by the Board of
491 Governors.

492 Reviser's note.—The word "paragraph" was substituted
493 by the editors for the word "subparagraph" to conform

20091284er

494 to context.

495 Section 8. Paragraph (a) of subsection (2) of section
496 121.153, Florida Statutes, is amended to read:

497 121.153 Investments in institutions doing business in or
498 with Northern Ireland.—

499 (2) (a) Notwithstanding any other provision of law, and
500 consistent with the investment policy set forth in ss. 215.44(2)
501 and 215.47(10) ~~215.47(9)~~, the moneys or assets of the System
502 Trust Fund invested or deposited in any financial institution,
503 as defined in s. 655.005, which, directly or through a
504 subsidiary, on or after October 1, 1988, makes any loan, extends
505 credit of any kind or character, or advances funds in any manner
506 to Northern Ireland or national corporations of Northern Ireland
507 or agencies or instrumentalities thereof shall reflect the
508 extent to which such entities have endeavored to eliminate
509 ethnic or religious discrimination as determined pursuant to
510 paragraph (1) (b).

511 Reviser's note.—Amended to conform to the addition of
512 a new s. 215.47(7) by s. 3, ch. 2008-31, Laws of
513 Florida.

514 Section 9. Paragraph (a) of subsection (9) of section
515 161.085, Florida Statutes, is amended to read:

516 161.085 Rigid coastal armoring structures.—

517 (9) The department may authorize dune restoration
518 incorporating sand-filled geotextile containers or similar
519 structures proposed as the core of a restored dune feature when
520 the conditions of paragraphs (a)-(c) and the requirements of s.
521 161.053 are met.

522 (a) A permit may be granted by the department under this

20091284er

523 subsection for dune restoration incorporating geotextile
524 containers or similar structures provided that such projects:

525 1. Provide for the protection of an existing major
526 structure or public infrastructure, and, notwithstanding any
527 definition in department rule to the contrary, that major
528 structure or public infrastructure is vulnerable to damage from
529 frequent coastal storms, or is upland of a beach-dune system
530 which has experienced significant beach erosion from such storm
531 events.

532 2. Are constructed using native or beach-quality sand and
533 native salt-tolerant vegetation suitable for dune stabilization
534 as approved by the department.

535 3. May include materials other than native or beach-quality
536 sand such as geotextile materials that are used to contain
537 beach-quality sand for the purposes of maintaining the stability
538 and longevity of the dune core.

539 4. Are continuously covered with 3 feet of native or beach-
540 quality sand and stabilized with native salt-tolerant
541 vegetation.

542 5. Are sited as far landward as practicable, balancing the
543 need to minimize excavation of the beach-dune system, impacts to
544 nesting marine turtles and other nesting state or federally
545 threatened or endangered species, and impacts to adjacent
546 properties.

547 6. Are designed and sited in a manner that will minimize
548 the potential for erosion.

549 7. Do not materially impede access by the public.

550 8. Are designed to minimize adverse effects to nesting
551 marine turtles and turtle hatchlings, consistent with s.

20091284er

552 379.2431 ~~370.12~~.

553 9. Are designed to facilitate easy removal of the
554 geotextile containers if needed.

555 10. The United States Fish and Wildlife Service has
556 approved an Incidental Take Permit for marine turtles and other
557 federally threatened or endangered species pursuant to s. 7 or
558 s. 10 of the Endangered Species Act for the placement of the
559 structure if an Incidental Take Permit is required.

560 Reviser's note.—Amended to conform to the transfer of
561 s. 370.12 to s. 379.2431 by s. 73, ch. 2008-247, Laws
562 of Florida.

563 Section 10. Paragraph (c) of subsection (6) of section
564 163.3177, Florida Statutes, is amended to read:

565 163.3177 Required and optional elements of comprehensive
566 plan; studies and surveys.—

567 (6) In addition to the requirements of subsections (1)-(5)
568 and (12), the comprehensive plan shall include the following
569 elements:

570 (c) A general sanitary sewer, solid waste, drainage,
571 potable water, and natural groundwater aquifer recharge element
572 correlated to principles and guidelines for future land use,
573 indicating ways to provide for future potable water, drainage,
574 sanitary sewer, solid waste, and aquifer recharge protection
575 requirements for the area. The element may be a detailed
576 engineering plan including a topographic map depicting areas of
577 prime groundwater recharge. The element shall describe the
578 problems and needs and the general facilities that will be
579 required for solution of the problems and needs. The element
580 shall also include a topographic map depicting any areas adopted

20091284er

581 by a regional water management district as prime groundwater
582 recharge areas for the Floridan or Biscayne aquifers. These
583 areas shall be given special consideration when the local
584 government is engaged in zoning or considering future land use
585 for said designated areas. For areas served by septic tanks,
586 soil surveys shall be provided which indicate the suitability of
587 soils for septic tanks. Within 18 months after the governing
588 board approves an updated regional water supply plan, the
589 element must incorporate the alternative water supply project or
590 projects selected by the local government from those identified
591 in the regional water supply plan pursuant to s. 373.0361(2)(a)
592 or proposed by the local government under s. 373.0361(8)(b)
593 ~~373.0361(7)(b)~~. If a local government is located within two
594 water management districts, the local government shall adopt its
595 comprehensive plan amendment within 18 months after the later
596 updated regional water supply plan. The element must identify
597 such alternative water supply projects and traditional water
598 supply projects and conservation and reuse necessary to meet the
599 water needs identified in s. 373.0361(2)(a) within the local
600 government's jurisdiction and include a work plan, covering at
601 least a 10 year planning period, for building public, private,
602 and regional water supply facilities, including development of
603 alternative water supplies, which are identified in the element
604 as necessary to serve existing and new development. The work
605 plan shall be updated, at a minimum, every 5 years within 18
606 months after the governing board of a water management district
607 approves an updated regional water supply plan. Amendments to
608 incorporate the work plan do not count toward the limitation on
609 the frequency of adoption of amendments to the comprehensive

20091284er

610 plan. Local governments, public and private utilities, regional
611 water supply authorities, special districts, and water
612 management districts are encouraged to cooperatively plan for
613 the development of multijurisdictional water supply facilities
614 that are sufficient to meet projected demands for established
615 planning periods, including the development of alternative water
616 sources to supplement traditional sources of groundwater and
617 surface water supplies.

618 Reviser's note.—Amended to conform to the
619 redesignation of subunits of s. 373.0361 by s. 1, ch.
620 2008-232, Laws of Florida.

621 Section 11. Section 193.074, Florida Statutes, is amended
622 to read:

623 193.074 Confidentiality of returns.—All returns of property
624 and returns required by former s. 201.022 submitted by the
625 taxpayer pursuant to law shall be deemed to be confidential in
626 the hands of the property appraiser, the clerk of the circuit
627 court, the department, the tax collector, the Auditor General,
628 and the Office of Program Policy Analysis and Government
629 Accountability, and their employees and persons acting under
630 their supervision and control, except upon court order or order
631 of an administrative body having quasi-judicial powers in ad
632 valorem tax matters, and such returns are exempt from the
633 provisions of s. 119.07(1).

634 Reviser's note.—Amended to conform to the repeal of s.
635 201.022 by s. 1, ch. 2008-24, Laws of Florida.

636 Section 12. Paragraph (b) of subsection (6) of section
637 193.1554, Florida Statutes, is amended to read:

638 193.1554 Assessment of nonhomestead residential property.—

20091284er

639 (6)

640 (b) Changes, additions, or improvements that replace all or
641 a portion of nonhomestead residential property damaged or
642 destroyed by misfortune or calamity shall not increase the
643 property's assessed value when the square footage of the
644 property as changed or improved does not exceed 110 percent of
645 the square footage of the property before the damage or
646 destruction. Additionally, the property's assessed value shall
647 not increase if the total square footage of the property as
648 changed or improved does not exceed 1,500 square feet. Changes,
649 additions, or improvements that do not cause the total to exceed
650 110 percent of the total square footage of the property before
651 the damage or destruction or that do not cause the total to
652 exceed 1,500 total square feet shall be reassessed as provided
653 under subsection (3). The property's assessed value shall be
654 increased by the just value of that portion of the changed or
655 improved property which is in excess of 110 percent of the
656 square footage of the property before the damage or destruction
657 or of that portion exceeding 1,500 square feet. Property damaged
658 or destroyed by misfortune or calamity which, after being
659 changed or improved, has a square footage of less than 100
660 percent of the property's total square footage before the damage
661 or destruction shall be assessed pursuant to subsection (8) ~~(7)~~.
662 This paragraph applies to changes, additions, or improvements
663 commenced within 3 years after the January 1 following the
664 damage or destruction of the property.

665 Reviser's note.—Amended to conform to the
666 redesignation of subsection (7) as subsection (8) by
667 s. 4, ch. 2008-173, Laws of Florida.

20091284er

668 Section 13. Paragraph (b) of subsection (6) of section
669 193.1555, Florida Statutes, is amended to read:

670 193.1555 Assessment of certain residential and
671 nonresidential real property.—

672 (6)

673 (b) Changes, additions, or improvements that replace all or
674 a portion of nonresidential real property damaged or destroyed
675 by misfortune or calamity shall not increase the property's
676 assessed value when the square footage of the property as
677 changed or improved does not exceed 110 percent of the square
678 footage of the property before the damage or destruction and do
679 not change the property's character or use. Changes, additions,
680 or improvements that do not cause the total to exceed 110
681 percent of the total square footage of the property before the
682 damage or destruction and do not change the property's character
683 or use shall be reassessed as provided under subsection (3). The
684 property's assessed value shall be increased by the just value
685 of that portion of the changed or improved property which is in
686 excess of 110 percent of the square footage of the property
687 before the damage or destruction. Property damaged or destroyed
688 by misfortune or calamity which, after being changed or
689 improved, has a square footage of less than 100 percent of the
690 property's total square footage before the damage or destruction
691 shall be assessed pursuant to subsection (8) ~~(7)~~. This paragraph
692 applies to changes, additions, or improvements commenced within
693 3 years after the January 1 following the damage or destruction
694 of the property.

695 Reviser's note.—Amended to conform to the
696 redesignation of subsection (7) as subsection (8) by

20091284er

697 s. 5, ch. 2008-173, Laws of Florida.

698 Section 14. Paragraph (c) of subsection (1) and subsection
699 (5) of section 201.15, Florida Statutes, are amended to read:

700 201.15 Distribution of taxes collected.—All taxes collected
701 under this chapter are subject to the service charge imposed in
702 s. 215.20(1). Prior to distribution under this section, the
703 Department of Revenue shall deduct amounts necessary to pay the
704 costs of the collection and enforcement of the tax levied by
705 this chapter. Such costs and the service charge may not be
706 levied against any portion of taxes pledged to debt service on
707 bonds to the extent that the costs and service charge are
708 required to pay any amounts relating to the bonds. All taxes
709 remaining after deduction of costs and the service charge shall
710 be distributed as follows:

711 (1) Sixty-three and thirty-one hundredths percent of the
712 remaining taxes collected under this chapter shall be used for
713 the following purposes:

714 (c) The remainder of the moneys distributed under this
715 subsection, after the required payments under paragraphs (a) and
716 (b), shall be paid into the State Treasury to the credit of:

717 1. The State Transportation Trust Fund in the Department of
718 Transportation in the amount of the lesser of 38.2 percent of
719 the remainder or \$541.75 million in each fiscal year, to be used
720 for the following specified purposes, notwithstanding any other
721 law to the contrary:

722 a. For the purposes of capital funding for the New Starts
723 Transit Program, authorized by Title 49, U.S.C. s. 5309 and
724 specified in s. 341.051, 10 percent of these funds;

725 b. For the purposes of the Small County Outreach Program

20091284er

726 specified in s. 339.2818, 5 percent of these funds;

727 c. For the purposes of the Strategic Intermodal System
728 specified in ss. 339.61, 339.62, 339.63, and 339.64, 75 percent
729 of these funds after allocating for the New Starts Transit
730 Program described in sub-subparagraph a. and the Small County
731 Outreach Program described in sub-subparagraph b.; and

732 d. For the purposes of the Transportation Regional
733 Incentive Program specified in s. 339.2819, 25 percent of these
734 funds after allocating for the New Starts Transit Program
735 described in sub-subparagraph a. and the Small County Outreach
736 Program described in sub-subparagraph b.

737 2. The Water Protection and Sustainability Program Trust
738 Fund in the Department of Environmental Protection in the amount
739 of the lesser of 5.64 percent of the remainder or \$80 million in
740 each fiscal year, to be used as required by s. 403.890.

741 3. The Grants and Donations Trust Fund in the Department of
742 Community Affairs in the amount of the lesser of .23 percent of
743 the remainder or \$3.25 million in each fiscal year, with 92
744 percent to be used to fund technical assistance to local
745 governments and school boards on the requirements and
746 implementation of this act and the remaining amount to be used
747 to fund the Century Commission established in s. 163.3247.

748 4. The Ecosystem Management and Restoration Trust Fund in
749 the amount of the lesser of 2.12 percent of the remainder or \$30
750 million in each fiscal year, to be used for the preservation and
751 repair of the state's beaches as provided in ss. 161.091-
752 161.212.

753 5. The Marine Resources Conservation Trust Fund in the
754 amount of the lesser of .14 percent of the remainder or \$2

20091284er

755 million in each fiscal year, to be used for marine mammal care
756 as provided in s. 379.208(3) ~~370.0603(3)~~.

757 6. General Inspection Trust Fund in the amount of the
758 lesser of .02 percent of the remainder or \$300,000 in each
759 fiscal year to be used to fund oyster management and restoration
760 programs as provided in s. 379.362(3) ~~370.07(3)~~.

761
762 Moneys distributed pursuant to this paragraph may not be pledged
763 for debt service unless such pledge is approved by referendum of
764 the voters.

765 ~~(5) (a) For the 2007-2008 fiscal year, 3.96 percent of the~~
766 ~~remaining taxes collected under this chapter shall be paid into~~
767 ~~the State Treasury to the credit of the Conservation and~~
768 ~~Recreation Lands Trust Fund to carry out the purposes set forth~~
769 ~~in s. 259.032. Ten and five-hundredths percent of the amount~~
770 ~~credited to the Conservation and Recreation Lands Trust Fund~~
771 ~~pursuant to this subsection shall be transferred to the State~~
772 ~~Game Trust Fund and used for land management activities.~~

773 ~~(b)~~ Beginning July 1, 2008, 3.52 percent of the remaining
774 taxes collected under this chapter shall be paid into the State
775 Treasury to the credit of the Conservation and Recreation Lands
776 Trust Fund to carry out the purposes set forth in s. 259.032.
777 Eleven and fifteen hundredths percent of the amount credited to
778 the Conservation and Recreation Lands Trust Fund pursuant to
779 this subsection shall be transferred to the State Game Trust
780 Fund and used for land management activities.

781 Reviser's note.—Paragraph (1)(c) is amended to conform
782 to the redesignation of s. 370.0603(3) as s.

783 379.208(3) by s. 18, ch. 2008-247, Laws of Florida,

20091284er

784 and the redesignation of s. 370.07(3) as s. 379.362(3)
785 by s. 147, ch. 2008-247. Subsection (5) is amended to
786 delete obsolete language applicable only to the 2007-
787 2008 fiscal year.

788 Section 15. Subsection (4) of section 211.31, Florida
789 Statutes, is amended to read:

790 211.31 Levy of tax on severance of certain solid minerals;
791 rate, basis, and distribution of tax.—

792 (4) The expenses of administering this part and ss.
793 ~~378.011~~, 378.021, 378.031, and 378.101 shall be borne by the
794 Land Reclamation Trust Fund, the Nonmandatory Land Reclamation
795 Trust Fund, and the Phosphate Research Trust Fund.

796 Reviser's note.—Amended to conform to the repeal of s.
797 378.011 by s. 24, ch. 2008-150, Laws of Florida.

798 Section 16. Subsection (4) of section 215.50, Florida
799 Statutes, is amended to read:

800 215.50 Custody of securities purchased; income.—

801 (4) Securities that the board selects to use for options
802 operations under s. 215.45 or for lending under s. 215.47(17)
803 ~~215.47(16)~~ shall be registered by the Chief Financial Officer in
804 the name of a third-party nominee in order to facilitate such
805 operations.

806 Reviser's note.—Amended to conform to the
807 redesignation of subunits of s. 215.47 by s. 3, ch.
808 2008-31, Laws of Florida.

809 Section 17. Paragraph (a) of subsection (7) of section
810 215.555, Florida Statutes, is amended to read:

811 215.555 Florida Hurricane Catastrophe Fund.—

812 (7) ADDITIONAL POWERS AND DUTIES.—

20091284er

813 (a) The board may procure reinsurance from reinsurers
814 acceptable to the Office of Insurance Regulation for the purpose
815 of maximizing the capacity of the fund and may enter into
816 capital market transactions, including, but not limited to,
817 industry loss warranties, catastrophe bonds, side-car
818 arrangements, or financial contracts permissible for the board's
819 usage under s. 215.47(11) and (12) ~~215.47(10) and (11)~~,
820 consistent with prudent management of the fund.

821 Reviser's note.—Amended to conform to the
822 redesignation of subunits of s. 215.47 by s. 3, ch.
823 2008-31, Laws of Florida.

824 Section 18. Paragraph (b) of subsection (1) of section
825 215.5595, Florida Statutes, is amended to read:

826 215.5595 Insurance Capital Build-Up Incentive Program.—

827 (1) Upon entering the 2008 hurricane season, the
828 Legislature finds that:

829 (b) Citizens Property Insurance Corporation has over 1.2
830 million policies in force, has the largest market share of any
831 insurer writing residential property insurance ~~insurer~~ in the
832 state, and faces the threat of a catastrophic loss that must be
833 funded by assessments against insurers and policyholders, unless
834 otherwise funded by the state. The program has a substantial
835 positive effect on the depopulation efforts of Citizens Property
836 Insurance Corporation since companies participating in the
837 program have removed over 199,000 policies from the corporation.
838 Companies participating in the program have issued a significant
839 number of new policies, thereby keeping an estimated 480,000 new
840 policies out of the corporation.

841 Reviser's note.—Amended to confirm the substitution by

20091284er

842 the editors of the word "insurance" for the word
843 "insurer" to conform to context.

844 Section 19. Paragraph (a) of subsection (2) of section
845 218.409, Florida Statutes, is amended to read:

846 218.409 Administration of the trust fund; creation of
847 advisory council.—

848 (2) (a) The trustees shall ensure that the board or a
849 professional money management firm administers the trust fund on
850 behalf of the participants. The board or a professional money
851 management firm shall have the power to invest such funds in
852 accordance with a written investment policy. The investment
853 policy shall be updated annually to conform to best investment
854 practices. The standard of prudence to be used by investment
855 officials shall be the fiduciary standards as set forth in s.
856 215.47(10) ~~215.47(9)~~, which shall be applied in the context of
857 managing an overall portfolio. Portfolio managers acting in
858 accordance with written procedures and an investment policy and
859 exercising due diligence shall be relieved of personal
860 responsibility for an individual security's credit risk or
861 market price changes, provided deviations from expectations are
862 reported in a timely fashion and the liquidity and the sale of
863 securities are carried out in accordance with the terms of this
864 part.

865 Reviser's note.—Amended to conform to the
866 redesignation of subunits of s. 215.47 by s. 3, ch.
867 2008-31, Laws of Florida.

868 Section 20. Subsection (16) of section 253.03, Florida
869 Statutes, is amended to read:

870 253.03 Board of trustees to administer state lands; lands

20091284er

871 enumerated.—

872 (16) The Board of Trustees of the Internal Improvement
873 Trust Fund, and the state through its agencies, may not control,
874 regulate, permit, or charge for any severed materials which are
875 removed from the area adjacent to an intake or discharge
876 structure pursuant to an exemption authorized in s.
877 403.813(1)(f) and (r) ~~403.813(2)(f) and (r)~~.

878 Reviser's note.—Amended to conform to the
879 redesignation of s. 403.813(2) as s. 403.813(1) by s.
880 4, ch. 2008-40, Laws of Florida.

881 Section 21. Paragraph (c) of subsection (11) of section
882 259.032, Florida Statutes, is amended to read:

883 259.032 Conservation and Recreation Lands Trust Fund;
884 purpose.—

885 (11)

886 (c) The Land Management Uniform Accounting Council shall
887 prepare and deliver a report on the methodology and formula for
888 allocating land management funds to the Acquisition and
889 Restoration Council. The Acquisition and Restoration Council
890 shall review, modify as appropriate, and submit the report to
891 the Board of Trustees of the Internal Improvement Trust Fund.
892 The board of trustees shall review, modify as appropriate, and
893 submit the report to the President of the Senate and the Speaker
894 of the House of Representatives no later than December 31, 2008,
895 which provides an interim management formula and a long-term
896 management formula, and the methodologies used to develop the
897 formulas, which shall be used to allocate land management funds
898 provided for in paragraph (b) for interim and long-term
899 management of all lands managed pursuant to this chapter and for

20091284er

900 associated contractual services. The methodology and formula for
901 interim management shall be based on the estimated land
902 acquisitions for the fiscal year in which the interim funds will
903 be expended. The methodology and formula for long-term
904 management shall recognize, but not be limited to, the
905 following:

906 1. The assignment of management intensity associated with
907 managed habitats and natural communities and the related
908 management activities to achieve land management goals provided
909 in s. 253.034(5) ~~253.054(5)~~ and subsection (10).

910 a. The acres of land that require minimal effort for
911 resource preservation or restoration.

912 b. The acres of land that require moderate effort for
913 resource preservation or restoration.

914 c. The acres of land that require significant effort for
915 resource preservation or restoration.

916 2. The assignment of management intensity associated with
917 public access, including, but not limited to:

918 a. The acres of land that are open to the public but offer
919 no more than minimally developed facilities;

920 b. The acres of land that have a high degree of public use
921 and offer highly developed facilities; and

922 c. The acres of land that are sites that have historic
923 significance, unique natural features, or a very high degree of
924 public use.

925 3. The acres of land that have a secondary manager
926 contributing to the overall management effort.

927 4. The anticipated revenues generated from management of
928 the lands.

20091284er

929 5. The impacts of, and needs created or addressed by,
930 multiple-use management strategies.

931 6. The acres of land that have infestations of nonnative or
932 invasive plants, animals, or fish.

933
934 In evaluating the management funding needs of lands based on the
935 above categories, the lead land managing agencies shall include
936 in their considerations the impacts of, and needs created or
937 addressed by, multiple-use management strategies. The funding
938 formulas for interim and long-term management proposed by the
939 agencies shall be reviewed by the Legislature during the 2009
940 regular legislative session. The Legislature may reject, modify,
941 or take no action relative to the proposed funding formulas. If
942 no action is taken, the funding formulas shall be used in the
943 allocation and distribution of funds provided in paragraph (b).

944 Reviser's note.—Amended to conform to the fact that s.
945 253.054 does not exist; s. 253.034(5) relates to land
946 management goals.

947 Section 22. Paragraph (a) of subsection (2) of section
948 259.105, Florida Statutes, is amended to read:

949 259.105 The Florida Forever Act.—

950 (2) (a) The Legislature finds and declares that:

951 1. Land acquisition programs have provided tremendous
952 financial resources for purchasing environmentally significant
953 lands to protect those lands from imminent development or
954 alteration, thereby ensuring present and future generations'
955 access to important waterways, open spaces, and recreation and
956 conservation lands.

957 2. The continued alteration and development of Florida's

20091284er

958 natural and rural areas to accommodate the state's growing
959 population have contributed to the degradation of water
960 resources, the fragmentation and destruction of wildlife
961 habitats, the loss of outdoor recreation space, and the
962 diminishment of wetlands, forests, working landscapes, and
963 coastal open space.

964 3. The potential development of Florida's remaining natural
965 areas and escalation of land values require government efforts
966 to restore, bring under public protection, or acquire lands and
967 water areas to preserve the state's essential ecological
968 functions and invaluable quality of life.

969 4. It is essential to protect the state's ecosystems by
970 promoting a more efficient use of land, to ensure opportunities
971 for viable agricultural activities on working lands, and to
972 promote vital rural and urban communities that support and
973 produce development patterns consistent with natural resource
974 protection.

975 5. Florida's groundwater, surface waters, and springs are
976 under tremendous pressure due to population growth and economic
977 expansion and require special protection and restoration
978 efforts, including the protection of uplands and springsheds
979 that provide vital recharge to aquifer systems and are critical
980 to the protection of water quality and water quantity of the
981 aquifers and springs. To ensure that sufficient quantities of
982 water are available to meet the current and future needs of the
983 natural systems and citizens of the state, and assist in
984 achieving the planning goals of the department and the water
985 management districts, water resource development projects on
986 public lands, where compatible with the resource values of and

20091284er

987 management objectives for the lands, are appropriate.

988 6. The needs of urban, suburban, and small communities in
989 Florida for high-quality outdoor recreational opportunities,
990 greenways, trails, and open space have not been fully met by
991 previous acquisition programs. Through such programs as the
992 Florida Communities Trust and the Florida Recreation Development
993 Assistance Program, the state shall place additional emphasis on
994 acquiring, protecting, preserving, and restoring open space,
995 ecological greenways, and recreation properties within urban,
996 suburban, and rural areas where pristine natural communities or
997 water bodies no longer exist because of the proximity of
998 developed property.

999 7. Many of Florida's unique ecosystems, such as the Florida
1000 Everglades, are facing ecological collapse due to Florida's
1001 burgeoning population growth and other economic activities. To
1002 preserve these valuable ecosystems for future generations,
1003 essential parcels of land must be acquired to facilitate
1004 ecosystem restoration.

1005 8. Access to public lands to support a broad range of
1006 outdoor recreational opportunities and the development of
1007 necessary infrastructure, where compatible with the resource
1008 values of and management objectives for such lands, promotes an
1009 appreciation for Florida's natural assets and improves the
1010 quality of life.

1011 9. Acquisition of lands, in fee simple, less-than-fee
1012 interest, or other techniques shall be based on a comprehensive
1013 science-based assessment of Florida's natural resources which
1014 targets essential conservation lands by prioritizing all current
1015 and future acquisitions based on a uniform set of data and

20091284er

1016 planned so as to protect the integrity and function of
1017 ecological systems and working landscapes, and provide multiple
1018 benefits, including preservation of fish and wildlife habitat,
1019 recreation space for urban and rural areas, and the restoration
1020 of natural water storage, flow, and recharge.

1021 10. The state has embraced performance-based program
1022 budgeting as a tool to evaluate the achievements of publicly
1023 funded agencies, build in accountability, and reward those
1024 agencies which are able to consistently achieve quantifiable
1025 goals. While previous and existing state environmental programs
1026 have achieved varying degrees of success, few of these programs
1027 can be evaluated as to the extent of their achievements,
1028 primarily because performance measures, standards, outcomes, and
1029 goals were not established at the outset. Therefore, the Florida
1030 Forever program shall be developed and implemented in the
1031 context of measurable state goals and objectives.

1032 11. The state must play a major role in the recovery and
1033 management of its imperiled species through the acquisition,
1034 restoration, enhancement, and management of ecosystems that can
1035 support the major life functions of such species. It is the
1036 intent of the Legislature to support local, state, and federal
1037 programs that result in net benefit to imperiled species habitat
1038 by providing public and private land owners meaningful
1039 incentives for acquiring, restoring, managing, and repopulating
1040 habitats for imperiled species. It is the further intent of the
1041 Legislature that public lands, both existing and to be acquired,
1042 identified by the lead land managing agency, in consultation
1043 with the Florida Fish and Wildlife Conservation Commission for
1044 animals or the Department of Agriculture and Consumer Services

20091284er

1045 for plants, as habitat or potentially restorable habitat for
1046 imperiled species, be restored, enhanced, managed, and
1047 repopulated as habitat for such species to advance the goals and
1048 objectives of imperiled species management consistent with the
1049 purposes for which such lands are acquired without restricting
1050 other uses identified in the management plan. It is also the
1051 intent of the Legislature that of the proceeds distributed
1052 pursuant to subsection (3), additional consideration be given to
1053 acquisitions that achieve a combination of conservation goals,
1054 including the restoration, enhancement, management, or
1055 repopulation of habitat for imperiled species. The Acquisition
1056 and Restoration Council, in addition to the criteria in
1057 subsection (9), shall give weight to projects that include
1058 acquisition, restoration, management, or repopulation of habitat
1059 for imperiled species. The term "imperiled species" as used in
1060 this chapter and chapter 253, means plants and animals that are
1061 federally listed under the Endangered Species Act, or state-
1062 listed by the Fish and Wildlife Conservation Commission or the
1063 Department of Agriculture and Consumer Services.

1064 a. As part of the state's role, all state lands that have
1065 imperiled species habitat shall include as a consideration in
1066 management plan development the restoration, enhancement,
1067 management, and repopulation of such habitats. In addition, the
1068 lead land managing agency of such state lands may use fees
1069 received from public or private entities for projects to offset
1070 adverse impacts to imperiled species or their habitat in order
1071 to restore, enhance, manage, repopulate, or acquire land and to
1072 implement land management plans developed under s. 253.034 or a
1073 land management prospectus developed and implemented under this

20091284er

1074 chapter. Such fees shall be deposited into a foundation or fund
1075 created by each land management agency under s. 379.223
1076 ~~372.0215~~, s. 589.012, or s. 259.032(11)(d), to be used solely to
1077 restore, manage, enhance, repopulate, or acquire imperiled
1078 species habitat.

1079 b. Where habitat or potentially restorable habitat for
1080 imperiled species is located on state lands, the Fish and
1081 Wildlife Conservation Commission and the Department of
1082 Agriculture and Consumer Services shall be included on any
1083 advisory group required under chapter 253, and the short-term
1084 and long-term management goals required under chapter 253 must
1085 advance the goals and objectives of imperiled species management
1086 consistent with the purposes for which the land was acquired
1087 without restricting other uses identified in the management
1088 plan.

1089 12. There is a need to change the focus and direction of
1090 the state's major land acquisition programs and to extend
1091 funding and bonding capabilities, so that future generations may
1092 enjoy the natural resources of this state.

1093 Reviser's note.—Amended to conform to the
1094 redesignation of s. 372.0215 as s. 379.223 by s. 32,
1095 ch. 2008-247, Laws of Florida.

1096 Section 23. Paragraph (d) of subsection (9) of section
1097 259.1053, Florida Statutes, is amended to read:

1098 259.1053 Babcock Ranch Preserve; Babcock Ranch, Inc.;
1099 creation; membership; organization; meetings.—

1100 (9) POWERS AND DUTIES.—

1101 (d) The members may, with the written approval of the
1102 commission and in consultation with the department, designate

20091284er

1103 hunting, fishing, and trapping zones and may establish
1104 additional periods when no hunting, fishing, or trapping shall
1105 be permitted for reasons of public safety, administration, and
1106 the protection and enhancement of nongame habitat and nongame
1107 species, as defined under s. 379.101 ~~372.001~~.

1108 Reviser's note.—Amended to conform to the repeal of s.
1109 372.001 by s. 208, ch. 2008-247, Laws of Florida. The
1110 word "nongame" is now defined at s. 379.101.

1111 Section 24. Subsection (1), paragraph (e) of subsection
1112 (2), and paragraph (b) of subsection (3) of section 282.201,
1113 Florida Statutes, are amended to read:

1114 282.201 State data center system; agency duties and
1115 limitations.—A state data center system that includes all
1116 primary data centers, other nonprimary data centers, and
1117 computing facilities, and that provides an enterprise
1118 information technology service as defined in s. 282.0041, is
1119 established.

1120 (1) INTENT.—The Legislature finds that the most efficient
1121 and effective means of providing quality utility data processing
1122 services to state agencies requires that computing resources be
1123 concentrated in quality facilities that provide the proper
1124 security, infrastructure, and staff resources to ensure that the
1125 state's data is maintained reliably and~~r~~ safely, and is
1126 recoverable in the event of a disaster. Efficiencies resulting
1127 from such consolidation include the increased ability to
1128 leverage technological expertise and~~r~~ hardware and software
1129 capabilities; increased savings through consolidated purchasing
1130 decisions; and the enhanced ability to deploy technology
1131 improvements and implement new policies consistently throughout

20091284er

1132 the consolidated organization. Therefore it is the intent of the
1133 Legislature that agency data centers and computing facilities be
1134 consolidated into primary data centers to the maximum extent
1135 possible by 2019.

1136 (2) AGENCY FOR ENTERPRISE INFORMATION TECHNOLOGY DUTIES.—

1137 The Agency for Enterprise Information Technology shall:

1138 (e) Develop and establish policies by rule relating to the
1139 operation of the state data center system which must comply with
1140 applicable federal regulations, including 2 C.F.R. part 225 and
1141 45 C.F.R. The policies may address:

1142 1. Ensuring that financial information is captured and
1143 reported consistently and accurately.

1144 2. Requiring the establishment of service-level agreements
1145 executed between a data center and its customer entities for
1146 services provided.

1147 3. Requiring annual full cost recovery on an equitable
1148 rational basis. The cost-recovery methodology must ensure that
1149 no service is subsidizing another service and may include
1150 adjusting the subsequent year's rates as a means to recover
1151 deficits or refund surpluses from a prior year.

1152 4. Requiring that any special assessment imposed to fund
1153 expansion is based on a methodology that apportions the
1154 assessment according to the proportional benefit to each
1155 customer entity.

1156 5. Requiring that rebates be given when revenues have
1157 exceeded costs, that rebates be applied to offset charges to
1158 those customer entities that have subsidized the costs of other
1159 customer entities, and that such rebates may be in the form of
1160 credits against future billings.

20091284er

1161 6. Requiring that all service-level agreements have a
1162 contract term of up to 3 years, but may include an option to
1163 renew for up to 3 additional years contingent on approval by the
1164 board, and require at least a 180-day notice of termination.

1165 7. Designating any nonstate data centers as primary data
1166 centers if the center:

1167 a. Has an established governance structure that represents
1168 customer entities proportionally.

1169 b. Maintains an appropriate cost-allocation methodology
1170 that accurately bills a customer entity based on the actual
1171 direct and indirect costs to the customer entity and prohibits
1172 the subsidization of one customer entity's costs by another
1173 entity.

1174 c. Has sufficient raised floor space, cooling, and
1175 redundant power capacity, including uninterruptible power supply
1176 and backup power generation, to accommodate the computer
1177 processing platforms and support necessary to host the computing
1178 requirements of additional customer entities.

1179 (3) STATE AGENCY DUTIES.—

1180 (b) Each state agency shall submit to the Agency for
1181 Enterprise Information Technology information relating to its
1182 data centers and computing facilities as required in
1183 instructions issued by July 1 of each year by the Agency for
1184 Enterprise Information Technology. The information required may
1185 include:

- 1186 1. ~~The~~ Amount of floor space used and available.
- 1187 2. ~~The~~ Numbers and capacities of mainframes and servers.
- 1188 3. Storage and network capacity.
- 1189 4. Amount of power used and the available capacity.

20091284er

1190 5. Estimated expenditures by service area, including
1191 hardware and software, numbers of full-time equivalent
1192 positions, personnel turnover, and position reclassifications.

1193 6. A list of contracts in effect for the fiscal year,
1194 including, but not limited to, contracts for hardware, software
1195 and maintenance, including the expiration date, the contract
1196 parties, and the cost of the contract.

1197 7. Service-level agreements by customer entity.

1198 Reviser's note.—Amended to improve sentence
1199 construction.

1200 Section 25. Paragraph (d) of subsection (4) of section
1201 288.1089, Florida Statutes, is amended to read:

1202 288.1089 Innovation Incentive Program.—

1203 (4) To qualify for review by the office, the applicant
1204 must, at a minimum, establish the following to the satisfaction
1205 of Enterprise Florida, Inc., and the office:

1206 (d) For an alternative and renewable energy project in this
1207 state, the project must:

1208 1. Demonstrate a plan for significant collaboration with an
1209 institution of higher education;

1210 2. Provide the state, at a minimum, a break-even return on
1211 investment within a 20-year period;

1212 3. Include matching funds provided by the applicant or
1213 other available sources. This requirement may be waived if the
1214 office and the department determine that the merits of the
1215 individual project or the specific circumstances warrant such
1216 action;

1217 4. Be located in this state;

1218 5. Provide jobs that pay an estimated annual average wage

20091284er

1219 that equals at least 130 percent of the average private sector
1220 wage. The average wage requirement may be waived if the office
1221 and the commission determine that the merits of the individual
1222 project or the specific circumstances warrant such action; and

1223 6. Meet one of the following criteria:

1224 a. Result in the creation of at least 35 direct, new jobs
1225 at the business.

1226 b. Have an activity or product that uses feedstock or other
1227 raw materials grown or produced in this state.

1228 c. Have a cumulative investment of at least \$50 million
1229 within a 5-year period.

1230 d. Address the technical feasibility of the technology, and
1231 the extent to which the proposed project has been demonstrated
1232 to be technically feasible based on pilot project
1233 demonstrations, laboratory testing, scientific modeling, or
1234 engineering or chemical theory that supports the proposal.

1235 e. Include innovative technology and the degree to which
1236 the project or business incorporates an innovative new
1237 technology or an innovative application of an existing
1238 technology.

1239 f. Include production potential and the degree to which a
1240 project or business generates thermal, mechanical, or electrical
1241 energy by means of a renewable energy resource that has
1242 substantial long-term production potential. The project must, to
1243 the extent possible, quantify annual production potential in
1244 megawatts or kilowatts.

1245 g. Include and address energy efficiency and the degree to
1246 which a project demonstrates efficient use of energy, water, and
1247 material resources.

20091284er

1248 h. Include project management and the ability of management
1249 to administer and ~~a~~ complete the business project.

1250 Reviser's note.—Amended to confirm the substitution by
1251 the editors of the word "and" for the word "a" to
1252 improve clarity.

1253 Section 26. Paragraphs (c), (d), (f), (h), and (k) of
1254 subsection (5) of section 288.8175, Florida Statutes, are
1255 amended to read:

1256 288.8175 Linkage institutes between postsecondary
1257 institutions in this state and foreign countries.—

1258 (5) The institutes are:

1259 (c) Florida Caribbean Institute (Florida International
1260 University and Daytona Beach ~~Community~~ College).

1261 (d) Florida-Canada Institute (University of Central Florida
1262 and Palm Beach Community ~~Junior~~ College).

1263 (f) Florida-Japan Institute (University of South Florida,
1264 University of West Florida, and St. Petersburg ~~Community~~
1265 College).

1266 (h) Florida-Israel Institute (Florida Atlantic University
1267 and Broward ~~Community~~ College).

1268 (k) Florida-Mexico Institute (Florida International
1269 University and Polk ~~Community~~ College).

1270 Reviser's note.—Paragraph (5)(c) is amended to confirm
1271 the deletion of the word "Community" by the editors to
1272 conform to the renaming of Daytona Beach Community
1273 College as Daytona Beach College by s. 1, ch. 2008-52,
1274 Laws of Florida, and s. 5, ch. 2008-163, Laws of
1275 Florida. Paragraph (5)(d) is amended to substitute the
1276 word "Community" for the word "Junior" to conform to

20091284er

1277 the renaming of Palm Beach Junior College as Palm
1278 Beach Community College by s. 64, ch. 89-381, Laws of
1279 Florida. Paragraph (5)(f) is amended to conform to the
1280 present name of St. Petersburg College, as listed in
1281 s. 1000.21, created by s. 10, ch. 2002-387, Laws of
1282 Florida. Paragraphs (5)(h) and (k) are amended to
1283 delete the word "Community" from the names of Broward
1284 College and Polk College, respectively, pursuant to
1285 the name changes in s. 1, ch. 2008-52.

1286 Section 27. Subsection (2) of section 316.2128, Florida
1287 Statutes, is amended to read:

1288 316.2128 Operation of motorized scooters and miniature
1289 motorcycles; requirements for sales.-

1290 (2) Any person selling or offering a motorized scooter or a
1291 miniature motorcycle for sale in violation of this section
1292 ~~subsection~~ commits an unfair and deceptive trade practice as
1293 defined in part II of chapter 501.

1294 Reviser's note.-Amended to conform to context; the
1295 actions, violation of which constitute an unfair and
1296 deceptive trade practice, are described in subsection
1297 (1), and the section only has two subsections.

1298 Section 28. Subsection (4) of section 316.650, Florida
1299 Statutes, is amended to read:

1300 316.650 Traffic citations.-

1301 (4) The chief administrative officer of every traffic
1302 enforcement agency shall require the return to him or her of the
1303 officer-agency copy of every traffic citation issued by an
1304 officer under the chief administrative officer's supervision to
1305 an alleged violator of any traffic law or ordinance and all

20091284er

1306 copies of every traffic citation that has been spoiled or upon
1307 which any entry has been made and not issued to an alleged
1308 violator. In the case of a traffic enforcement agency that has
1309 an automated citation issuance system, the chief administrative
1310 officer shall require the return of all electronic traffic
1311 citation records.

1312 Reviser's note.—Amended to improve clarity.

1313 Section 29. Subsection (12) of section 319.001, Florida
1314 Statutes, is amended to read:

1315 319.001 Definitions.—As used in this chapter, the term:

1316 (12) "Used motor vehicle" means any motor vehicle that is
1317 not a "new motor vehicle" as defined in subsection (9) ~~(8)~~.

1318 Reviser's note.—Amended to conform to the
1319 redesignation of subsection (8) as subsection (9) by
1320 s. 15, ch. 2008-176, Laws of Florida.

1321 Section 30. Paragraph (b) of subsection (62) and paragraph
1322 (b) of subsection (65) of section 320.08058, Florida Statutes,
1323 are amended to read:

1324 320.08058 Specialty license plates.—

1325 (62) PROTECT FLORIDA SPRINGS LICENSE PLATES.—

1326 (b) The annual use fees shall be distributed to the
1327 Wildlife Foundation of Florida, Inc., a citizen support
1328 organization created pursuant to s. 379.223 ~~372.0215~~, which
1329 shall administer the fees as follows:

1330 1. Wildlife Foundation of Florida, Inc., shall retain the
1331 first \$60,000 of the annual use fees as direct reimbursement for
1332 administrative costs, startup costs, and costs incurred in the
1333 development and approval process.

1334 2. Thereafter, a maximum of 10 percent of the fees may be

20091284er

1335 used for administrative costs directly associated with education
1336 programs, conservation, springs research, and grant
1337 administration of the foundation. A maximum of 15 percent of the
1338 fees may be used for continuing promotion and marketing of the
1339 license plate.

1340 3. At least 55 percent of the fees shall be available for
1341 competitive grants for targeted community-based springs research
1342 not currently available for state funding. The remaining 20
1343 percent shall be directed toward community outreach programs
1344 aimed at implementing such research findings. The competitive
1345 grants shall be administered and approved by the board of
1346 directors of the Wildlife Foundation of Florida. The granting
1347 advisory committee shall be composed of nine members, including
1348 one representative from the Fish and Wildlife Conservation
1349 Commission, one representative from the Department of
1350 Environmental Protection, one representative from the Department
1351 of Health, one representative from the Department of Community
1352 Affairs, three citizen representatives, and two representatives
1353 from nonprofit stakeholder groups.

1354 4. The remaining funds shall be distributed with the
1355 approval of and accountability to the board of directors of the
1356 Wildlife Foundation of Florida, and shall be used to support
1357 activities contributing to education, outreach, and springs
1358 conservation.

1359 (65) FLORIDA TENNIS LICENSE PLATES.—

1360 (b) The department shall distribute the annual use fees to
1361 the Florida Sports Foundation, a direct-support organization of
1362 the Office of Tourism, Trade, and Economic Development. The
1363 license plate annual use fees shall be annually allocated as

20091284er

1364 follows:

1365 1. Up to 5 percent of the proceeds from the annual use fees
1366 may be used by the Florida Sports Foundation to administer the
1367 license plate program.

1368 2. The United States Tennis Association Florida Section
1369 Foundation shall receive the first \$60,000 in proceeds from the
1370 annual use fees to reimburse it for startup costs,
1371 administrative costs, and other costs it incurs in the
1372 development and approval process.

1373 3. Up to 5 percent of the proceeds from the annual use fees
1374 may be used for promoting and marketing the license plates. The
1375 remaining proceeds shall be available for grants by the United
1376 States Tennis Association Florida Section Foundation to
1377 nonprofit organizations to operate youth tennis programs and
1378 adaptive tennis programs for special populations of all ages,
1379 and for building, renovating, and maintaining public tennis
1380 courts.

1381 Reviser's note.—Paragraph (62) (b) is amended to
1382 conform to the redesignation of s. 372.0215 as s.
1383 379.223 by s. 32, ch. 2008-247, Laws of Florida.

1384 Paragraph (65) (b) is amended to conform to the
1385 complete name of the United State Tennis Association
1386 Florida Section Foundation as used elsewhere in
1387 subsection (65).

1388 Section 31. Paragraph (b) of subsection (4) of section
1389 323.001, Florida Statutes, is amended to read:

1390 323.001 Wrecker operator storage facilities; vehicle
1391 holds.—

1392 (4) The requirements for a written hold apply when the

20091284er

1393 following conditions are present:

1394 (b) The officer has probable cause to believe the vehicle
1395 should be seized and forfeited under chapter 379 ~~370 or chapter~~
1396 ~~372~~;

1397 Reviser's note.—Amended to conform to the transfer of
1398 the material in chapters 370 and 372 to new chapter
1399 379 by ch. 2008-247, Laws of Florida.

1400 Section 32. Subsection (1) of section 336.41, Florida
1401 Statutes, is amended to read:

1402 336.41 Counties; employing labor and providing road
1403 equipment; accounting; when competitive bidding required.—

1404 (1) The commissioners may employ labor and provide
1405 equipment as may be necessary, except as provided in subsection
1406 (4) ~~(3)~~, for constructing and opening of new roads or bridges
1407 and repair and maintenance of any existing roads and bridges.

1408 Reviser's note.—Amended to conform to the
1409 redesignation of subsection (3) as subsection (4) by
1410 s. 25, ch. 2008-191, Laws of Florida.

1411 Section 33. Subsection (1) of section 336.44, Florida
1412 Statutes, is amended to read:

1413 336.44 Counties; contracts for construction of roads;
1414 procedure; contractor's bond.—

1415 (1) The commissioners shall let the work on roads out on
1416 contract, in accordance with s. 336.41(4) ~~336.41(3)~~.

1417 Reviser's note.—Amended to conform to the
1418 redesignation of s. 336.41(3) as s. 336.41(4) by s.
1419 25, ch. 2008-191, Laws of Florida.

1420 Section 34. Subsection (2) of section 364.051, Florida
1421 Statutes, is amended to read:

20091284er

1422 364.051 Price regulation.—

1423 (2) BASIC LOCAL TELECOMMUNICATIONS SERVICE.—~~Price~~
1424 ~~regulation of basic local telecommunications service shall~~
1425 ~~consist of the following:~~

1426 ~~(a) Effective January 1, 1996, the rates for basic local~~
1427 ~~telecommunications service of each company subject to this~~
1428 ~~section shall be capped at the rates in effect on July 1, 1995,~~
1429 ~~and such rates shall not be increased prior to January 1, 2000.~~
1430 ~~However, the basic local telecommunications service rates of a~~
1431 ~~local exchange telecommunications company with more than 3~~
1432 ~~million basic local telecommunications service access lines in~~
1433 ~~service on July 1, 1995, shall not be increased prior to January~~
1434 ~~1, 2001.~~

1435 ~~(b) Upon the date of filing its election with the~~
1436 ~~commission, the rates for basic local telecommunications service~~
1437 ~~of a company that elects to become subject to this section shall~~
1438 ~~be capped at the rates in effect on that date and shall remain~~
1439 ~~capped as stated in paragraph (a).~~

1440 ~~(c) There shall be a flat-rate pricing option for basic~~
1441 ~~local telecommunications services, and mandatory measured~~
1442 ~~service for basic local telecommunications services shall not be~~
1443 ~~imposed.~~

1444 Reviser's note.—Amended to delete obsolete language
1445 establishing a rate cap effective prior to January 1,
1446 2000, or January 1, 2001, the end date for the cap
1447 depending on a company's number of basic local
1448 telecommunications service access lines as of July 1,
1449 1995.

1450 Section 35. Subsection (5) of section 373.118, Florida

20091284er

1451 Statutes, is amended to read:

1452 373.118 General permits; delegation.—

1453 (5) The department shall adopt by rule one or more general
1454 permits for local governments to construct, operate, and
1455 maintain public marina facilities, public mooring fields, public
1456 boat ramps, including associated courtesy docks, and associated
1457 parking facilities located in uplands. Such general permits
1458 adopted by rule shall include provisions to ensure compliance
1459 with part IV of this chapter, subsection (1), and the criteria
1460 necessary to include the general permits in a state programmatic
1461 general permit issued by the United States Army Corps of
1462 Engineers under s. 404 of the Clean Water Act, Pub. L. No. 92-
1463 500, as amended, 33 U.S.C. ss. 1251 et seq. A facility
1464 authorized under such general permits is exempt from review as a
1465 development of regional impact if the facility complies with the
1466 comprehensive plan of the applicable local government. Such
1467 facilities shall be consistent with the local government manatee
1468 protection plan required pursuant to chapter 379 ~~370~~ and shall
1469 obtain Clean Marina Program status prior to opening for
1470 operation and maintain that status for the life of the facility.
1471 Marinas and mooring fields authorized under any such general
1472 permit shall not exceed an area of 50,000 square feet over
1473 wetlands and other surface waters. All facilities permitted
1474 under this section shall be constructed, maintained, and
1475 operated in perpetuity for the exclusive use of the general
1476 public. The department shall initiate the rulemaking process
1477 within 60 days after the effective date of this act.

1478 Reviser's note.—Amended to conform to the transfer of
1479 material in former chapter 370 to chapter 379 by ch.

20091284er

1480 2008-247, Laws of Florida.

1481 Section 36. Paragraphs (a) and (e) of subsection (3) of
1482 section 373.4145, Florida Statutes, are amended to read:

1483 373.4145 Part IV permitting program within the geographical
1484 jurisdiction of the Northwest Florida Water Management
1485 District.—

1486 (3) The rules adopted under subsection (1), as applicable,
1487 shall:

1488 (a) Incorporate the exemptions in ss. 373.406 and
1489 403.813(1) ~~403.813(2)~~.

1490 (e) Provide an exemption for the repair, stabilization, or
1491 paving of county-maintained roads existing on or before January
1492 1, 2002, and the repair or replacement of bridges that are part
1493 of the roadway consistent with the provisions of s.

1494 403.813(1)(t) ~~403.813(2)(t)~~, notwithstanding the provisions of
1495 s. 403.813(1)(t)7. ~~403.813(2)(t)7~~. requiring adoption of a
1496 general permit applicable within the Northwest Florida Water
1497 Management District and the repeal of such exemption upon the
1498 adoption of a general permit.

1499 Reviser's note.—Amended to conform to the
1500 redesignation of s. 403.813(2) as s. 403.813(1) by s.
1501 4, ch. 2008-40, Laws of Florida.

1502 Section 37. Section 374.977, Florida Statutes, is amended
1503 to read:

1504 374.977 Inland navigation districts; manatee protection
1505 speed zones, responsibility for sign posting.—The Fish and
1506 Wildlife Conservation Commission shall assume the responsibility
1507 for posting and maintaining regulatory markers for manatee
1508 protection speed zones as posted by the inland navigation

20091284er

1509 districts pursuant to a rule adopted by the commission under s.
1510 379.2431(2) ~~370.12(2)~~. The Fish and Wildlife Conservation
1511 Commission may apply to inland navigation districts for funding
1512 under s. 374.976 to assist with implementing its responsibility
1513 under this section for maintaining regulatory markers for
1514 manatee protection speed zones.

1515 Reviser's note.—Amended to conform to the
1516 redesignation of s. 370.12 as s. 379.2431 by s. 73,
1517 ch. 2008-247, Laws of Florida.

1518 Section 38. Subsection (1) of section 378.021, Florida
1519 Statutes, is amended to read:

1520 378.021 Master reclamation plan.—

1521 (1) The Department of Environmental Protection shall amend
1522 the master reclamation plan that provides guidelines for the
1523 reclamation of lands mined or disturbed by the severance of
1524 phosphate rock prior to July 1, 1975, which lands are not
1525 subject to mandatory reclamation under part II of chapter 211.
1526 In amending the master reclamation plan, the Department of
1527 Environmental Protection shall continue to conduct an onsite
1528 evaluation of all lands mined or disturbed by the severance of
1529 phosphate rock prior to July 1, 1975, which lands are not
1530 subject to mandatory reclamation under part II of chapter 211,
1531 ~~and shall consider the report and plan prepared by the Land Use~~
1532 ~~Advisory Committee under s. 378.011 and submitted to the former~~
1533 ~~Department of Natural Resources for adoption by rule on or~~
1534 ~~before July 1, 1979.~~ The master reclamation plan when amended by
1535 the Department of Environmental Protection shall be consistent
1536 with local government plans prepared pursuant to the Local
1537 Government Comprehensive Planning and Land Development

20091284er

1538 Regulation Act.

1539 Reviser's note.—Amended to conform to the repeal of s.

1540 378.011, which created the Land Use Advisory

1541 Committee, by s. 24, ch. 2008-150, Laws of Florida.

1542 Section 39. Subsection (19) of section 378.403, Florida

1543 Statutes, is amended to read:

1544 378.403 Definitions.—As used in this part, the term:

1545 (19) "Wetlands" means any area as defined in s. 373.019, as
1546 delineated using the methodology adopted by rule and ratified
1547 pursuant to s. 373.421(1). For areas included in an approved
1548 conceptual reclamation plan or modification application
1549 submitted prior to July 1, 1994, wetlands means any area having
1550 dominant vegetation as defined and listed in rule 62-301.200 ~~67-~~
1551 ~~301.200~~, Florida Administrative Code, regardless of whether the
1552 area is within the department's jurisdiction or whether the
1553 water bodies are connected.

1554 Reviser's note.—Amended to correct an apparent error
1555 and facilitate correct interpretation. Rule 67-301.200
1556 does not exist; rule 62-301.200 relates to dominant
1557 vegetation.

1558 Section 40. Subsection (1) of section 379.2495, Florida
1559 Statutes, is amended to read:

1560 379.2495 Florida Ships-2-Reefs Program; matching grant
1561 requirements.—

1562 (1) The commission is authorized to establish the Florida
1563 Ships-2-Reefs Program, a matching grant program, for the
1564 securing and placement of United States Maritime Administration
1565 (MARAD) and United States Navy decommissioned vessels in state
1566 or federal waters seaward of the state to serve as artificial

20091284er

1567 reefs and, pursuant thereto, to make expenditures and enter into
1568 contracts with local governments and nonprofit corporations for
1569 the purpose of securing and placing MARAD and United States Navy
1570 decommissioned vessels as artificial reefs in state or federal
1571 waters seaward of the state pursuant to s. 379.249(8) ~~370.25(8)~~
1572 and performing the environmental preparation and cleaning
1573 requisite to the placement of a vessel as an artificial reef,
1574 which preparation and cleaning must meet the standards
1575 established in the 2006 publication, "National Guidance: Best
1576 Management Practices for Preparing Vessels Intended to Create
1577 Artificial Reefs," published jointly by the United States
1578 Environmental Protection Agency and the United States Maritime
1579 Administration. The commission shall have final approval of
1580 grants awarded through the program.

1581 Reviser's note.—Amended to conform to the
1582 redesignation of s. 370.25 as s. 379.249 by s. 81, ch.
1583 2008-247, Laws of Florida.

1584 Section 41. Paragraph (q) of subsection (2) of section
1585 379.353, Florida Statutes, is amended to read:

1586 379.353 Recreational licenses and permits; exemptions from
1587 fees and requirements.—

1588 (2) A hunting, freshwater fishing, or saltwater fishing
1589 license or permit is not required for:

1590 (q) Any resident recreationally freshwater fishing who
1591 holds a valid commercial fishing license issued under s.
1592 379.363(1)(a) ~~379.3625(1)(a)~~.

1593 Reviser's note.—Amended to correct an apparent error
1594 and facilitate correct interpretation. Prior to the
1595 amendment to paragraph (2)(q) by s. 138, ch. 2008-247,

20091284er

1596 Laws of Florida, the cross-reference was to s.
1597 372.65(1)(a), relating to resident commercial fishing
1598 licenses. Section 372.65 was redesignated as s.
1599 379.363 by s. 148, ch. 2008-247.

1600 Section 42. Subsection (8) of section 379.407, Florida
1601 Statutes, is amended to read:

1602 379.407 Administration; rules, publications, records;
1603 penalties; injunctions.—

1604 (8) LICENSES AND ENTITIES SUBJECT TO PENALTIES.—For
1605 purposes of imposing license or permit suspensions or
1606 revocations authorized by this chapter, the license or permit
1607 under which the violation was committed is subject to suspension
1608 or revocation by the commission. For purposes of assessing
1609 monetary civil or administrative penalties authorized by this
1610 chapter, the commercial harvester cited and subsequently
1611 receiving a judicial disposition of other than dismissal or
1612 acquittal in a court of law is subject to the monetary penalty
1613 assessment by the commission. However, if the licensee ~~license~~
1614 or permitholder of record is not the commercial harvester
1615 receiving the citation and judicial disposition, the license or
1616 permit may be suspended or revoked only after the licensee
1617 ~~license~~ or permitholder has been notified by the commission that
1618 the license or permit has been cited in a major violation and is
1619 now subject to suspension or revocation should the license or
1620 permit be cited for subsequent major violations.

1621 Reviser's note.—Amended to improve clarity and
1622 facilitate correct interpretation.

1623 Section 43. Paragraph (a) of subsection (3) of section
1624 380.061, Florida Statutes, is amended to read:

20091284er

1625 380.061 The Florida Quality Developments program.—

1626 (3) (a) To be eligible for designation under this program,
1627 the developer shall comply with each of the following
1628 requirements which is applicable to the site of a qualified
1629 development:

1630 1. Have donated or entered into a binding commitment to
1631 donate the fee or a lesser interest sufficient to protect, in
1632 perpetuity, the natural attributes of the types of land listed
1633 below. In lieu of the above requirement, the developer may enter
1634 into a binding commitment which runs with the land to set aside
1635 such areas on the property, in perpetuity, as open space to be
1636 retained in a natural condition or as otherwise permitted under
1637 this subparagraph. Under the requirements of this subparagraph,
1638 the developer may reserve the right to use such areas for the
1639 purpose of passive recreation that is consistent with the
1640 purposes for which the land was preserved.

1641 a. Those wetlands and water bodies throughout the state as
1642 would be delineated if the provisions of s. 373.4145(1) (b) were
1643 applied. The developer may use such areas for the purpose of
1644 site access, provided other routes of access are unavailable or
1645 impracticable; may use such areas for the purpose of stormwater
1646 or domestic sewage management and other necessary utilities to
1647 the extent that such uses are permitted pursuant to chapter 403;
1648 or may redesign or alter wetlands and water bodies within the
1649 jurisdiction of the Department of Environmental Protection which
1650 have been artificially created, if the redesign or alteration is
1651 done so as to produce a more naturally functioning system.

1652 b. Active beach or primary and, where appropriate,
1653 secondary dunes, to maintain the integrity of the dune system

20091284er

1654 and adequate public accessways to the beach. However, the
1655 developer may retain the right to construct and maintain
1656 elevated walkways over the dunes to provide access to the beach.

1657 c. Known archaeological sites determined to be of
1658 significance by the Division of Historical Resources of the
1659 Department of State.

1660 d. Areas known to be important to animal species designated
1661 as endangered or threatened animal species by the United States
1662 Fish and Wildlife Service or by the Fish and Wildlife
1663 Conservation Commission, for reproduction, feeding, or nesting;
1664 for traveling between such areas used for reproduction, feeding,
1665 or nesting; or for escape from predation.

1666 e. Areas known to contain plant species designated as
1667 endangered plant species by the Department of Agriculture and
1668 Consumer Services.

1669 2. Produce, or dispose of, no substances designated as
1670 hazardous or toxic substances by the United States Environmental
1671 Protection Agency or by the Department of Environmental
1672 Protection or the Department of Agriculture and Consumer
1673 Services. This subparagraph is not intended to apply to the
1674 production of these substances in nonsignificant amounts as
1675 would occur through household use or incidental use by
1676 businesses.

1677 3. Participate in a downtown reuse or redevelopment program
1678 to improve and rehabilitate a declining downtown area.

1679 4. Incorporate no dredge and fill activities in, and no
1680 stormwater discharge into, waters designated as Class II,
1681 aquatic preserves, or Outstanding Florida Waters, except as
1682 activities in those waters are permitted pursuant to s.

20091284er

1683 403.813(1) ~~403.813(2)~~ and the developer demonstrates that those
1684 activities meet the standards under Class II waters, Outstanding
1685 Florida Waters, or aquatic preserves, as applicable.

1686 5. Include open space, recreation areas, Xeriscape as
1687 defined in s. 373.185, and energy conservation and minimize
1688 impermeable surfaces as appropriate to the location and type of
1689 project.

1690 6. Provide for construction and maintenance of all onsite
1691 infrastructure necessary to support the project and enter into a
1692 binding commitment with local government to provide an
1693 appropriate fair-share contribution toward the offsite impacts
1694 which the development will impose on publicly funded facilities
1695 and services, except offsite transportation, and condition or
1696 phase the commencement of development to ensure that public
1697 facilities and services, except offsite transportation, will be
1698 available concurrent with the impacts of the development. For
1699 the purposes of offsite transportation impacts, the developer
1700 shall comply, at a minimum, with the standards of the state land
1701 planning agency's development-of-regional-impact transportation
1702 rule, the approved strategic regional policy plan, any
1703 applicable regional planning council transportation rule, and
1704 the approved local government comprehensive plan and land
1705 development regulations adopted pursuant to part II of chapter
1706 163.

1707 7. Design and construct the development in a manner that is
1708 consistent with the adopted state plan, the applicable strategic
1709 regional policy plan, and the applicable adopted local
1710 government comprehensive plan.

1711 Reviser's note.—Amended to conform to the

20091284er

1712 redesignation of s. 403.813(2) as s. 403.813(1) by s.
1713 4, ch. 2008-40, Laws of Florida.
1714 Section 44. Paragraph (d) of subsection (3) of section
1715 380.510, Florida Statutes, is amended to read:
1716 380.510 Conditions of grants and loans.—
1717 (3) In the case of a grant or loan for land acquisition,
1718 agreements shall provide all of the following:
1719 (d) If any essential term or condition of a grant or loan
1720 is violated, title to all interest in real property acquired
1721 with state funds shall be conveyed or revert to the Board of
1722 Trustees of the Internal Improvement Trust Fund. The trust shall
1723 treat such property in accordance with s. 380.508(4)(f)
1724 ~~380.508(4)(e)~~.
1725
1726 Any deed or other instrument of conveyance whereby a nonprofit
1727 organization or local government acquires real property under
1728 this section shall set forth the interest of the state. The
1729 trust shall keep at least one copy of any such instrument and
1730 shall provide at least one copy to the Board of Trustees of the
1731 Internal Improvement Trust Fund.
1732 Reviser's note.—Amended to conform to the
1733 redesignation of s. 380.508(4)(e) as s. 380.508(4)(f)
1734 by s. 23, ch. 2008-229, Laws of Florida.
1735 Section 45. Section 381.0063, Florida Statutes, is amended
1736 to read:
1737 381.0063 Drinking water funds.—All fees and penalties
1738 received from suppliers of water pursuant to ss. 403.860(5) and
1739 403.861(7)(a) ~~403.861(8)~~ shall be deposited in the appropriate
1740 County Health Department Trust Fund to be used by the department

20091284er

1741 to pay the costs of expenditures required pursuant to ss.
1742 381.0062 and 403.862(1)(c).

1743 Reviser's note.—Amended to conform to the amendment of
1744 s. 403.861(7) and (8) by s. 20, ch. 2008-150, Laws of
1745 Florida, which moved language that comprised former
1746 subsection (8) to paragraph (7)(a).

1747 Section 46. Paragraph (a) of subsection (6) of section
1748 403.087, Florida Statutes, is amended to read:

1749 403.087 Permits; general issuance; denial; revocation;
1750 prohibition; penalty.—

1751 (6)(a) The department shall require a processing fee in an
1752 amount sufficient, to the greatest extent possible, to cover the
1753 costs of reviewing and acting upon any application for a permit
1754 or request for site-specific alternative criteria or for an
1755 exemption from water quality criteria and to cover the costs of
1756 surveillance and other field services and related support
1757 activities associated with any permit or plan approval issued
1758 pursuant to this chapter. The department shall review the fees
1759 authorized under this chapter at least once every 5 years and
1760 shall adjust the fees upward, as necessary, within the fee caps
1761 established in this paragraph to reflect changes in the Consumer
1762 Price Index or similar inflation indicator. The department shall
1763 establish by rule the inflation index to be used for this
1764 purpose. In the event of deflation, the department shall consult
1765 with the Executive Office of the Governor and the Legislature to
1766 determine whether downward fee adjustments are appropriate based
1767 on the current budget and appropriation considerations. However,
1768 when an application is received without the required fee, the
1769 department shall acknowledge receipt of the application and

20091284er

1770 shall immediately return the unprocessed application to the
1771 applicant and shall take no further action until the application
1772 is received with the appropriate fee. The department shall adopt
1773 a schedule of fees by rule, subject to the following
1774 limitations:

1775 1. The fee for any of the following may not exceed \$32,500:

1776 a. Hazardous waste, construction permit.

1777 b. Hazardous waste, operation permit.

1778 c. Hazardous waste, postclosure permit, or clean closure
1779 plan approval.

1780 d. Hazardous waste, corrective action permit.

1781 2. The permit fee for a drinking water construction or
1782 operation permit, not including the operation license fee
1783 required under s. 403.861(7), shall be at least \$500 and may not
1784 exceed \$15,000.

1785 3. The permit fee for a Class I injection well construction
1786 permit may not exceed \$12,500.

1787 4. The permit fee for any of the following permits may not
1788 exceed \$10,000:

1789 a. Solid waste, construction permit.

1790 b. Solid waste, operation permit.

1791 c. Class I injection well, operation permit.

1792 5. The permit fee for any of the following permits may not
1793 exceed \$7,500:

1794 a. Air pollution, construction permit.

1795 b. Solid waste, closure permit.

1796 c. Domestic waste residuals, construction or operation
1797 permit.

1798 d. Industrial waste, operation permit.

20091284er

- 1799 e. Industrial waste, construction permit.
- 1800 6. The permit fee for any of the following permits may not
1801 exceed \$5,000:
- 1802 a. Domestic waste, operation permit.
- 1803 b. Domestic waste, construction permit.
- 1804 7. The permit fee for any of the following permits may not
1805 exceed \$4,000:
- 1806 a. Wetlands resource management—(dredge and fill and
1807 mangrove alteration).
- 1808 b. Hazardous waste, research and development permit.
- 1809 c. Air pollution, operation permit, for sources not subject
1810 to s. 403.0872.
- 1811 d. Class III injection well, construction, operation, or
1812 abandonment permits.
- 1813 8. The permit fee for a drinking water distribution system
1814 permit, including a general permit, shall be at least \$500 and
1815 may not exceed \$1,000.
- 1816 9. The permit fee for Class V injection wells,
1817 construction, operation, and abandonment permits may not exceed
1818 \$750.
- 1819 10. The permit fee for domestic waste collection system
1820 permits may not exceed \$500.
- 1821 11. The permit fee for stormwater operation permits may not
1822 exceed \$100.
- 1823 12. Except as provided in subparagraph 8., the general
1824 permit fees for permits that require certification by a
1825 registered professional engineer or professional geologist may
1826 not exceed \$500, and the general permit fee for other permit
1827 types may not exceed \$100.

20091284er

1828 13. The fee for a permit issued pursuant to s. 403.816 is
1829 \$5,000, and the fee for any modification of such permit
1830 requested by the applicant is \$1,000.

1831 14. The regulatory program and surveillance fees for
1832 facilities permitted pursuant to s. 403.088 or s. 403.0885, or
1833 for facilities permitted pursuant to s. 402 of the Clean Water
1834 Act, as amended, 33 U.S.C. ss. 1251 et seq., and for which the
1835 department has been granted administrative authority, shall be
1836 limited as follows:

1837 a. The fees for domestic wastewater facilities shall not
1838 exceed \$7,500 annually. The department shall establish a sliding
1839 scale of fees based on the permitted capacity and shall ensure
1840 smaller domestic waste dischargers do not bear an inordinate
1841 share of costs of the program.

1842 b. The annual fees for industrial waste facilities shall
1843 not exceed \$11,500. The department shall establish a sliding
1844 scale of fees based upon the volume, concentration, or nature of
1845 the industrial waste discharge and shall ensure smaller
1846 industrial waste dischargers do not bear an inordinate share of
1847 costs of the program.

1848 c. The department may establish a fee, not to exceed the
1849 amounts in subparagraphs 5. and 6. ~~4. and 5.~~, to cover
1850 additional costs of review required for permit modification or
1851 construction engineering plans.

1852 Reviser's note.—Amended to conform to the
1853 redesignation of subparagraphs (6)(a)4. and 5. as
1854 subparagraphs 5. and 6. by s. 19, ch. 2008-150, Laws
1855 of Florida.

1856 Section 47. Section 403.0871, Florida Statutes, is amended

20091284er

1857 to read:

1858 403.0871 Florida Permit Fee Trust Fund.—There is
1859 established within the department a nonlapsing trust fund to be
1860 known as the "Florida Permit Fee Trust Fund." All funds received
1861 from applicants for permits pursuant to ss. 161.041, 161.053,
1862 161.0535, 403.087(6), and 403.861(7)(a) ~~403.861(8)~~ shall be
1863 deposited in the Florida Permit Fee Trust Fund and shall be used
1864 by the department with the advice and consent of the Legislature
1865 to supplement appropriations and other funds received by the
1866 department for the administration of its responsibilities under
1867 this chapter and chapter 161. In no case shall funds from the
1868 Florida Permit Fee Trust Fund be used for salary increases
1869 without the approval of the Legislature.

1870 Reviser's note.—Amended to conform to the amendment of
1871 s. 403.861(7) and (8) by s. 20, ch. 2008-150, Laws of
1872 Florida, which moved language that comprised former
1873 subsection (8) to paragraph (7)(a).

1874 Section 48. Subsection (3) of section 403.511, Florida
1875 Statutes, is amended to read:

1876 403.511 Effect of certification.—

1877 (3) The certification and any order on land use and zoning
1878 issued under this act shall be in lieu of any license, permit,
1879 certificate, or similar document required by any state,
1880 regional, or local agency pursuant to, but not limited to,
1881 chapter 125, chapter 161, chapter 163, chapter 166, chapter 186,
1882 chapter 253, chapter 298, ~~chapter 370~~, chapter 373, chapter 376,
1883 chapter 379, chapter 380, chapter 381, chapter 387, chapter 403,
1884 except for permits issued pursuant to any federally delegated or
1885 approved permit program and except as provided in chapter 404 or

20091284er

1886 the Florida Transportation Code, or 33 U.S.C. s. 1341.

1887 Reviser's note.—Amended to conform to the transfer of
1888 material in former chapter 370 to chapter 379 by ch.
1889 2008-247, Laws of Florida.

1890 Section 49. Paragraph (a) of subsection (7) of section
1891 403.5115, Florida Statutes, is amended to read:

1892 403.5115 Public notice.—

1893 (7) (a) A good faith effort shall be made by the proponent
1894 of an alternate corridor that includes a transmission line, as
1895 defined by s. 403.522(22), to provide direct written notice of
1896 the filing of an alternate corridor for certification by United
1897 States mail or hand delivery ~~of~~ of the filing no later than 30
1898 days after filing of the alternate corridor to all local
1899 landowners whose property, as noted in the most recent local
1900 government tax records, and residences, are located within one-
1901 quarter mile of the proposed boundaries of a transmission line
1902 corridor that includes a transmission line as defined by s.
1903 403.522(22).

1904 Reviser's note.—Amended to delete repetitious language
1905 and facilitate correct interpretation.

1906 Section 50. Paragraph (a) of subsection (3) of section
1907 403.531, Florida Statutes, is amended to read:

1908 403.531 Effect of certification.—

1909 (3) (a) The certification shall be in lieu of any license,
1910 permit, certificate, or similar document required by any state,
1911 regional, or local agency under, but not limited to, chapter
1912 125, chapter 161, chapter 163, chapter 166, chapter 186, chapter
1913 253, chapter 258, chapter 298, ~~chapter 370, chapter 372,~~ chapter
1914 373, chapter 376, chapter 379, chapter 380, chapter 381, chapter

20091284er

1915 403, chapter 404, the Florida Transportation Code, or 33 U.S.C.
1916 s. 1341.

1917 Reviser's note.—Amended to conform to the transfer of
1918 material in former chapters 370 and 372 to chapter 379
1919 by ch. 2008-247, Laws of Florida.

1920 Section 51. Paragraph (b) of subsection (1) of section
1921 403.7264, Florida Statutes, is amended to read:

1922 403.7264 Amnesty days for purging small quantities of
1923 hazardous wastes.—Amnesty days are authorized by the state for
1924 the purpose of purging small quantities of hazardous waste, free
1925 of charge, from the possession of homeowners, farmers, schools,
1926 state agencies, and small businesses. These entities have no
1927 appropriate economically feasible mechanism for disposing of
1928 their hazardous wastes at the present time. In order to raise
1929 public awareness on this issue, provide an educational process,
1930 accommodate those entities which have a need to dispose of small
1931 quantities of hazardous waste, and preserve the waters of the
1932 state, amnesty days shall be carried out in the following
1933 manner:

1934 (1)

1935 (b) If a local government has established a local or
1936 regional hazardous waste collection center pursuant to s.
1937 403.7265(2) ~~403.7265(3)~~ and such center is in operation, the
1938 department and the local government may enter into a contract
1939 whereby the local government shall administer and supervise
1940 amnesty days. If a contract is entered into, the department
1941 shall provide to the local government, from funds appropriated
1942 to the department for amnesty days, an amount of money as
1943 determined by the department that is equal to the amount of

20091284er

1944 money that would have been spent by the department to administer
1945 and supervise amnesty days in the local government's area. A
1946 local government that wishes to administer and supervise amnesty
1947 days shall notify the department at least 30 days prior to the
1948 beginning of the state fiscal year during which the amnesty days
1949 are scheduled to be held in the local government's area.

1950 Reviser's note.—Amended to conform to the
1951 redesignation of s. 403.7265(3) as s. 403.7265(2) by
1952 s. 26, ch. 2007-184, Laws of Florida.

1953 Section 52. Paragraph (t) of subsection (1) and subsection
1954 (2) of section 403.813, Florida Statutes, are amended to read:

1955 403.813 Permits issued at district centers; exceptions.—

1956 (1) A permit is not required under this chapter, chapter
1957 373, chapter 61-691, Laws of Florida, or chapter 25214 or
1958 chapter 25270, 1949, Laws of Florida, for activities associated
1959 with the following types of projects; however, except as
1960 otherwise provided in this subsection, nothing in this
1961 subsection relieves an applicant from any requirement to obtain
1962 permission to use or occupy lands owned by the Board of Trustees
1963 of the Internal Improvement Trust Fund or any water management
1964 district in its governmental or proprietary capacity or from
1965 complying with applicable local pollution control programs
1966 authorized under this chapter or other requirements of county
1967 and municipal governments:

1968 (t) The repair, stabilization, or paving of existing county
1969 maintained roads and the repair or replacement of bridges that
1970 are part of the roadway, within the Northwest Florida Water
1971 Management District and the Suwannee River Water Management
1972 District, provided:

20091284er

- 1973 1. The road and associated bridge were in existence and in
1974 use as a public road or bridge, and were maintained by the
1975 county as a public road or bridge on or before January 1, 2002;
1976 2. The construction activity does not realign the road or
1977 expand the number of existing traffic lanes of the existing
1978 road; however, the work may include the provision of safety
1979 shoulders, clearance of vegetation, and other work reasonably
1980 necessary to repair, stabilize, pave, or repave the road,
1981 provided that the work is constructed by generally accepted
1982 engineering standards;
1983 3. The construction activity does not expand the existing
1984 width of an existing vehicular bridge in excess of that
1985 reasonably necessary to properly connect the bridge with the
1986 road being repaired, stabilized, paved, or repaved to safely
1987 accommodate the traffic expected on the road, which may include
1988 expanding the width of the bridge to match the existing
1989 connected road. However, no debris from the original bridge
1990 shall be allowed to remain in waters of the state, including
1991 wetlands;
1992 4. Best management practices for erosion control shall be
1993 employed as necessary to prevent water quality violations;
1994 5. Roadside swales or other effective means of stormwater
1995 treatment must be incorporated as part of the project;
1996 6. No more dredging or filling of wetlands or water of the
1997 state is performed than that which is reasonably necessary to
1998 repair, stabilize, pave, or repave the road or to repair or
1999 replace the bridge, in accordance with generally accepted
2000 engineering standards; and
2001 7. Notice of intent to use the exemption is provided to the

20091284er

2002 department, if the work is to be performed within the Northwest
2003 Florida Water Management District, or to the Suwannee River
2004 Water Management District, if the work is to be performed within
2005 the Suwannee River Water Management District, 30 days prior to
2006 performing any work under the exemption.

2007
2008 Within 30 days after this act becomes a law, the department
2009 shall initiate rulemaking to adopt a no fee general permit for
2010 the repair, stabilization, or paving of existing roads that are
2011 maintained by the county and the repair or replacement of
2012 bridges that are part of the roadway where such activities do
2013 not cause significant adverse impacts to occur individually or
2014 cumulatively. The general permit shall apply statewide and, with
2015 no additional rulemaking required, apply to qualified projects
2016 reviewed by the Suwannee River Water Management District, the
2017 St. Johns River Water Management District, the Southwest Florida
2018 Water Management District, and the South Florida Water
2019 Management District under the division of responsibilities
2020 contained in the operating agreements applicable to part IV of
2021 chapter 373. Upon adoption, this general permit shall, pursuant
2022 to the provisions of subsection (2) ~~(3)~~, supersede and replace
2023 the exemption in this paragraph.

2024 (2) The provisions of subsection (1) ~~(2)~~ are superseded by
2025 general permits established pursuant to ss. 373.118 and 403.814
2026 which include the same activities. Until such time as general
2027 permits are established, or should general permits be suspended
2028 or repealed, the exemptions under subsection (1) ~~(2)~~ shall
2029 remain or shall be reestablished in full force and effect.

2030 Reviser's note.—Amended to conform to the repeal of

20091284er

2031 former subsection (1) by s. 4, ch. 2008-40, Laws of
2032 Florida.

2033 Section 53. Subsection (7) of section 403.862, Florida
2034 Statutes, is amended to read:

2035 403.862 Department of Health; public water supply duties
2036 and responsibilities; coordinated budget requests with
2037 department.—

2038 (7) Fees and penalties received from suppliers of water
2039 pursuant to ss. 403.860(3), (4), and (5) and 403.861(7)(a)
2040 ~~403.861(8)~~ in counties where county health departments have been
2041 approved by the department pursuant to paragraph (1)(c) shall be
2042 deposited in the appropriate County Health Department Trust Fund
2043 to be used for the purposes stated in paragraph (1)(c).

2044 Reviser's note.—Amended to conform to the amendment of
2045 s. 403.861(7) and (8) by s. 20, ch. 2008-150, Laws of
2046 Florida, which moved language that comprised former
2047 subsection (8) to paragraph (7)(a).

2048 Section 54. Subsection (2) of section 403.890, Florida
2049 Statutes, is amended to read:

2050 403.890 Water Protection and Sustainability Program;
2051 intent; goals; purposes.—

2052 (2) Applicable beginning in the 2007-2008 fiscal year,
2053 revenues transferred from the Department of Revenue pursuant to
2054 s. 201.15(1)(c)2. ~~201.15(1)(d)2.~~ shall be deposited into the
2055 Water Protection and Sustainability Program Trust Fund in the
2056 Department of Environmental Protection. These revenues and any
2057 other additional revenues deposited into or appropriated to the
2058 Water Protection and Sustainability Program Trust Fund shall be
2059 distributed by the Department of Environmental Protection in the

20091284er

2060 following manner:

2061 (a) Sixty-five percent to the Department of Environmental
2062 Protection for the implementation of an alternative water supply
2063 program as provided in s. 373.1961.

2064 (b) Twenty-two and five-tenths percent for the
2065 implementation of best management practices and capital project
2066 expenditures necessary for the implementation of the goals of
2067 the total maximum daily load program established in s. 403.067.
2068 Of these funds, 83.33 percent shall be transferred to the credit
2069 of the Department of Environmental Protection Water Quality
2070 Assurance Trust Fund to address water quality impacts associated
2071 with nonagricultural nonpoint sources. Sixteen and sixty-seven
2072 hundredths percent of these funds shall be transferred to the
2073 Department of Agriculture and Consumer Services General
2074 Inspection Trust Fund to address water quality impacts
2075 associated with agricultural nonpoint sources. These funds shall
2076 be used for research, development, demonstration, and
2077 implementation of the total maximum daily load program under s.
2078 403.067, suitable best management practices or other measures
2079 used to achieve water quality standards in surface waters and
2080 water segments identified pursuant to s. 303(d) of the Clean
2081 Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.
2082 Implementation of best management practices and other measures
2083 may include cost-share grants, technical assistance,
2084 implementation tracking, and conservation leases or other
2085 agreements for water quality improvement. The Department of
2086 Environmental Protection and the Department of Agriculture and
2087 Consumer Services may adopt rules governing the distribution of
2088 funds for implementation of capital projects, best management

20091284er

2089 practices, and other measures. These funds shall not be used to
2090 abrogate the financial responsibility of those point and
2091 nonpoint sources that have contributed to the degradation of
2092 water or land areas. Increased priority shall be given by the
2093 department and the water management district governing boards to
2094 those projects that have secured a cost-sharing agreement
2095 allocating responsibility for the cleanup of point and nonpoint
2096 sources.

2097 (c) Twelve and five-tenths percent to the Department of
2098 Environmental Protection for the Disadvantaged Small Community
2099 Wastewater Grant Program as provided in s. 403.1838.

2100 (d) On June 30, 2009, and every 24 months thereafter, the
2101 Department of Environmental Protection shall request the return
2102 of all unencumbered funds distributed pursuant to this section.
2103 These funds shall be deposited into the Water Protection and
2104 Sustainability Program Trust Fund and redistributed pursuant to
2105 the provisions of this section.

2106 Reviser's note.—Amended to conform to the
2107 redesignation of s. 201.15(1)(d)2. as s.

2108 201.15(1)(c)2. by s. 3, ch 2008-114, Laws of Florida.

2109 Section 55. Subsection (3) of section 403.9416, Florida
2110 Statutes, is amended to read:

2111 403.9416 Effect of certification.—

2112 (3) The certification shall be in lieu of any license,
2113 permit, certificate, or similar document required by any agency
2114 pursuant to, but not limited to, chapter 125, chapter 161,
2115 chapter 163, chapter 166, chapter 186, chapter 253, chapter 258,
2116 chapter 298, ~~chapter 370, chapter 372,~~ chapter 373, chapter 376,
2117 chapter 377, chapter 379, chapter 380, chapter 381, chapter 387,

20091284er

2118 chapter 403, the Florida Transportation Code, or 33 U.S.C. s.
2119 1341. On certification, any license, easement, or other interest
2120 in state lands, except those the title to which is vested in the
2121 Board of Trustees of the Internal Improvement Trust Fund or a
2122 water management district created pursuant to chapter 373, shall
2123 be issued by the appropriate agency as a ministerial act. The
2124 applicant shall be required to seek any necessary interest in
2125 state lands the title to which is vested in the Board of
2126 Trustees of the Internal Improvement Trust Fund from the board
2127 of trustees or from the governing board of the water management
2128 district before, during, or after the certification proceeding,
2129 and certification may be made contingent upon issuance of the
2130 appropriate interest in realty. However, neither the applicant
2131 nor any party to the certification proceeding may directly or
2132 indirectly raise or relitigate any matter which was or could
2133 have been an issue in the certification proceeding in any
2134 proceeding before the Board of Trustees of the Internal
2135 Improvement Trust Fund wherein the applicant is seeking a
2136 necessary interest in state lands, but the information presented
2137 in the certification proceeding shall be available for review by
2138 the board of trustees and its staff.

2139 Reviser's note.—Amended to conform to the transfer of
2140 material in former chapters 370 and 372 to chapter 379
2141 by ch. 2008-247, Laws of Florida.

2142 Section 56. Subsection (1) of section 409.2563, Florida
2143 Statutes, is reenacted, and paragraph (b) of subsection (2) of
2144 that section is amended to read:

2145 409.2563 Administrative establishment of child support
2146 obligations.—

20091284er

2147 (1) DEFINITIONS.—As used in this section, the term:

2148 (a) "Administrative support order" means a final order
2149 rendered by or on behalf of the department pursuant to this
2150 section establishing or modifying the obligation of a parent to
2151 contribute to the support and maintenance of his or her child or
2152 children, which may include provisions for monetary support,
2153 retroactive support, health care, and other elements of support
2154 pursuant to chapter 61.

2155 (b) "Caretaker relative" has the same meaning ascribed in
2156 s. 414.0252(11).

2157 (c) "Filed" means a document has been received and accepted
2158 for filing at the offices of the department by the clerk or any
2159 authorized deputy clerk of the department. The date of filing
2160 must be indicated on the face of the document by the clerk or
2161 deputy clerk.

2162 (d) "Financial affidavit" means an affidavit or written
2163 declaration as provided by s. 92.525(2) which shows an
2164 individual's income, allowable deductions, net income, and other
2165 information needed to calculate the child support guideline
2166 amount under s. 61.30.

2167 (e) "Rendered" means that a signed written order is filed
2168 with the clerk or any deputy clerk of the department and served
2169 on the respondent. The date of filing must be indicated on the
2170 face of the order at the time of rendition.

2171 (f) "Title IV-D case" means a case or proceeding in which
2172 the department is providing child support services within the
2173 scope of Title IV-D of the Social Security Act, 42 U.S.C. ss.
2174 651 et seq.

2175 (g) "Retroactive support" means a child support obligation

20091284er

2176 established pursuant to s. 61.30(17).

2177

2178 Other terms used in this section have the meanings ascribed in
2179 ss. 61.046 and 409.2554.

2180 (2) PURPOSE AND SCOPE.—

2181 (b) The administrative procedure set forth in this section
2182 concerns only the establishment of child support obligations.
2183 This section does not grant jurisdiction to the department or
2184 the Division of Administrative Hearings to hear or determine
2185 issues of dissolution of marriage, separation, alimony or
2186 spousal support, termination of parental rights, dependency,
2187 disputed paternity, except for a determination of paternity as
2188 provided in s. 409.256, or award of or change of time-sharing.
2189 This paragraph notwithstanding, the department and the Division
2190 of Administrative Hearings may make findings of fact that are
2191 necessary for a proper determination of a parent's support
2192 obligation as authorized by this section.

2193 Reviser's note.—Section 21, ch. 2008-61, Laws of
2194 Florida, amended paragraph (1)(a) without publishing
2195 the flush left language at the end of the subsection.
2196 Absent affirmative evidence of legislative intent to
2197 repeal it, subsection (1) is reenacted to confirm that
2198 the omission was not intended. Paragraph (2)(b) is
2199 amended to confirm the editorial insertion of the word
2200 "or" to improve clarity and correct sentence
2201 construction.

2202 Section 57. Paragraph (e) of subsection (4) of section
2203 409.2598, Florida Statutes, is amended to read:

2204 409.2598 License suspension proceeding to enforce support

20091284er

2205 order.—

2206 (4) COMPLIANCE; REINSTATEMENT.—

2207 (e) Notwithstanding any other statutory provision, a notice
2208 from the court or the department shall reinstate to the obligor
2209 all licenses established in chapter 379 ~~chapters 370 and 372~~
2210 that were valid at the time of suspension.

2211 Reviser's note.—Amended to conform to the transfer of
2212 material in former chapters 370 and 372 to chapter 379
2213 by ch. 2008-247, Laws of Florida.

2214 Section 58. Paragraph (b) of subsection (2) of section
2215 468.432, Florida Statutes, is amended to read:

2216 468.432 Licensure of community association managers and
2217 community association management firms; exceptions.—

2218 (2) As of January 1, 2009, a community association
2219 management firm or other similar organization responsible for
2220 the management of more than 10 units or a budget of \$100,000 or
2221 greater shall not engage or hold itself out to the public as
2222 being able to engage in the business of community association
2223 management in this state unless it is licensed by the department
2224 as a community association management firm in accordance with
2225 the provisions of this part.

2226 (b) Each applicant shall designate on its application a
2227 licensed community association manager who shall be required to
2228 respond to all inquiries ~~inquires~~ from and investigations by the
2229 department or division.

2230 Reviser's note.—Amended to confirm the editorial
2231 substitution of the word "inquiries" for the word
2232 "inquires" to correct an apparent error.

2233 Section 59. Paragraph (a) of subsection (6) of section

20091284er

2234 489.145, Florida Statutes, is amended to read:

2235 489.145 Guaranteed energy, water, and wastewater
2236 performance savings contracting.—

2237 (6) PROGRAM ADMINISTRATION AND CONTRACT REVIEW.—The
2238 Department of Management Services, with the assistance of the
2239 Office of the Chief Financial Officer, shall, within available
2240 resources, provide technical content assistance to state
2241 agencies contracting for energy, water, and wastewater
2242 efficiency and conservation measures and engage in other
2243 activities considered appropriate by the department for
2244 promoting and facilitating guaranteed energy, water, and
2245 wastewater performance contracting by state agencies. The
2246 Department of Management Services shall review the investment-
2247 grade audit for each proposed project and certify that the cost
2248 savings are appropriate and sufficient for the term of the
2249 contract. The Office of the Chief Financial Officer, with the
2250 assistance of the Department of Management Services, shall,
2251 within available resources, develop model contractual and
2252 related documents for use by state agencies. Prior to entering
2253 into a guaranteed energy, water, and wastewater performance
2254 savings contract, any contract or lease for third-party
2255 financing, or any combination of such contracts, a state agency
2256 shall submit such proposed contract or lease to the Office of
2257 the Chief Financial Officer for review and approval. A proposed
2258 contract or lease shall include:

2259 (a) Supporting information required by s. 216.023(4)(a)9.
2260 in ss. 287.063(5) and 287.064(11). For contracts approved under
2261 this section, the criteria may, at ~~add~~ a minimum, include the
2262 specification of a benchmark cost of capital and minimum real

20091284er

2263 rate of return on energy, water, or wastewater savings against
2264 which proposals shall be evaluated.

2265
2266 The Office of the Chief Financial Officer shall not approve any
2267 contract submitted under this section from a state agency that
2268 does not meet the requirements of this section.

2269 Reviser's note.—Amended to confirm the editorial
2270 substitution of the word "at" for the word "add" to
2271 correct an apparent error.

2272 Section 60. Subsection (42) of section 499.003, Florida
2273 Statutes, is amended to read:

2274 499.003 Definitions of terms used in this part.—As used in
2275 this part, the term:

2276 (42) "Prescription drug" means a prescription, medicinal,
2277 or legend drug, including, but not limited to, finished dosage
2278 forms or active ingredients subject to, defined by, or described
2279 by s. 503(b) of the Federal Food, Drug, and Cosmetic Act or s.
2280 465.003(8), s. 499.007(13), or subsection (11), subsection (45)
2281 ~~(47)~~, or subsection (52) ~~(54)~~.

2282 Reviser's note.—Amended to confirm the editorial
2283 substitution of references to subsections (45) and
2284 (52) for references to subsections (47) and (54).
2285 Section 2, ch. 2008-207, Laws of Florida, amended s.
2286 499.003, but the amendment contained coding errors
2287 relating to subunit numbering.

2288 Section 61. Paragraph (n) of subsection (10) of section
2289 499.012, Florida Statutes, is amended to read:

2290 499.012 Permit application requirements.—

2291 (10) The department may deny an application for a permit or

20091284er

2292 refuse to renew a permit for a prescription drug wholesale
2293 distributor or an out-of-state prescription drug wholesale
2294 distributor if:

2295 (n) The applicant or any affiliated party receives,
2296 directly or indirectly, financial support and assistance from a
2297 person who has been found guilty of any violation of this part
2298 or chapter 465, chapter 501, or chapter 893, any rules adopted
2299 under ~~any of~~ this part or those chapters, any federal or state
2300 drug law, or any felony where the underlying facts related to
2301 drugs, regardless of whether the person has been pardoned, had
2302 her or his civil rights restored, or had adjudication withheld,
2303 other than through the ownership of stock in a publicly traded
2304 company or a mutual fund.

2305 Reviser's note.—Amended to confirm the editorial
2306 deletion of the words "any of" following the word
2307 "under" to facilitate correct interpretation.

2308 Section 62. Paragraph (d) of subsection (4) of section
2309 499.0121, Florida Statutes, is amended to read:

2310 499.0121 Storage and handling of prescription drugs;
2311 recordkeeping.—The department shall adopt rules to implement
2312 this section as necessary to protect the public health, safety,
2313 and welfare. Such rules shall include, but not be limited to,
2314 requirements for the storage and handling of prescription drugs
2315 and for the establishment and maintenance of prescription drug
2316 distribution records.

2317 (4) EXAMINATION OF MATERIALS AND RECORDS.—

2318 (d) Upon receipt, a wholesale distributor must review
2319 records required under this section for the acquisition of
2320 prescription drugs for accuracy and completeness, considering

20091284er

2321 the total facts and circumstances surrounding the transactions
2322 and the wholesale distributors involved. This includes
2323 authenticating each transaction listed on a pedigree paper, as
2324 defined in s. 499.003(36) ~~499.003(35)~~.

2325 Reviser's note.—Amended to correct an apparent error
2326 and conform to context. Section 2, ch. 2008-207, Laws
2327 of Florida, redesignated subunits of s. 499.003.
2328 Section 13, ch. 2008-207, amended s. 499.0121(4) (d) to
2329 change the reference to s. 499.003(31), which defined
2330 "pedigree paper", to s. 499.003(35). The term
2331 "pedigree paper" is now defined in s. 499.003(36).

2332 Section 63. Paragraph (a) of subsection (1) of section
2333 499.015, Florida Statutes, is amended to read:

2334 499.015 Registration of drugs, devices, and cosmetics;
2335 issuance of certificates of free sale.—

2336 (1) (a) Except for those persons exempted from the
2337 definition of manufacturer in s. 499.003(31) ~~499.003(32)~~, any
2338 person who manufactures, packages, repackages, labels, or
2339 relabels a drug, device, or cosmetic in this state must register
2340 such drug, device, or cosmetic biennially with the department;
2341 pay a fee in accordance with the fee schedule provided by s.
2342 499.041; and comply with this section. The registrant must list
2343 each separate and distinct drug, device, or cosmetic at the time
2344 of registration.

2345 Reviser's note.—Amended to correct an apparent error
2346 and conform to context. Section 2, ch. 2008-207, Laws
2347 of Florida, redesignated subunits of s. 499.003.
2348 Section 18, ch. 2008-207, amended s. 499.015(1) (a) to
2349 change a reference to s. 499.003(28), which defined

20091284er

2350 "manufacturer," to a reference to s. 499.003(32). The
2351 term "manufacturer" is now defined in s. 499.003(31).
2352 Section 64. Subsection (5) of section 500.12, Florida
2353 Statutes, is amended to read:

2354 500.12 Food permits; building permits.—

2355 (5) It is the intent of the Legislature to eliminate
2356 duplication of regulatory inspections of food. Regulatory and
2357 permitting authority over any food establishment is preempted to
2358 the department, except as provided in chapter 379 ~~chapters 370~~
2359 ~~and 372~~.

2360 (a) Food establishments or retail food stores that have
2361 ancillary food service activities shall be permitted and
2362 inspected by the department.

2363 (b) Food service establishments, as defined in s. 381.0072,
2364 that have ancillary, prepackaged retail food sales shall be
2365 regulated by the Department of Health.

2366 (c) Public food service establishments, as defined in s.
2367 509.013, which have ancillary, prepackaged retail food sales
2368 shall be licensed and inspected by the Department of Business
2369 and Professional Regulation.

2370 (d) The department and the Department of Business and
2371 Professional Regulation shall cooperate to assure equivalency of
2372 inspection and enforcement and to share information on those
2373 establishments identified in paragraphs (a) and (c) and to
2374 address any other areas of potential duplication. The department
2375 and the Department of Business and Professional Regulation are
2376 authorized to adopt rules to enforce statutory requirements
2377 under their purview regarding foods.

2378 Reviser's note.—Amended to conform to the transfer of

20091284er

2379 chapters 370 and 372 to chapter 379 by ch. 2008-247,
2380 Laws of Florida.

2381 Section 65. Subsection (1) of section 553.885, Florida
2382 Statutes, is amended to read:

2383 553.885 Carbon monoxide alarm required.—

2384 (1) Every building, other than a hospital, an inpatient
2385 hospice facility, or a nursing home facility licensed by the
2386 Agency for Health Care Administration, for which a building
2387 permit is issued for new construction on or after July 1, 2008,
2388 and having a fossil-fuel-burning heater or appliance, a
2389 fireplace, or an attached garage shall have an approved
2390 operational carbon monoxide alarm installed within 10 feet of
2391 each room used for sleeping purposes. For a new hospital, an
2392 inpatient hospice facility, or a nursing home facility licensed
2393 by the Agency for Health Care Administration, an approved
2394 operational carbon monoxide detector shall be installed inside
2395 or directly outside of each room or area within the hospital or
2396 facility where ~~were~~ a fossil-fuel-burning heater, engine, or
2397 appliance is located. This detector shall be connected to the
2398 fire alarm system of the hospital or facility as a supervisory
2399 signal.

2400 Reviser's note.—Amended to confirm the editorial
2401 substitution of the word "where" for the word "were"
2402 to conform to context.

2403 Section 66. Section 553.975, Florida Statutes, is amended
2404 to read:

2405 553.975 Report to the Governor and Legislature.—The Public
2406 Service Commission shall submit a biennial report to the
2407 Governor, the President of the Senate, and the Speaker of the

20091284er

2408 House of Representatives, concurrent with the report required by
2409 s. 366.82(10) ~~366.82(4)~~, beginning in 1990. Such report shall
2410 include an evaluation of the effectiveness of these standards on
2411 energy conservation in this state.

2412 Reviser's note.—Amended to conform to the
2413 redesignation of s. 366.82(4) as s. 366.82(10) by s.
2414 39, ch. 2008-227, Laws of Florida.

2415 Section 67. Subsection (4) of section 560.111, Florida
2416 Statutes, is amended to read:

2417 560.111 Prohibited acts.—

2418 (4) Any person who willfully violates any provision of s.
2419 560.403, s. 560.404, or s. 560.405, ~~or s. 560.407~~ commits a
2420 felony of the third degree, punishable as provided in s.
2421 775.082, s. 775.083, or s. 775.084.

2422 Reviser's note.—Amended to conform to the repeal of s.
2423 560.407 by s. 55, ch. 2008-177, Laws of Florida.

2424 Section 68. Section 560.124, Florida Statutes, is amended
2425 to read:

2426 560.124 Sharing of information.—Any person may provide to a
2427 money services business, authorized vendor, law enforcement
2428 agency, prosecutorial agency, or appropriate regulator, or any
2429 money services business, authorized vendor, law enforcement
2430 agency, prosecutorial agency, or appropriate regulator may
2431 provide to any person, information about any person's known or
2432 suspected involvement in a violation of any state, federal, or
2433 foreign law, rule, or regulation relating to the business of a
2434 money services business or deferred presentment ~~present~~ provider
2435 which has been reported to state, federal, or foreign
2436 authorities, and is not liable in any civil action for providing

20091284er

2437 such information.

2438 Reviser's note.—Amended to confirm the editorial
2439 substitution of the word "presentment" for the word
2440 "present" to conform to context.

2441 Section 69. Paragraph (a) of subsection (1) of section
2442 560.141, Florida Statutes, is amended to read:

2443 560.141 License application.—

2444 (1) To apply for a license as a money services business
2445 under this chapter the applicant must:

2446 (a) Submit an application to the office on forms prescribed
2447 by rule which includes the following information:

2448 1. The legal name and address of the applicant, including
2449 any fictitious or trade names used by the applicant in the
2450 conduct of its business.

2451 2. The date of the applicant's formation and the state in
2452 which the applicant was formed, if applicable.

2453 3. The name, social security number, alien identification
2454 or taxpayer identification number, business and residence
2455 addresses, and employment history for the past 5 years for each
2456 officer, director, responsible person, the compliance officer,
2457 each controlling shareholder, and any other person who has a
2458 controlling interest in the money services business as provided
2459 in s. 560.127.

2460 4. A description of the organizational structure of the
2461 applicant, including the identity of any parent or subsidiary of
2462 the applicant, and the disclosure of whether any parent or
2463 subsidiary is publicly traded.

2464 5. The applicant's history of operations in other states if
2465 applicable and a description of the money services business or

20091284er

2466 deferred presentment provider activities proposed to be
2467 conducted by the applicant in this state.

2468 6. If the applicant or its parent is a publicly traded
2469 company, copies of all filings made by the applicant with the
2470 United States Securities and Exchange Commission, or with a
2471 similar regulator in a country other than the United States,
2472 within the preceding year.

2473 7. The location at which the applicant proposes to
2474 establish its principal place of business and any other
2475 location, including branch offices and authorized vendors
2476 operating in this state. For each branch office identified and
2477 each authorized vendor appointed, the applicant shall include
2478 the nonrefundable fee required by s. 560.143.

2479 8. The name and address of the clearing financial
2480 institution or financial institutions through which the
2481 applicant's payment instruments are drawn or through which the
2482 payment instruments are payable.

2483 9. The history of the applicant's material litigation,
2484 criminal convictions, pleas of nolo contendere, and cases of
2485 adjudication withheld.

2486 10. The history of material litigation, arrests, criminal
2487 convictions, pleas of nolo contendere, and cases of adjudication
2488 withheld for each executive officer, director, controlling
2489 shareholder, and responsible person.

2490 11. The name of the registered agent in this state for
2491 service of process unless the applicant is a sole proprietor.

2492 12. Any other information specified in this chapter or by
2493 rule.

2494 Reviser's note.—Amended to confirm the editorial

20091284er

2495 insertion of the word "and" after the word
2496 "shareholder" to improve clarity and facilitate
2497 correct interpretation.

2498 Section 70. Subsection (4) of section 560.142, Florida
2499 Statutes, is amended to read:

2500 560.142 License renewal.—

2501 (4) If a license or declaration of intent to engage in
2502 deferred presentment transactions expires, the license or
2503 declaration of intent may be reinstated only if a renewal
2504 application or declaration of intent, all required renewal fees,
2505 and any applicable late fees are received by the office within
2506 60 days after expiration. If not submitted within 60 days, the
2507 license or declaration of ~~on~~ intent expires and a new license
2508 application or declaration of intent must be filed with the
2509 office pursuant to this chapter.

2510 Reviser's note.—Amended to confirm the editorial
2511 substitution of the word "of" for the word "on" to
2512 improve clarity and facilitate correct interpretation.

2513 Section 71. Paragraph (a) of subsection (1) of section
2514 560.143, Florida Statutes, is amended to read:

2515 560.143 Fees.—

2516 (1) LICENSE APPLICATION FEES.—The applicable non-refundable
2517 fees must accompany an application for licensure:

2518 (a) ~~Under~~ Part II.....\$375.

2519 Reviser's note.—Amended to confirm the editorial
2520 deletion of the word "under" to conform to context.

2521 Section 72. Subsection (2) of section 560.209, Florida
2522 Statutes, is amended to read:

2523 560.209 Net worth; corporate surety bond; collateral

20091284er

2524 deposit in lieu of bond.—

2525 (2) A licensee must obtain an annual financial audit
2526 report, which must be submitted to the office within 120 days
2527 after the end of the licensee's fiscal year ~~end~~, as disclosed to
2528 the office. If the applicant is a wholly owned subsidiary of
2529 another corporation, the financial audit report on the parent
2530 corporation's financial statements shall satisfy this
2531 requirement.

2532 Reviser's note.—Amended to confirm the editorial
2533 deletion of the word "end" following the word "year"
2534 to improve clarity and facilitate correct
2535 interpretation.

2536 Section 73. Subsection (6) of section 560.404, Florida
2537 Statutes, is amended to read:

2538 560.404 Requirements for deferred presentment
2539 transactions.—

2540 (6) A deferred presentment provider or its affiliate may
2541 not charge fees that exceed 10 percent of the currency or
2542 payment instrument provided. However, a verification fee may be
2543 charged as provided in s. 560.309(8) ~~560.309(7)~~. The 10-percent
2544 fee may not be applied to the verification fee. A deferred
2545 presentment provider may charge only those fees specifically
2546 authorized in this section.

2547 Reviser's note.—Amended to correct an apparent error
2548 and conform to context. Section 41, ch. 2008-177, Laws
2549 of Florida, redesignated subunits in s. 560.309.

2550 Section 45, ch. 2008-177, amended s. 560.404(6) to
2551 change a reference to s. 560.309(4), which referenced
2552 verification fees, to s. 560.309(7). Verification fees

20091284er

2553 are now referenced in s. 560.309(8).

2554 Section 74. Subsection (2) of section 560.406, Florida
2555 Statutes, is amended to read:

2556 560.406 Worthless checks.—

2557 (2) If a check is returned to a deferred presentment
2558 provider from a payor financial institution due to insufficient
2559 funds, a closed account, or a stop-payment order, the deferred
2560 presentment provider may pursue all legally available civil
2561 remedies to collect the check, including, but not limited to,
2562 the imposition of all charges imposed on the deferred
2563 presentment provider by the financial institution. In its
2564 collection practices, a deferred presentment provider must
2565 comply with the prohibitions against harassment or abuse, false
2566 or misleading representations, and unfair practices that are
2567 contained in the Fair Debt Collections Practices Act, 15 U.S.C.
2568 ss. 1692d, 1692e, and 1692f. A violation of this act is a
2569 deceptive and unfair trade practice and constitutes a violation
2570 of the Deceptive and Unfair Trade Practices Act under part II of
2571 chapter 501. In addition, a deferred presentment provider must
2572 comply with the applicable provisions of the Consumer Collection
2573 Practices Act under part VI of chapter 559, including s. 559.77.

2574 Reviser's note.—Amended to confirm the editorial
2575 insertion of the word "and" to improve clarity and
2576 facilitate correct interpretation.

2577 Section 75. Subsection (41) of section 570.07, Florida
2578 Statutes, is amended to read:

2579 570.07 Department of Agriculture and Consumer Services;
2580 functions, powers, and duties.—The department shall have and
2581 exercise the following functions, powers, and duties:

20091284er

2582 (41) Notwithstanding the provisions of s. 287.057(23)
2583 ~~287.057(23)(a)~~ that require all agencies to use the online
2584 procurement system developed by the Department of Management
2585 Services, the department may continue to use its own online
2586 system. However, vendors utilizing such system shall be
2587 prequalified as meeting mandatory requirements and
2588 qualifications and shall remit fees pursuant to s. 287.057(23),
2589 and any rules implementing s. 287.057.

2590 Reviser's note.—Amended to correct a cross-reference.
2591 Section 287.057(23)(a) was split by s. 13, ch. 2008-
2592 116, Laws of Florida, to form s. 287.057(23)
2593 introductory paragraph and (23)(a).

2594 Section 76. Paragraph (g) of subsection (2) of section
2595 597.004, Florida Statutes, is amended to read:

2596 597.004 Aquaculture certificate of registration.—

2597 (2) RULES.—

2598 (g) Any alligator producer with an alligator farming
2599 license and permit to establish and operate an alligator farm
2600 shall be issued an aquaculture certificate of registration
2601 pursuant to this section. This chapter does not supersede the
2602 authority under chapter 379 ~~372~~ to regulate alligator farms and
2603 alligator farmers.

2604 Reviser's note.—Amended to conform to the transfer of
2605 chapter 372 to chapter 379 by ch. 2008-247, Laws of
2606 Florida.

2607 Section 77. Subsection (7), paragraph (a) of subsection
2608 (8), and subsections (9) and (12) of section 597.010, Florida
2609 Statutes, are amended to read:

2610 597.010 Shellfish regulation; leases.—

20091284er

2611 (7) SURCHARGE FOR IMPROVEMENT OR REHABILITATION.—A
2612 surcharge of \$10 per acre, or any fraction of an acre, per annum
2613 shall be levied upon each lease, other than a perpetual lease
2614 granted pursuant to former chapter 370 prior to 1985, and
2615 deposited into the General Inspection Trust Fund. The purpose of
2616 the surcharge is to provide a mechanism to have financial
2617 resources immediately available for improvement of lease areas
2618 and for cleanup and rehabilitation of abandoned or vacated lease
2619 sites. The department is authorized to adopt rules necessary to
2620 carry out the provisions of this subsection.

2621 (a) Moneys in the fund that are not needed currently for
2622 cleanup and rehabilitation of abandoned or vacated lease sites
2623 shall be deposited with the Chief Financial Officer to the
2624 credit of the fund and may be invested in such manner as is
2625 provided for by statute. Interest received on such investment
2626 shall be credited to the fund.

2627 (b) Funds within the General Inspection Trust Fund from
2628 receipts from the surcharge established in this section shall be
2629 disbursed for the following purposes and no others:

2630 1. Administrative expenses, personnel expenses, and
2631 equipment costs of the department related to the improvement of
2632 lease areas, the cleanup and rehabilitation of abandoned or
2633 vacated aquaculture lease sites, and the enforcement of
2634 provisions of this section.

2635 2. All costs involved in the improvement of lease areas and
2636 the cleanup and rehabilitation of abandoned or vacated lease
2637 sites.

2638 3. All costs and damages which are the proximate results of
2639 lease abandonment or vacation.

20091284er

2640 4. Reward payments made pursuant to s. 597.0045.

2641

2642 The department shall recover to the use of the fund from the
2643 person or persons abandoning or vacating the lease, jointly and
2644 severally, all sums owed or expended from the fund.

2645 (8) CULTIVATION REQUIREMENTS.—

2646 (a) Effective cultivation shall consist of the growing of
2647 the oysters or clams in a density suitable for commercial
2648 harvesting over the amount of bottom prescribed by law. This
2649 commercial density shall be accomplished by the planting of seed
2650 oysters, shell, and cultch of various descriptions. The
2651 department may stipulate in each individual lease contract the
2652 types, shape, depth, size, and height of cultch materials on
2653 lease bottoms according to the individual shape, depth,
2654 location, and type of bottom of the proposed lease. Each lessee
2655 leasing lands under the provisions of this section or s. 253.71
2656 shall begin, within 1 year after the date of such lease, bona
2657 fide cultivation of the same, and shall, by the end of the
2658 second year after the commencement of such lease, have placed
2659 under cultivation at least one-half of the leased area and shall
2660 each year thereafter place in cultivation at least one-fourth of
2661 the leased area until the whole, suitable for bedding of oysters
2662 or clams, shall have been put in cultivation. The cultivation
2663 requirements for perpetuity leases granted pursuant to former
2664 chapter 370 prior to 1985 under previously existing law shall
2665 comply with the conditions stated in the lease agreement, and
2666 the lessee or grantee is authorized to plant the leased or
2667 granted submerged land in both oysters and clams.

2668 (9) LEASES TRANSFERABLE, ETC.—The leases in chapter 253 and

20091284er

2669 former chapter 370 shall be inheritable and transferable, in
2670 whole or in part, and shall also be subject to mortgage, pledge,
2671 or hypothecation and shall be subject to seizure and sale for
2672 debts as any other property, rights, and credits in this state,
2673 and this provision shall also apply to all buildings,
2674 betterments, and improvements thereon. Leases granted under this
2675 section cannot be transferred, by sale or barter, in whole or in
2676 part, without the written, express approval of the department,
2677 and such a transferee shall pay a \$50 transfer fee before
2678 department approval may be given. Leases inherited or
2679 transferred will be valid only upon receipt of the transfer fee
2680 and approval by the department. The department shall keep proper
2681 indexes so that all original leases and all subsequent changes
2682 and transfers can be easily and accurately ascertained.

2683 (12) FRANKLIN COUNTY LEASES.—On and after the effective
2684 date of this section, the only leases available in Franklin
2685 County shall be those issued pursuant to ss. 253.67-253.75;
2686 former chapter 370 leases shall no longer be available. The
2687 department shall require in the lease agreement such
2688 restrictions as it deems necessary to protect the environment,
2689 the existing leaseholders, and public fishery.

2690 Reviser's note.—Amended to confirm the editorial
2691 addition of the word "former" to provide a historical
2692 reference; chapter 370 was transferred to chapter 379
2693 by ch. 2008-247, Laws of Florida.

2694 Section 78. Paragraph (c) of subsection (1) of section
2695 624.4213, Florida Statutes, is amended to read:

2696 624.4213 Trade secret documents.—

2697 (1) If any person who is required to submit documents or

20091284er

2698 other information to the office or department pursuant to the
2699 insurance code or by rule or order of the office, department, or
2700 commission claims that such submission contains a trade secret,
2701 such person may file with the office or department a notice of
2702 trade secret as provided in this section. Failure to do so
2703 constitutes a waiver of any claim by such person that the
2704 document or information is a trade secret.

2705 (c) In submitting a notice of trade secret to the office or
2706 department, the submitting party must include an affidavit
2707 certifying under oath to the truth of the following statements
2708 concerning all documents or information that are claimed to be
2709 trade secrets:

2710 1. [I consider/My company considers] this information a
2711 trade secret that has value and provides an advantage or an
2712 opportunity to obtain an advantage over those who do not know or
2713 use it.

2714 2. [I have/My company has] taken measures to prevent the
2715 disclosure of the information to anyone other than ~~that~~ those
2716 who have been selected to have access for limited purposes, and
2717 [I intend/my company intends] to continue to take such measures.

2718 3. The information is not, and has not been, reasonably
2719 obtainable without [my/our] consent by other persons by use of
2720 legitimate means.

2721 4. The information is not publicly available elsewhere.
2722 Reviser's note.—Amended to confirm the editorial
2723 substitution of the word "than" for the word "that" to
2724 correct a typographical error.

2725 Section 79. Subsection (2) of section 626.8541, Florida
2726 Statutes, is amended to read:

20091284er

2727 626.8541 Public adjuster apprentice.—

2728 (2) A public adjuster apprentice must work with a licensed
2729 and appointed public adjuster for a period of 12 months as set
2730 forth in this section, and must otherwise be ~~who otherwise is~~ in
2731 full compliance with this chapter, prior to being eligible for
2732 appointment as a licensed public adjuster.

2733 Reviser's note.—Amended to confirm the editorial
2734 substitution of the words "must otherwise be" for the
2735 words "who otherwise is" to improve clarity and
2736 facilitate correct interpretation.

2737 Section 80. Section 626.8796, Florida Statutes, is amended
2738 to read:

2739 626.8796 Public adjuster contracts; fraud statement.—All
2740 contracts for public adjuster services must be in writing and
2741 must prominently display the following statement on the
2742 contract: "Pursuant to s. 817.234, Florida Statutes, any person
2743 who, with the intent to injure, defraud, or deceive any insurer
2744 or insured, prepares, presents, or causes to be presented a
2745 proof of loss or estimate of cost or repair of damaged property
2746 in support of a claim under an insurance policy knowing that the
2747 proof of loss or estimate of claim or repairs contains any
2748 false, incomplete, or misleading information concerning any fact
2749 or thing material to the claim commits a felony of the third
2750 degree, punishable as provided in s. 775.082, s. 775.083
2751 ~~775.803~~, or s. 775.084, Florida Statutes."

2752 Reviser's note.—Amended to confirm the editorial
2753 substitution of a reference to s. 775.083 for a
2754 reference to s. 775.803 to correct an apparent error.

2755 Section 775.803 does not exist; s. 775.083 provides

20091284er

2756 for punishment for a third degree felony.

2757 Section 81. Section 626.8797, Florida Statutes, is amended
2758 to read:

2759 626.8797 Proof of loss; fraud statement.—All proof of loss
2760 statements must prominently display the following statement:
2761 "Pursuant to s. 817.234, Florida Statutes, any person who, with
2762 the intent to injure, defraud, or deceive any insurer or
2763 insured, prepares, presents, or causes to be presented a proof
2764 of loss or estimate of cost or repair of damaged property in
2765 support of a claim under an insurance policy knowing that the
2766 proof of loss or estimate of claim or repairs contains any
2767 false, incomplete, or misleading information concerning any fact
2768 or thing material to the claim commits a felony of the third
2769 degree, punishable as provided in s. 775.082, s. 775.083
2770 ~~775.803~~, or s. 775.084, Florida Statutes."

2771 Reviser's note.—Amended to confirm the editorial
2772 substitution of a reference to s. 775.083 for a
2773 reference to s. 775.803 to correct an apparent error.
2774 Section 775.803 does not exist; s. 775.083 provides
2775 for punishment for a third degree felony.

2776 Section 82. Subsection (2) of section 627.0621, Florida
2777 Statutes, is amended to read:

2778 627.0621 Transparency in rate regulation.—

2779 (2) WEBSITE FOR PUBLIC ACCESS TO RATE FILING INFORMATION.—
2780 With respect to any rate filing made on or after July 1, 2008,
2781 the office shall provide the following information on a publicly
2782 accessible Internet website:

2783 (a) The overall rate change requested by the insurer.

2784 (b) All assumptions made by the office's actuaries.

20091284er

2785 (c) A statement describing any assumptions or methods that
2786 deviate from the actuarial standards of practice of the Casualty
2787 Actuarial Society or the American Academy of Actuaries,
2788 including an explanation of the nature, rationale, and effect of
2789 the deviation.

2790 (d) All recommendations made by any office actuary who
2791 reviewed the rate filing.

2792 (e) Certification by the office's actuary that, based on
2793 the actuary's knowledge, his or her recommendations are
2794 consistent with accepted actuarial principles.

2795 (f) The overall rate change approved by the office.
2796 Reviser's note.—Amended to confirm the editorial
2797 insertion of the word "or" to improve clarity and
2798 facilitate correct interpretation.

2799 Section 83. Paragraph (c) of subsection (1) of section
2800 627.0628, Florida Statutes, is amended to read:

2801 627.0628 Florida Commission on Hurricane Loss Projection
2802 Methodology; public records exemption; public meetings
2803 exemption.—

2804 (1) LEGISLATIVE FINDINGS AND INTENT.—

2805 (c) It is the intent of the Legislature to create the
2806 Florida Commission on Hurricane Loss Projection Methodology as a
2807 panel of experts to provide the most actuarially sophisticated
2808 guidelines and standards for projection of hurricane losses
2809 possible, given the current state of actuarial science. It is
2810 the further intent of the Legislature that such standards and
2811 guidelines must be used by the State Board of Administration in
2812 developing reimbursement premium rates for the Florida Hurricane
2813 Catastrophe Fund, and, subject to paragraph (3) (d) ~~(3) (e)~~, must

20091284er

2814 be used by insurers in rate filings under s. 627.062 unless the
2815 way in which such standards and guidelines were applied by the
2816 insurer was erroneous, as shown by a preponderance of the
2817 evidence.

2818 Reviser's note.—Amended to conform to the
2819 redesignation of paragraph (3)(c) as paragraph (3)(d)
2820 by s. 11, ch. 2008-66, Laws of Florida.

2821 Section 84. Subsection (2) of section 627.351, Florida
2822 Statutes, is reenacted to read:

2823 627.351 Insurance risk apportionment plans.—

2824 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

2825 (a) Agreements may be made among property insurers with
2826 respect to the equitable apportionment among them of insurance
2827 which may be afforded applicants who are in good faith entitled
2828 to, but are unable to procure, such insurance through ordinary
2829 methods; and such insurers may agree among themselves on the use
2830 of reasonable rate modifications for such insurance. Such
2831 agreements and rate modifications shall be subject to the
2832 applicable provisions of this chapter.

2833 (b) The department shall require all insurers holding a
2834 certificate of authority to transact property insurance on a
2835 direct basis in this state, other than joint underwriting
2836 associations and other entities formed pursuant to this section,
2837 to provide windstorm coverage to applicants from areas
2838 determined to be eligible pursuant to paragraph (c) who in good
2839 faith are entitled to, but are unable to procure, such coverage
2840 through ordinary means; or it shall adopt a reasonable plan or
2841 plans for the equitable apportionment or sharing among such
2842 insurers of windstorm coverage, which may include formation of

20091284er

2843 an association for this purpose. As used in this subsection, the
2844 term "property insurance" means insurance on real or personal
2845 property, as defined in s. 624.604, including insurance for
2846 fire, industrial fire, allied lines, farmowners multiperil,
2847 homeowners' multiperil, commercial multiperil, and mobile homes,
2848 and including liability coverages on all such insurance, but
2849 excluding inland marine as defined in s. 624.607(3) and
2850 excluding vehicle insurance as defined in s. 624.605(1)(a) other
2851 than insurance on mobile homes used as permanent dwellings. The
2852 department shall adopt rules that provide a formula for the
2853 recovery and repayment of any deferred assessments.

2854 1. For the purpose of this section, properties eligible for
2855 such windstorm coverage are defined as dwellings, buildings, and
2856 other structures, including mobile homes which are used as
2857 dwellings and which are tied down in compliance with mobile home
2858 tie-down requirements prescribed by the Department of Highway
2859 Safety and Motor Vehicles pursuant to s. 320.8325, and the
2860 contents of all such properties. An applicant or policyholder is
2861 eligible for coverage only if an offer of coverage cannot be
2862 obtained by or for the applicant or policyholder from an
2863 admitted insurer at approved rates.

2864 2.a.

2865 (I) All insurers required to be members of such association
2866 shall participate in its writings, expenses, and losses. Surplus
2867 of the association shall be retained for the payment of claims
2868 and shall not be distributed to the member insurers. Such
2869 participation by member insurers shall be in the proportion that
2870 the net direct premiums of each member insurer written for
2871 property insurance in this state during the preceding calendar

20091284er

2872 year bear to the aggregate net direct premiums for property
2873 insurance of all member insurers, as reduced by any credits for
2874 voluntary writings, in this state during the preceding calendar
2875 year. For the purposes of this subsection, the term "net direct
2876 premiums" means direct written premiums for property insurance,
2877 reduced by premium for liability coverage and for the following
2878 if included in allied lines: rain and hail on growing crops;
2879 livestock; association direct premiums booked; National Flood
2880 Insurance Program direct premiums; and similar deductions
2881 specifically authorized by the plan of operation and approved by
2882 the department. A member's participation shall begin on the
2883 first day of the calendar year following the year in which it is
2884 issued a certificate of authority to transact property insurance
2885 in the state and shall terminate 1 year after the end of the
2886 calendar year during which it no longer holds a certificate of
2887 authority to transact property insurance in the state. The
2888 commissioner, after review of annual statements, other reports,
2889 and any other statistics that the commissioner deems necessary,
2890 shall certify to the association the aggregate direct premiums
2891 written for property insurance in this state by all member
2892 insurers.

2893 (II) Effective July 1, 2002, the association shall operate
2894 subject to the supervision and approval of a board of governors
2895 who are the same individuals that have been appointed by the
2896 Treasurer to serve on the board of governors of the Citizens
2897 Property Insurance Corporation.

2898 (III) The plan of operation shall provide a formula whereby
2899 a company voluntarily providing windstorm coverage in affected
2900 areas will be relieved wholly or partially from apportionment of

20091284er

2901 a regular assessment pursuant to sub-sub-subparagraph d.(I) or
2902 sub-sub-subparagraph d.(II).

2903 (IV) A company which is a member of a group of companies
2904 under common management may elect to have its credits applied on
2905 a group basis, and any company or group may elect to have its
2906 credits applied to any other company or group.

2907 (V) There shall be no credits or relief from apportionment
2908 to a company for emergency assessments collected from its
2909 policyholders under sub-sub-subparagraph d.(III).

2910 (VI) The plan of operation may also provide for the award
2911 of credits, for a period not to exceed 3 years, from a regular
2912 assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-
2913 subparagraph d.(II) as an incentive for taking policies out of
2914 the Residential Property and Casualty Joint Underwriting
2915 Association. In order to qualify for the exemption under this
2916 sub-sub-subparagraph, the take-out plan must provide that at
2917 least 40 percent of the policies removed from the Residential
2918 Property and Casualty Joint Underwriting Association cover risks
2919 located in Miami-Dade, Broward, and Palm Beach Counties or at
2920 least 30 percent of the policies so removed cover risks located
2921 in Miami-Dade, Broward, and Palm Beach Counties and an
2922 additional 50 percent of the policies so removed cover risks
2923 located in other coastal counties, and must also provide that no
2924 more than 15 percent of the policies so removed may exclude
2925 windstorm coverage. With the approval of the department, the
2926 association may waive these geographic criteria for a take-out
2927 plan that removes at least the lesser of 100,000 Residential
2928 Property and Casualty Joint Underwriting Association policies or
2929 15 percent of the total number of Residential Property and

20091284er

2930 Casualty Joint Underwriting Association policies, provided the
2931 governing board of the Residential Property and Casualty Joint
2932 Underwriting Association certifies that the take-out plan will
2933 materially reduce the Residential Property and Casualty Joint
2934 Underwriting Association's 100-year probable maximum loss from
2935 hurricanes. With the approval of the department, the board may
2936 extend such credits for an additional year if the insurer
2937 guarantees an additional year of renewability for all policies
2938 removed from the Residential Property and Casualty Joint
2939 Underwriting Association, or for 2 additional years if the
2940 insurer guarantees 2 additional years of renewability for all
2941 policies removed from the Residential Property and Casualty
2942 Joint Underwriting Association.

2943 b. Assessments to pay deficits in the association under
2944 this subparagraph shall be included as an appropriate factor in
2945 the making of rates as provided in s. 627.3512.

2946 c. The Legislature finds that the potential for unlimited
2947 deficit assessments under this subparagraph may induce insurers
2948 to attempt to reduce their writings in the voluntary market, and
2949 that such actions would worsen the availability problems that
2950 the association was created to remedy. It is the intent of the
2951 Legislature that insurers remain fully responsible for paying
2952 regular assessments and collecting emergency assessments for any
2953 deficits of the association; however, it is also the intent of
2954 the Legislature to provide a means by which assessment
2955 liabilities may be amortized over a period of years.

2956 d.

2957 (I) When the deficit incurred in a particular calendar year
2958 is 10 percent or less of the aggregate statewide direct written

20091284er

2959 premium for property insurance for the prior calendar year for
2960 all member insurers, the association shall levy an assessment on
2961 member insurers in an amount equal to the deficit.

2962 (II) When the deficit incurred in a particular calendar
2963 year exceeds 10 percent of the aggregate statewide direct
2964 written premium for property insurance for the prior calendar
2965 year for all member insurers, the association shall levy an
2966 assessment on member insurers in an amount equal to the greater
2967 of 10 percent of the deficit or 10 percent of the aggregate
2968 statewide direct written premium for property insurance for the
2969 prior calendar year for member insurers. Any remaining deficit
2970 shall be recovered through emergency assessments under sub-sub-
2971 subparagraph (III).

2972 (III) Upon a determination by the board of directors that a
2973 deficit exceeds the amount that will be recovered through
2974 regular assessments on member insurers, pursuant to sub-sub-
2975 subparagraph (I) or sub-sub-subparagraph (II), the board shall
2976 levy, after verification by the department, emergency
2977 assessments to be collected by member insurers and by
2978 underwriting associations created pursuant to this section which
2979 write property insurance, upon issuance or renewal of property
2980 insurance policies other than National Flood Insurance policies
2981 in the year or years following levy of the regular assessments.
2982 The amount of the emergency assessment collected in a particular
2983 year shall be a uniform percentage of that year's direct written
2984 premium for property insurance for all member insurers and
2985 underwriting associations, excluding National Flood Insurance
2986 policy premiums, as annually determined by the board and
2987 verified by the department. The department shall verify the

20091284er

2988 arithmetic calculations involved in the board's determination
2989 within 30 days after receipt of the information on which the
2990 determination was based. Notwithstanding any other provision of
2991 law, each member insurer and each underwriting association
2992 created pursuant to this section shall collect emergency
2993 assessments from its policyholders without such obligation being
2994 affected by any credit, limitation, exemption, or deferment. The
2995 emergency assessments so collected shall be transferred directly
2996 to the association on a periodic basis as determined by the
2997 association. The aggregate amount of emergency assessments
2998 levied under this sub-sub-subparagraph in any calendar year may
2999 not exceed the greater of 10 percent of the amount needed to
3000 cover the original deficit, plus interest, fees, commissions,
3001 required reserves, and other costs associated with financing of
3002 the original deficit, or 10 percent of the aggregate statewide
3003 direct written premium for property insurance written by member
3004 insurers and underwriting associations for the prior year, plus
3005 interest, fees, commissions, required reserves, and other costs
3006 associated with financing the original deficit. The board may
3007 pledge the proceeds of the emergency assessments under this sub-
3008 sub-subparagraph as the source of revenue for bonds, to retire
3009 any other debt incurred as a result of the deficit or events
3010 giving rise to the deficit, or in any other way that the board
3011 determines will efficiently recover the deficit. The emergency
3012 assessments under this sub-sub-subparagraph shall continue as
3013 long as any bonds issued or other indebtedness incurred with
3014 respect to a deficit for which the assessment was imposed remain
3015 outstanding, unless adequate provision has been made for the
3016 payment of such bonds or other indebtedness pursuant to the

20091284er

3017 document governing such bonds or other indebtedness. Emergency
3018 assessments collected under this sub-sub-subparagraph are not
3019 part of an insurer's rates, are not premium, and are not subject
3020 to premium tax, fees, or commissions; however, failure to pay
3021 the emergency assessment shall be treated as failure to pay
3022 premium.

3023 (IV) Each member insurer's share of the total regular
3024 assessments under sub-sub-subparagraph (I) or sub-sub-
3025 subparagraph (II) shall be in the proportion that the insurer's
3026 net direct premium for property insurance in this state, for the
3027 year preceding the assessment bears to the aggregate statewide
3028 net direct premium for property insurance of all member
3029 insurers, as reduced by any credits for voluntary writings for
3030 that year.

3031 (V) If regular deficit assessments are made under sub-sub-
3032 subparagraph (I) or sub-sub-subparagraph (II), or by the
3033 Residential Property and Casualty Joint Underwriting Association
3034 under sub-subparagraph (6) (b) 3.a. or sub-subparagraph
3035 (6) (b) 3.b., the association shall levy upon the association's
3036 policyholders, as part of its next rate filing, or by a separate
3037 rate filing solely for this purpose, a market equalization
3038 surcharge in a percentage equal to the total amount of such
3039 regular assessments divided by the aggregate statewide direct
3040 written premium for property insurance for member insurers for
3041 the prior calendar year. Market equalization surcharges under
3042 this sub-sub-subparagraph are not considered premium and are not
3043 subject to commissions, fees, or premium taxes; however, failure
3044 to pay a market equalization surcharge shall be treated as
3045 failure to pay premium.

20091284er

3046 e. The governing body of any unit of local government, any
3047 residents of which are insured under the plan, may issue bonds
3048 as defined in s. 125.013 or s. 166.101 to fund an assistance
3049 program, in conjunction with the association, for the purpose of
3050 defraying deficits of the association. In order to avoid
3051 needless and indiscriminate proliferation, duplication, and
3052 fragmentation of such assistance programs, any unit of local
3053 government, any residents of which are insured by the
3054 association, may provide for the payment of losses, regardless
3055 of whether or not the losses occurred within or outside of the
3056 territorial jurisdiction of the local government. Revenue bonds
3057 may not be issued until validated pursuant to chapter 75, unless
3058 a state of emergency is declared by executive order or
3059 proclamation of the Governor pursuant to s. 252.36 making such
3060 findings as are necessary to determine that it is in the best
3061 interests of, and necessary for, the protection of the public
3062 health, safety, and general welfare of residents of this state
3063 and the protection and preservation of the economic stability of
3064 insurers operating in this state, and declaring it an essential
3065 public purpose to permit certain municipalities or counties to
3066 issue bonds as will provide relief to claimants and
3067 policyholders of the association and insurers responsible for
3068 apportionment of plan losses. Any such unit of local government
3069 may enter into such contracts with the association and with any
3070 other entity created pursuant to this subsection as are
3071 necessary to carry out this paragraph. Any bonds issued under
3072 this sub-subparagraph shall be payable from and secured by
3073 moneys received by the association from assessments under this
3074 subparagraph, and assigned and pledged to or on behalf of the

20091284er

3075 unit of local government for the benefit of the holders of such
3076 bonds. The funds, credit, property, and taxing power of the
3077 state or of the unit of local government shall not be pledged
3078 for the payment of such bonds. If any of the bonds remain unsold
3079 60 days after issuance, the department shall require all
3080 insurers subject to assessment to purchase the bonds, which
3081 shall be treated as admitted assets; each insurer shall be
3082 required to purchase that percentage of the unsold portion of
3083 the bond issue that equals the insurer's relative share of
3084 assessment liability under this subsection. An insurer shall not
3085 be required to purchase the bonds to the extent that the
3086 department determines that the purchase would endanger or impair
3087 the solvency of the insurer. The authority granted by this sub-
3088 subparagraph is additional to any bonding authority granted by
3089 subparagraph 6.

3090 3. The plan shall also provide that any member with a
3091 surplus as to policyholders of \$20 million or less writing 25
3092 percent or more of its total countrywide property insurance
3093 premiums in this state may petition the department, within the
3094 first 90 days of each calendar year, to qualify as a limited
3095 apportionment company. The apportionment of such a member
3096 company in any calendar year for which it is qualified shall not
3097 exceed its gross participation, which shall not be affected by
3098 the formula for voluntary writings. In no event shall a limited
3099 apportionment company be required to participate in any
3100 apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)
3101 or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds
3102 \$50 million after payment of available plan funds in any
3103 calendar year. However, a limited apportionment company shall

20091284er

3104 collect from its policyholders any emergency assessment imposed
3105 under sub-sub-subparagraph 2.d.(III). The plan shall provide
3106 that, if the department determines that any regular assessment
3107 will result in an impairment of the surplus of a limited
3108 apportionment company, the department may direct that all or
3109 part of such assessment be deferred. However, there shall be no
3110 limitation or deferment of an emergency assessment to be
3111 collected from policyholders under sub-sub-subparagraph
3112 2.d.(III).

3113 4. The plan shall provide for the deferment, in whole or in
3114 part, of a regular assessment of a member insurer under sub-sub-
3115 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but not
3116 for an emergency assessment collected from policyholders under
3117 sub-sub-subparagraph 2.d.(III), if, in the opinion of the
3118 commissioner, payment of such regular assessment would endanger
3119 or impair the solvency of the member insurer. In the event a
3120 regular assessment against a member insurer is deferred in whole
3121 or in part, the amount by which such assessment is deferred may
3122 be assessed against the other member insurers in a manner
3123 consistent with the basis for assessments set forth in sub-sub-
3124 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

3125 5.a. The plan of operation may include deductibles and
3126 rules for classification of risks and rate modifications
3127 consistent with the objective of providing and maintaining funds
3128 sufficient to pay catastrophe losses.

3129 b. It is the intent of the Legislature that the rates for
3130 coverage provided by the association be actuarially sound and
3131 not competitive with approved rates charged in the admitted
3132 voluntary market such that the association functions as a

20091284er

3133 residual market mechanism to provide insurance only when the
3134 insurance cannot be procured in the voluntary market. The plan
3135 of operation shall provide a mechanism to assure that, beginning
3136 no later than January 1, 1999, the rates charged by the
3137 association for each line of business are reflective of approved
3138 rates in the voluntary market for hurricane coverage for each
3139 line of business in the various areas eligible for association
3140 coverage.

3141 c. The association shall provide for windstorm coverage on
3142 residential properties in limits up to \$10 million for
3143 commercial lines residential risks and up to \$1 million for
3144 personal lines residential risks. If coverage with the
3145 association is sought for a residential risk valued in excess of
3146 these limits, coverage shall be available to the risk up to the
3147 replacement cost or actual cash value of the property, at the
3148 option of the insured, if coverage for the risk cannot be
3149 located in the authorized market. The association must accept a
3150 commercial lines residential risk with limits above \$10 million
3151 or a personal lines residential risk with limits above \$1
3152 million if coverage is not available in the authorized market.
3153 The association may write coverage above the limits specified in
3154 this subparagraph with or without facultative or other
3155 reinsurance coverage, as the association determines appropriate.

3156 d. The plan of operation must provide objective criteria
3157 and procedures, approved by the department, to be uniformly
3158 applied for all applicants in determining whether an individual
3159 risk is so hazardous as to be uninsurable. In making this
3160 determination and in establishing the criteria and procedures,
3161 the following shall be considered:

20091284er

3162 (I) Whether the likelihood of a loss for the individual
3163 risk is substantially higher than for other risks of the same
3164 class; and

3165 (II) Whether the uncertainty associated with the individual
3166 risk is such that an appropriate premium cannot be determined.

3167

3168 The acceptance or rejection of a risk by the association
3169 pursuant to such criteria and procedures must be construed as
3170 the private placement of insurance, and the provisions of
3171 chapter 120 do not apply.

3172 e. If the risk accepts an offer of coverage through the
3173 market assistance program or through a mechanism established by
3174 the association, either before the policy is issued by the
3175 association or during the first 30 days of coverage by the
3176 association, and the producing agent who submitted the
3177 application to the association is not currently appointed by the
3178 insurer, the insurer shall:

3179 (I) Pay to the producing agent of record of the policy, for
3180 the first year, an amount that is the greater of the insurer's
3181 usual and customary commission for the type of policy written or
3182 a fee equal to the usual and customary commission of the
3183 association; or

3184 (II) Offer to allow the producing agent of record of the
3185 policy to continue servicing the policy for a period of not less
3186 than 1 year and offer to pay the agent the greater of the
3187 insurer's or the association's usual and customary commission
3188 for the type of policy written.

3189

3190 If the producing agent is unwilling or unable to accept

20091284er

3191 appointment, the new insurer shall pay the agent in accordance
3192 with sub-sub-subparagraph (I). Subject to the provisions of s.
3193 627.3517, the policies issued by the association must provide
3194 that if the association obtains an offer from an authorized
3195 insurer to cover the risk at its approved rates under either a
3196 standard policy including wind coverage or, if consistent with
3197 the insurer's underwriting rules as filed with the department, a
3198 basic policy including wind coverage, the risk is no longer
3199 eligible for coverage through the association. Upon termination
3200 of eligibility, the association shall provide written notice to
3201 the policyholder and agent of record stating that the
3202 association policy must be canceled as of 60 days after the date
3203 of the notice because of the offer of coverage from an
3204 authorized insurer. Other provisions of the insurance code
3205 relating to cancellation and notice of cancellation do not apply
3206 to actions under this sub-subparagraph.

3207 f. When the association enters into a contractual agreement
3208 for a take-out plan, the producing agent of record of the
3209 association policy is entitled to retain any unearned commission
3210 on the policy, and the insurer shall:

3211 (I) Pay to the producing agent of record of the association
3212 policy, for the first year, an amount that is the greater of the
3213 insurer's usual and customary commission for the type of policy
3214 written or a fee equal to the usual and customary commission of
3215 the association; or

3216 (II) Offer to allow the producing agent of record of the
3217 association policy to continue servicing the policy for a period
3218 of not less than 1 year and offer to pay the agent the greater
3219 of the insurer's or the association's usual and customary

20091284er

3220 commission for the type of policy written.

3221

3222 If the producing agent is unwilling or unable to accept
3223 appointment, the new insurer shall pay the agent in accordance
3224 with sub-sub-subparagraph (I).

3225 6.a. The plan of operation may authorize the formation of a
3226 private nonprofit corporation, a private nonprofit
3227 unincorporated association, a partnership, a trust, a limited
3228 liability company, or a nonprofit mutual company which may be
3229 empowered, among other things, to borrow money by issuing bonds
3230 or by incurring other indebtedness and to accumulate reserves or
3231 funds to be used for the payment of insured catastrophe losses.
3232 The plan may authorize all actions necessary to facilitate the
3233 issuance of bonds, including the pledging of assessments or
3234 other revenues.

3235 b. Any entity created under this subsection, or any entity
3236 formed for the purposes of this subsection, may sue and be sued,
3237 may borrow money; issue bonds, notes, or debt instruments;
3238 pledge or sell assessments, market equalization surcharges and
3239 other surcharges, rights, premiums, contractual rights,
3240 projected recoveries from the Florida Hurricane Catastrophe
3241 Fund, other reinsurance recoverables, and other assets as
3242 security for such bonds, notes, or debt instruments; enter into
3243 any contracts or agreements necessary or proper to accomplish
3244 such borrowings; and take other actions necessary to carry out
3245 the purposes of this subsection. The association may issue bonds
3246 or incur other indebtedness, or have bonds issued on its behalf
3247 by a unit of local government pursuant to subparagraph (6) (p)2.,
3248 in the absence of a hurricane or other weather-related event,

20091284er

3249 upon a determination by the association subject to approval by
3250 the department that such action would enable it to efficiently
3251 meet the financial obligations of the association and that such
3252 financings are reasonably necessary to effectuate the
3253 requirements of this subsection. Any such entity may accumulate
3254 reserves and retain surpluses as of the end of any association
3255 year to provide for the payment of losses incurred by the
3256 association during that year or any future year. The association
3257 shall incorporate and continue the plan of operation and
3258 articles of agreement in effect on the effective date of chapter
3259 76-96, Laws of Florida, to the extent that it is not
3260 inconsistent with chapter 76-96, and as subsequently modified
3261 consistent with chapter 76-96. The board of directors and
3262 officers currently serving shall continue to serve until their
3263 successors are duly qualified as provided under the plan. The
3264 assets and obligations of the plan in effect immediately prior
3265 to the effective date of chapter 76-96 shall be construed to be
3266 the assets and obligations of the successor plan created herein.

3267 c. In recognition of s. 10, Art. I of the State
3268 Constitution, prohibiting the impairment of obligations of
3269 contracts, it is the intent of the Legislature that no action be
3270 taken whose purpose is to impair any bond indenture or financing
3271 agreement or any revenue source committed by contract to such
3272 bond or other indebtedness issued or incurred by the association
3273 or any other entity created under this subsection.

3274 7. On such coverage, an agent's remuneration shall be that
3275 amount of money payable to the agent by the terms of his or her
3276 contract with the company with which the business is placed.
3277 However, no commission will be paid on that portion of the

20091284er

3278 premium which is in excess of the standard premium of that
3279 company.

3280 8. Subject to approval by the department, the association
3281 may establish different eligibility requirements and operational
3282 procedures for any line or type of coverage for any specified
3283 eligible area or portion of an eligible area if the board
3284 determines that such changes to the eligibility requirements and
3285 operational procedures are justified due to the voluntary market
3286 being sufficiently stable and competitive in such area or for
3287 such line or type of coverage and that consumers who, in good
3288 faith, are unable to obtain insurance through the voluntary
3289 market through ordinary methods would continue to have access to
3290 coverage from the association. When coverage is sought in
3291 connection with a real property transfer, such requirements and
3292 procedures shall not provide for an effective date of coverage
3293 later than the date of the closing of the transfer as
3294 established by the transferor, the transferee, and, if
3295 applicable, the lender.

3296 9. Notwithstanding any other provision of law:

3297 a. The pledge or sale of, the lien upon, and the security
3298 interest in any rights, revenues, or other assets of the
3299 association created or purported to be created pursuant to any
3300 financing documents to secure any bonds or other indebtedness of
3301 the association shall be and remain valid and enforceable,
3302 notwithstanding the commencement of and during the continuation
3303 of, and after, any rehabilitation, insolvency, liquidation,
3304 bankruptcy, receivership, conservatorship, reorganization, or
3305 similar proceeding against the association under the laws of
3306 this state or any other applicable laws.

20091284er

3307 b. No such proceeding shall relieve the association of its
3308 obligation, or otherwise affect its ability to perform its
3309 obligation, to continue to collect, or levy and collect,
3310 assessments, market equalization or other surcharges, projected
3311 recoveries from the Florida Hurricane Catastrophe Fund,
3312 reinsurance recoverables, or any other rights, revenues, or
3313 other assets of the association pledged.

3314 c. Each such pledge or sale of, lien upon, and security
3315 interest in, including the priority of such pledge, lien, or
3316 security interest, any such assessments, emergency assessments,
3317 market equalization or renewal surcharges, projected recoveries
3318 from the Florida Hurricane Catastrophe Fund, reinsurance
3319 recoverables, or other rights, revenues, or other assets which
3320 are collected, or levied and collected, after the commencement
3321 of and during the pendency of or after any such proceeding shall
3322 continue unaffected by such proceeding.

3323 d. As used in this subsection, the term "financing
3324 documents" means any agreement, instrument, or other document
3325 now existing or hereafter created evidencing any bonds or other
3326 indebtedness of the association or pursuant to which any such
3327 bonds or other indebtedness has been or may be issued and
3328 pursuant to which any rights, revenues, or other assets of the
3329 association are pledged or sold to secure the repayment of such
3330 bonds or indebtedness, together with the payment of interest on
3331 such bonds or such indebtedness, or the payment of any other
3332 obligation of the association related to such bonds or
3333 indebtedness.

3334 e. Any such pledge or sale of assessments, revenues,
3335 contract rights or other rights or assets of the association

20091284er

3336 shall constitute a lien and security interest, or sale, as the
3337 case may be, that is immediately effective and attaches to such
3338 assessments, revenues, contract, or other rights or assets,
3339 whether or not imposed or collected at the time the pledge or
3340 sale is made. Any such pledge or sale is effective, valid,
3341 binding, and enforceable against the association or other entity
3342 making such pledge or sale, and valid and binding against and
3343 superior to any competing claims or obligations owed to any
3344 other person or entity, including policyholders in this state,
3345 asserting rights in any such assessments, revenues, contract, or
3346 other rights or assets to the extent set forth in and in
3347 accordance with the terms of the pledge or sale contained in the
3348 applicable financing documents, whether or not any such person
3349 or entity has notice of such pledge or sale and without the need
3350 for any physical delivery, recordation, filing, or other action.

3351 f. There shall be no liability on the part of, and no cause
3352 of action of any nature shall arise against, any member insurer
3353 or its agents or employees, agents or employees of the
3354 association, members of the board of directors of the
3355 association, or the department or its representatives, for any
3356 action taken by them in the performance of their duties or
3357 responsibilities under this subsection. Such immunity does not
3358 apply to actions for breach of any contract or agreement
3359 pertaining to insurance, or any willful tort.

3360 (c) The provisions of paragraph (b) are applicable only
3361 with respect to:

3362 1. Those areas that were eligible for coverage under this
3363 subsection on April 9, 1993; or

3364 2. Any county or area as to which the department, after

20091284er

3365 public hearing, finds that the following criteria exist:

3366 a. Due to the lack of windstorm insurance coverage in the
3367 county or area so affected, economic growth and development is
3368 being deterred or otherwise stifled in such county or area,
3369 mortgages are in default, and financial institutions are unable
3370 to make loans;

3371 b. The county or area so affected is enforcing the
3372 structural requirements of the Florida Building Code, as defined
3373 in s. 553.73, for new construction and has included adequate
3374 minimum floor elevation requirements for structures in areas
3375 subject to inundation; and

3376 c. Extending windstorm insurance coverage to such county or
3377 area is consistent with and will implement and further the
3378 policies and objectives set forth in applicable state laws,
3379 rules, and regulations governing coastal management, coastal
3380 construction, comprehensive planning, beach and shore
3381 preservation, barrier island preservation, coastal zone
3382 protection, and the Coastal Zone Protection Act of 1985.

3383
3384 The department shall consider reports of the Florida Building
3385 Commission when evaluating building code enforcement. Any time
3386 after the department has determined that the criteria referred
3387 to in this subparagraph do not exist with respect to any county
3388 or area of the state, it may, after a subsequent public hearing,
3389 declare that such county or area is no longer eligible for
3390 windstorm coverage through the plan.

3391 (d) For the purpose of evaluating whether the criteria of
3392 paragraph (c) are met, such criteria shall be applied as the
3393 situation would exist if policies had not been written by the

20091284er

3394 Florida Residential Property and Casualty Joint Underwriting
3395 Association and property insurance for such policyholders was
3396 not available.

3397 (e)1. Notwithstanding the provisions of subparagraph (c)2.
3398 or paragraph (d), eligibility shall not be extended to any area
3399 that was not eligible on March 1, 1997, except that the
3400 department may act with respect to any petition on which a
3401 hearing was held prior to May 9, 1997.

3402 2. Notwithstanding the provisions of subparagraph 1., the
3403 following area is eligible for coverage under this subsection
3404 effective July 1, 2002: the area within Port Canaveral which is
3405 bordered on the south by the City of Cape Canaveral, bordered on
3406 the west by the Banana River, and bordered on the north by
3407 United States Government property.

3408 (f) As used in this subsection, the term "department" means
3409 the former Department of Insurance.

3410 Reviser's note.—Section 13, ch. 2008-66, Laws of
3411 Florida, amended subsection (2) without publishing
3412 paragraphs (a) and (c)-(f). Absent affirmative
3413 evidence of legislative intent to repeal the omitted
3414 paragraphs, subsection (2) is reenacted to confirm the
3415 omission was not intended.

3416 Section 85. Section 627.35193, Florida Statutes, is amended
3417 to read:

3418 627.35193 Consumer reporting agency request for claims data
3419 from Citizens Property Insurance Corporation.—Upon the request
3420 of a consumer reporting agency, as defined by the federal Fair
3421 Credit Reporting Act, 15 U.S.C. ss. 1681 et seq., which consumer
3422 reporting agency is in ~~on~~ compliance with the confidentiality

20091284er

3423 requirements of such act, the Citizens Property Insurance
3424 Corporation shall electronically report claims data and
3425 histories to such consumer reporting agency which maintains a
3426 database of similar data for use in connection with the
3427 underwriting of insurance involving a consumer.

3428 Reviser's note.—Amended to confirm the editorial
3429 substitution of the word "in" for the word "on" to
3430 correct a typographical error.

3431 Section 86. Paragraph (a) of subsection (5) of section
3432 627.736, Florida Statutes, is amended to read:

3433 627.736 Required personal injury protection benefits;
3434 exclusions; priority; claims.—

3435 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.—

3436 (a)1. Any physician, hospital, clinic, or other person or
3437 institution lawfully rendering treatment to an injured person
3438 for a bodily injury covered by personal injury protection
3439 insurance may charge the insurer and injured party only a
3440 reasonable amount pursuant to this section for the services and
3441 supplies rendered, and the insurer providing such coverage may
3442 pay for such charges directly to such person or institution
3443 lawfully rendering such treatment, if the insured receiving such
3444 treatment or his or her guardian has countersigned the properly
3445 completed invoice, bill, or claim form approved by the office
3446 upon which such charges are to be paid for as having actually
3447 been rendered, to the best knowledge of the insured or his or
3448 her guardian. In no event, however, may such a charge be in
3449 excess of the amount the person or institution customarily
3450 charges for like services or supplies. With respect to a
3451 determination of whether a charge for a particular service,

20091284er

3452 treatment, or otherwise is reasonable, consideration may be
3453 given to evidence of usual and customary charges and payments
3454 accepted by the provider involved in the dispute, and
3455 reimbursement levels in the community and various federal and
3456 state medical fee schedules applicable to automobile and other
3457 insurance coverages, and other information relevant to the
3458 reasonableness of the reimbursement for the service, treatment,
3459 or supply.

3460 2. The insurer may limit reimbursement to 80 percent of the
3461 following schedule of maximum charges:

3462 a. For emergency transport and treatment by providers
3463 licensed under chapter 401, 200 percent of Medicare.

3464 b. For emergency services and care provided by a hospital
3465 licensed under chapter 395, 75 percent of the hospital's usual
3466 and customary charges.

3467 c. For emergency services and care as defined by s.
3468 395.002(9) provided in a facility licensed under chapter 395
3469 rendered by a physician or dentist, and related hospital
3470 inpatient services rendered by a physician or dentist, the usual
3471 and customary charges in the community.

3472 d. For hospital inpatient services, other than emergency
3473 services and care, 200 percent of the Medicare Part A
3474 prospective payment applicable to the specific hospital
3475 providing the inpatient services.

3476 e. For hospital outpatient services, other than emergency
3477 services and care, 200 percent of the Medicare Part A Ambulatory
3478 Payment Classification for the specific hospital providing the
3479 outpatient services.

3480 f. For all other medical services, supplies, and care, 200

20091284er

3481 percent of the allowable amount under the participating
3482 physicians schedule of Medicare Part B. However, if such
3483 services, supplies, or care is not reimbursable under Medicare
3484 Part B, the insurer may limit reimbursement to 80 percent of the
3485 maximum reimbursable allowance under workers' compensation, as
3486 determined under s. 440.13 and rules adopted thereunder which
3487 are in effect at the time such services, supplies, or care is
3488 provided. Services, supplies, or care that is not reimbursable
3489 under Medicare or workers' compensation is not required to be
3490 reimbursed by the insurer.

3491 3. For purposes of subparagraph 2., the applicable fee
3492 schedule or payment limitation under Medicare is the fee
3493 schedule or payment limitation in effect at the time the
3494 services, supplies, or care was rendered and for the area in
3495 which such services were rendered, except that it may not be
3496 less than the allowable amount under the participating
3497 physicians schedule of Medicare Part B for 2007 for medical
3498 services, supplies, and care subject to Medicare Part B.

3499 4. Subparagraph 2. does not allow the insurer to apply any
3500 limitation on the number of treatments or other utilization
3501 limits that apply under Medicare or workers' compensation. An
3502 insurer that applies the allowable payment limitations of
3503 subparagraph 2. must reimburse a provider who lawfully provided
3504 care or treatment under the scope of his or her license,
3505 regardless of whether such provider would be entitled to
3506 reimbursement under Medicare due to restrictions or limitations
3507 on the types or discipline of health care providers who may be
3508 reimbursed for particular procedures or procedure codes.

3509 5. If an insurer limits payment as authorized by

20091284er

3510 subparagraph 2., the person providing such services, supplies,
3511 or care may not bill or attempt to collect from the insured any
3512 amount in excess of such limits, except for amounts that are not
3513 covered by the insured's personal injury protection coverage due
3514 to the coinsurance amount or maximum policy limits.

3515 Reviser's note.—Amended to confirm the editorial
3516 insertion of the word "of" to improve clarity and
3517 facilitate correct interpretation.

3518 Section 87. Paragraph (j) of subsection (11) of section
3519 718.111, Florida Statutes, is amended to read:

3520 718.111 The association.—

3521 (11) INSURANCE.—In order to protect the safety, health, and
3522 welfare of the people of the State of Florida and to ensure
3523 consistency in the provision of insurance coverage to
3524 condominiums and their unit owners, this subsection applies to
3525 every residential condominium in the state, regardless of the
3526 date of its declaration of condominium. It is the intent of the
3527 Legislature to encourage lower or stable insurance premiums for
3528 associations described in this subsection.

3529 (j) Any portion of the condominium property required to be
3530 insured by the association against casualty loss pursuant to
3531 paragraph (f) which is damaged by casualty shall be
3532 reconstructed, repaired, or replaced as necessary by the
3533 association as a common expense. All hazard insurance
3534 deductibles, uninsured losses, and other damages in excess of
3535 hazard insurance coverage under the hazard insurance policies
3536 maintained by the association are a common expense of the
3537 condominium, except that:

3538 1. A unit owner is responsible for the costs of repair or

20091284er

3539 replacement of any portion of the condominium property not paid
3540 by insurance proceeds, if such damage is caused by intentional
3541 conduct, negligence, or failure to comply with the terms of the
3542 declaration or the rules of the association by a unit owner, the
3543 members of his or her family, unit occupants, tenants, guests,
3544 or invitees, without compromise of the subrogation rights of any
3545 insurer as set forth in paragraph (g).

3546 2. The provisions of subparagraph 1. regarding the
3547 financial responsibility of a unit owner for the costs of
3548 repairing or replacing other portions of the condominium
3549 property also apply to the costs of repair or replacement of
3550 personal property of other unit owners or the association, as
3551 well as other property, whether real or personal, which the unit
3552 owners are required to insure under paragraph (g).

3553 3. To the extent the cost of repair or reconstruction for
3554 which the unit owner is responsible under this paragraph is
3555 reimbursed to the association by insurance proceeds, and, to the
3556 extent the association has collected the cost of such repair or
3557 reconstruction from the unit owner, the association shall
3558 reimburse the unit owner without the waiver of any rights of
3559 subrogation.

3560 4. The association is not obligated to pay for ~~repair or~~
3561 reconstruction or repairs of casualty losses as a common expense
3562 if the casualty losses were known or should have been known to a
3563 unit owner and were not reported to the association until after
3564 the insurance claim of the association for that casualty was
3565 settled or resolved with finality, or denied on the basis that
3566 it was untimely filed.

3567 Reviser's note.—Amended to improve clarity and correct

20091284er

3568 sentence construction.

3569 Section 88. Paragraph (o) of subsection (2) of section
3570 718.112, Florida Statutes, is amended to read:

3571 718.112 Bylaws.—

3572 (2) REQUIRED PROVISIONS.—The bylaws shall provide for the
3573 following and, if they do not do so, shall be deemed to include
3574 the following:

3575 (o) Director or officer offenses.—A director or officer
3576 charged with a felony theft or embezzlement offense involving
3577 the association's funds or property shall be removed from
3578 office, creating a vacancy in the office to be filled according
3579 to law. While such director or officer has such criminal charge
3580 pending, he or she may not be appointed or elected to a position
3581 as a director or officer. However, should the charges be
3582 resolved without a finding of guilt, the director or ~~of~~ officer
3583 shall be reinstated for the remainder of his or her term of
3584 office, if any.

3585 Reviser's note.—Amended to confirm the substitution of
3586 the word "or" for the word "of" by the editors.

3587 Section 89. Subsection (7) of section 718.113, Florida
3588 Statutes, is amended to read:

3589 718.113 Maintenance; limitation upon improvement; display
3590 of flag; hurricane shutters; display of religious decorations.—

3591 (7) An association may not refuse the request of a unit
3592 owner for a reasonable accommodation for the attachment on the
3593 mantel or frame of the door of the unit owner of a religious
3594 object not to exceed 3 inches wide, 6 inches high, and 1.5
3595 inches deep.

3596 Reviser's note.—Amended to confirm the insertion of

20091284er

3597 the word "of" by the editors.

3598 Section 90. Paragraph (d) of subsection (1) of section
3599 718.501, Florida Statutes, is amended to read:

3600 718.501 Authority, responsibility, and duties of Division
3601 of Florida Condominiums, Timeshares, and Mobile Homes.—

3602 (1) The Division of Florida Condominiums, Timeshares, and
3603 Mobile Homes of the Department of Business and Professional
3604 Regulation, referred to as the "division" in this part, has the
3605 power to enforce and ensure compliance with the provisions of
3606 this chapter and rules relating to the development,
3607 construction, sale, lease, ownership, operation, and management
3608 of residential condominium units. In performing its duties, the
3609 division has complete jurisdiction to investigate complaints and
3610 enforce compliance with the provisions of this chapter with
3611 respect to associations that are still under developer control
3612 and complaints against developers involving improper turnover or
3613 failure to turnover, pursuant to s. 718.301. However, after
3614 turnover has occurred, the division shall only have jurisdiction
3615 to investigate complaints related to financial issues,
3616 elections, and unit owner access to association records pursuant
3617 to s. 718.111(12).

3618 (d) Notwithstanding any remedies available to unit owners
3619 and associations, if the division has reasonable cause to
3620 believe that a violation of any provision of this chapter or
3621 related rule has occurred, the division may institute
3622 enforcement proceedings in its own name against any developer,
3623 association, officer, or member of the board of administration,
3624 or its assignees or agents, as follows:

3625 1. The division may permit a person whose conduct or

20091284er

3626 actions may be under investigation to waive formal proceedings
3627 and enter into a consent proceeding whereby orders, rules, or
3628 letters of censure or warning, whether formal or informal, may
3629 be entered against the person.

3630 2. The division may issue an order requiring the developer,
3631 association, developer-designated officer, or developer-
3632 designated member of the board of administration, developer-
3633 designated assignees or agents, community association manager,
3634 or community association management firm to cease and desist
3635 from the unlawful practice and take such affirmative action as
3636 in the judgment of the division will carry out the purposes of
3637 this chapter. If the division finds that a developer,
3638 association, officer, or member of the board of administration,
3639 or its assignees or agents, is violating or is about to violate
3640 any provision of this chapter, any rule adopted or order issued
3641 by the division, or any written agreement entered into with the
3642 division, and presents an immediate danger to the public
3643 requiring an immediate final order, it may issue an emergency
3644 cease and desist order reciting with particularity the facts
3645 underlying such findings. The emergency cease and desist order
3646 is effective for 90 days. If the division begins nonemergency
3647 cease and desist proceedings, the emergency cease and desist
3648 order remains effective until the conclusion of the proceedings
3649 under ss. 120.569 and 120.57.

3650 3. If a developer fails to pay any restitution determined
3651 by the division to be owed, plus any accrued interest at the
3652 highest rate permitted by law, within 30 days after expiration
3653 of any appellate time period of a final order requiring payment
3654 of restitution or the conclusion of any appeal thereof,

20091284er

3655 whichever is later, the division shall bring an action in
3656 circuit or county court on behalf of any association, class of
3657 unit owners, lessees, or purchasers for restitution, declaratory
3658 relief, injunctive relief, or any other available remedy. The
3659 division may also temporarily revoke its acceptance of the
3660 filing for the developer to which the restitution relates until
3661 payment of restitution is made.

3662 4. The division may petition the court for the appointment
3663 of a receiver or conservator. If appointed, the receiver or
3664 conservator may take action to implement the court order to
3665 ensure the performance of the order and to remedy any breach
3666 thereof. In addition to all other means provided by law for the
3667 enforcement of an injunction or temporary restraining order, the
3668 circuit court may impound or sequester the property of a party
3669 defendant, including books, papers, documents, and related
3670 records, and allow the examination and use of the property by
3671 the division and a court-appointed receiver or conservator.

3672 5. The division may apply to the circuit court for an order
3673 of restitution whereby the defendant in an action brought
3674 pursuant to subparagraph 4. shall be ordered to make restitution
3675 of those sums shown by the division to have been obtained by the
3676 defendant in violation of this chapter. Such restitution shall,
3677 at the option of the court, be payable to the conservator or
3678 receiver appointed pursuant to subparagraph 4. or directly to
3679 the persons whose funds or assets were obtained in violation of
3680 this chapter.

3681 6. The division may impose a civil penalty against a
3682 developer or association, or its assignee or agent, for any
3683 violation of this chapter or a rule adopted under this chapter.

20091284er

3684 The division may impose a civil penalty individually against any
3685 officer or board member who willfully and knowingly violates a
3686 provision of this chapter, adopted rule, or a final order of the
3687 division; may order the removal of such individual as an officer
3688 or from the board of administration or as an officer of the
3689 association; and may prohibit such individual from serving as an
3690 officer or on the board of a community association for a period
3691 of time. The term "willfully and knowingly" means that the
3692 division informed the officer or board member that his or her
3693 action or intended action violates this chapter, a rule adopted
3694 under this chapter, or a final order of the division and that
3695 the officer or board member refused to comply with the
3696 requirements of this chapter, a rule adopted under this chapter,
3697 or a final order of the division. The division, prior to
3698 initiating formal agency action under chapter 120, shall afford
3699 the officer or board member an opportunity to voluntarily comply
3700 with this chapter, a rule adopted under this chapter, or a final
3701 order of the division. An officer or board member who complies
3702 within 10 days is not subject to a civil penalty. A penalty may
3703 be imposed on the basis of each day of continuing violation, but
3704 in no event shall the penalty for any offense exceed \$5,000. By
3705 January 1, 1998, the division shall adopt, by rule, penalty
3706 guidelines applicable to possible violations or to categories of
3707 violations of this chapter or rules adopted by the division. The
3708 guidelines must specify a meaningful range of civil penalties
3709 for each such violation of the statute and rules and must be
3710 based upon the harm caused by the violation, the repetition of
3711 the violation, and upon such other factors deemed relevant by
3712 the division. For example, the division may consider whether the

20091284er

3713 violations were committed by a developer or owner-controlled
3714 association, the size of the association, and other factors. The
3715 guidelines must designate the possible mitigating or aggravating
3716 circumstances that justify a departure from the range of
3717 penalties provided by the rules. It is the legislative intent
3718 that minor violations be distinguished from those which endanger
3719 the health, safety, or welfare of the condominium residents or
3720 other persons and that such guidelines provide reasonable and
3721 meaningful notice to the public of likely penalties that may be
3722 imposed for proscribed conduct. This subsection does not limit
3723 the ability of the division to informally dispose of
3724 administrative actions or complaints by stipulation, agreed
3725 settlement, or consent order. All amounts collected shall be
3726 deposited with the Chief Financial Officer to the credit of the
3727 Division of Florida Condominiums, Timeshares, and Mobile Homes
3728 Trust Fund. If a developer fails to pay the civil penalty and
3729 the amount deemed to be owed to the association, the division
3730 shall issue an order directing that such developer cease and
3731 desist from further operation until such time as the civil
3732 penalty is paid or may pursue enforcement of the penalty in a
3733 court of competent jurisdiction. If an association fails to pay
3734 the civil penalty, the division shall pursue enforcement in a
3735 court of competent jurisdiction, and the order imposing the
3736 civil penalty or the cease and desist order will not become
3737 effective until 20 days after the date of such order. Any action
3738 commenced by the division shall be brought in the county in
3739 which the division has its executive offices or in the county
3740 where the violation occurred.

3741 7. If a unit owner presents the division with proof that

20091284er

3742 the unit owner has requested access to official records in
3743 writing by certified mail, and that after 10 days the unit owner
3744 again made the same request for access to official records in
3745 writing by certified mail, and that more than 10 days has
3746 elapsed since the second request and the association has still
3747 failed or refused to provide access to official records as
3748 required by this chapter, the division shall issue a subpoena
3749 requiring production of the requested records where the records
3750 are kept pursuant to s. 718.112.

3751 8. In addition to subparagraph 6., the division may seek
3752 the imposition of a civil penalty through the circuit court for
3753 any violation for which the division may issue a notice to show
3754 cause under paragraph (r) ~~(q)~~. The civil penalty shall be at
3755 least \$500 but no more than \$5,000 for each violation. The court
3756 may also award to the prevailing party court costs and
3757 reasonable attorney's fees and, if the division prevails, may
3758 also award reasonable costs of investigation.

3759 Reviser's note.—Amended to confirm the substitution of
3760 a reference to "paragraph (r)" for a reference to
3761 "paragraph (q)" by the editors to conform to the
3762 compilation of the 2008 Florida Statutes.

3763 Section 91. Paragraph (a) of subsection (2) of section
3764 718.503, Florida Statutes, is amended to read:

3765 718.503 Developer disclosure prior to sale; nondeveloper
3766 unit owner disclosure prior to sale; voidability.—

3767 (2) NONDEVELOPER DISCLOSURE.—

3768 (a) Each unit owner who is not a developer as defined by
3769 this chapter shall comply with the provisions of this subsection
3770 prior to the sale of his or her unit. Each prospective purchaser

20091284er

3771 who has entered into a contract for the purchase of a
3772 condominium unit is entitled, at the seller's expense, to a
3773 current copy of the declaration of condominium, articles of
3774 incorporation of the association, bylaws and rules of the
3775 association, financial information required by s. 718.111, and
3776 the document entitled "Frequently Asked Questions and Answers"
3777 required by s. 718.504. On and after January 1, 2009, the
3778 prospective purchaser shall also be entitled to receive from the
3779 seller a copy of a governance form. Such form shall be provided
3780 by the division summarizing governance of condominium
3781 associations. In addition to such other information as the
3782 division considers helpful to a prospective purchaser in
3783 understanding association governance, the governance form shall
3784 address the following subjects:

3785 1. The role of the board in conducting the day-to-day
3786 affairs of the association on behalf of, and in the best
3787 interests of, the owners.

3788 2. The board's responsibility to provide advance notice of
3789 board and membership meetings.

3790 3. The rights of owners to attend and speak at board and
3791 membership meetings.

3792 4. The responsibility of the board and of owners with
3793 respect to maintenance of the condominium property.

3794 5. The responsibility of the board and owners to abide by
3795 the condominium documents, this chapter, rules adopted by the
3796 division, and reasonable rules adopted by the board.

3797 6. Owners' rights to inspect and copy association records
3798 and the limitations on such rights.

3799 7. Remedies available to owners with respect to actions by

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3800 the board which may be abusive or beyond the board's power and
3801 authority.

3802 8. The right of the board to hire a property management
3803 firm, subject to its own primary responsibility for such
3804 management.

3805 9. The responsibility of owners with regard to payment of
3806 regular or special assessments necessary for the operation of
3807 the property and the potential consequences of failure to pay
3808 such assessments.

3809 10. The voting rights of owners.

3810 11. Rights and obligations of the board in enforcement of
3811 rules in the condominium documents and rules adopted by the
3812 board.

3813
3814 The governance form shall also include the following statement
3815 in conspicuous type: "This publication is intended as an
3816 informal educational overview of condominium governance. In the
3817 event of a conflict, the provisions of chapter 718, Florida
3818 Statutes, rules adopted by the Division of Florida ~~Land Sales,~~
3819 Condominiums, Timeshares, and Mobile Homes of the Department of
3820 Business and Professional Regulation, the provisions of the
3821 condominium documents, and reasonable rules adopted by the
3822 condominium association's board of administration prevail over
3823 the contents of this publication."

3824 Reviser's note.—Amended to confirm the redesignation
3825 of the Division of Florida Land Sales, Condominiums,
3826 and Mobile Homes as the Division of Florida
3827 Condominiums, Timeshares, and Mobile Homes by s. 8,
3828 ch. 2008-240, Laws of Florida.

20091284er

3829 Section 92. Subsection (1) of section 828.25, Florida
3830 Statutes, is amended to read:

3831 828.25 Administration; rules; inspection; fees.—

3832 (1) The department shall administer the provisions of ss.
3833 828.22-828.26. It shall adopt and may from time to time revise
3834 rules, which rules must conform substantially to and must not be
3835 less restrictive than the rules and regulations promulgated by
3836 the Secretary of Agriculture of the United States pursuant to
3837 the federal Humane Methods of Slaughter Act of 1958, Pub. L. No.
3838 85-765, 72 Stat. 862, and any amendments thereto.

3839 Reviser's note.—Amended to conform to the correct name
3840 of the federal Humane Methods of Slaughter Act of
3841 1958.

3842 Section 93. Paragraph (c) of subsection (1) of section
3843 937.021, Florida Statutes, is amended to read:

3844 937.021 Missing child and missing adult reports.—

3845 (1) Law enforcement agencies in this state shall adopt
3846 written policies that specify the procedures to be used to
3847 investigate reports of missing children and missing adults. The
3848 policies must ensure that cases involving missing children and
3849 adults are investigated promptly using appropriate resources.
3850 The policies must include:

3851 (c) Standards for maintaining and clearing computer data of
3852 information concerning a missing child or ~~and~~ missing adult
3853 which is stored in the Florida Crime Information Center and the
3854 National Crime Information Center. The standards must require,
3855 at a minimum, a monthly review of each case and a determination
3856 of whether the case should be maintained in the database.

3857 Reviser's note.—Amended to substitute the word "or"

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3858 for the word "and" to conform to usage in the
3859 remainder of the section.

3860 Section 94. Section 1000.36, Florida Statutes, is amended
3861 to read:

3862 1000.36 Interstate Compact on Educational Opportunity for
3863 Military Children.—The Governor is authorized and directed to
3864 execute the Interstate Compact on Educational Opportunity for
3865 Military Children on behalf of this state with any other state
3866 or states legally joining therein in the form substantially as
3867 follows:

3868 Interstate Compact on Educational
3869 Opportunity for Military Children

3870

3871 ARTICLE I

3872

3873 PURPOSE.—It is the purpose of this compact to remove
3874 barriers to educational success imposed on children of military
3875 families because of frequent moves and deployment of their
3876 parents by:

3877 A. Facilitating the timely enrollment of children of
3878 military families and ensuring that they are not placed at a
3879 disadvantage due to difficulty in the transfer of education
3880 records from the previous school district or variations in
3881 entrance or age requirements.

3882 B. Facilitating the student placement process through which
3883 children of military families are not disadvantaged by
3884 variations in attendance requirements, scheduling, sequencing,
3885 grading, course content, or assessment.

3886 C. Facilitating the qualification and eligibility for

20091284er

3887 enrollment, educational programs, and participation in
3888 extracurricular academic, athletic, and social activities.

3889 D. Facilitating the on-time graduation of children of
3890 military families.

3891 E. Providing for the adoption and enforcement of
3892 administrative rules implementing this compact.

3893 F. Providing for the uniform collection and sharing of
3894 information between and among member states, schools, and
3895 military families under this compact.

3896 G. Promoting coordination between this compact and other
3897 compacts affecting military children.

3898 H. Promoting flexibility and cooperation between the
3899 educational system, parents, and the student in order to achieve
3900 educational success for the student.

3901

3902 ARTICLE II

3903

3904 DEFINITIONS.—As used in this compact, unless the context
3905 clearly requires a different construction, the term:

3906 A. "Active duty" means the full-time duty status in the
3907 active uniformed service of the United States, including members
3908 of the National Guard and Reserve on active duty orders pursuant
3909 to 10 U.S.C. ss. 1209 and 1211.

3910 B. "Children of military families" means school-aged
3911 children, enrolled in kindergarten through 12th grade, in the
3912 household of an active-duty member.

3913 C. "Compact commissioner" means the voting representative
3914 of each compacting state appointed under Article VIII of this
3915 compact.

20091284er

3916 D. "Deployment" means the period 1 month before the service
3917 members' departure from their home station on military orders
3918 through 6 months after return to their home station.

3919 E. "Educational records" or "education records" means those
3920 official records, files, and data directly related to a student
3921 and maintained by the school or local education agency,
3922 including, but not limited to, records encompassing all the
3923 material kept in the student's cumulative folder such as general
3924 identifying data, records of attendance and of academic work
3925 completed, records of achievement and results of evaluative
3926 tests, health data, disciplinary status, test protocols, and
3927 individualized education programs.

3928 F. "Extracurricular activities" means a voluntary activity
3929 sponsored by the school or local education agency or an
3930 organization sanctioned by the local education agency.
3931 Extracurricular activities include, but are not limited to,
3932 preparation for and involvement in public performances,
3933 contests, athletic competitions, demonstrations, displays, and
3934 club activities.

3935 G. "Interstate Commission on Educational Opportunity for
3936 Military Children" means the commission that is created under
3937 Article IX of this compact, which is generally referred to as
3938 the Interstate Commission.

3939 H. "Local education agency" means a public authority
3940 legally constituted by the state as an administrative agency to
3941 provide control of, and direction for, kindergarten through 12th
3942 grade public educational institutions.

3943 I. "Member state" means a state that has enacted this
3944 compact.

20091284er

3945 J. "Military installation" means a base, camp, post,
3946 station, yard, center, homeport facility for any ship, or other
3947 activity under the jurisdiction of the Department of Defense,
3948 including any leased facility, which is located within any of
3949 the several states, the District of Columbia, the Commonwealth
3950 of Puerto Rico, the United States Virgin Islands, Guam, American
3951 Samoa, the Northern Marianas Islands, and any other United
3952 States Territory. The term does not include any facility used
3953 primarily for civil works, rivers and harbors projects, or flood
3954 control projects.

3955 K. "Nonmember state" means a state that has not enacted
3956 this compact.

3957 L. "Receiving state" means the state to which a child of a
3958 military family is sent, brought, or caused to be sent or
3959 brought.

3960 M. "Rule" means a written statement by the Interstate
3961 Commission adopted under Article XII of this compact which is of
3962 general applicability, implements, interprets, or prescribes a
3963 policy or provision of the compact, or an organizational,
3964 procedural, or practice requirement of the Interstate
3965 Commission, and has the force and effect of statutory law in a
3966 member state, and includes the amendment, repeal, or suspension
3967 of an existing rule.

3968 N. "Sending state" means the state from which a child of a
3969 military family is sent, brought, or caused to be sent or
3970 brought.

3971 O. "State" means a state of the United States, the District
3972 of Columbia, the Commonwealth of Puerto Rico, the United States
3973 Virgin Islands, Guam, American Samoa, the Northern Marianas

20091284er

3974 Islands, and any other United States Territory.

3975 P. "Student" means the child of a military family for whom
3976 the local education agency receives public funding and who is
3977 formally enrolled in kindergarten through 12th grade.

3978 Q. "Transition" means:

3979 1. The formal and physical process of transferring from
3980 school to school; or

3981 2. The period of time in which a student moves from one
3982 school in the sending state to another school in the receiving
3983 state.

3984 R. "Uniformed services" means the Army, Navy, Air Force,
3985 Marine Corps, Coast Guard as well as the Commissioned Corps of
3986 the National Oceanic and Atmospheric Administration, and Public
3987 Health Services.

3988 S. "Veteran" means a person who served in the uniformed
3989 services and who was discharged or released therefrom under
3990 conditions other than dishonorable.

3991

3992 ARTICLE III

3993

3994 APPLICABILITY.—

3995 A. Except as otherwise provided in Section C, this compact
3996 applies to the children of:

3997 1. Active duty members of the uniformed services, including
3998 members of the National Guard and Reserve on active-duty orders
3999 pursuant to 10 U.S.C. ss. 1209 and 1211;

4000 2. Members or veterans of the uniformed services who are
4001 severely injured and medically discharged or retired for a
4002 period of 1 year after medical discharge or retirement; and

20091284er

4003 3. Members of the uniformed services who die on active duty
4004 or as a result of injuries sustained on active duty for a period
4005 of 1 year after death.

4006 B. This interstate compact applies to local education
4007 agencies.

4008 C. This compact does not apply to the children of:

4009 1. Inactive members of the National Guard and military
4010 reserves;

4011 2. Members of the uniformed services now retired, except as
4012 provided in Section A;

4013 3. Veterans of the uniformed services, except as provided
4014 in Section A; and

4015 4. Other United States Department of Defense personnel and
4016 other federal agency civilian and contract employees not defined
4017 as active-duty members of the uniformed services.

4018
4019 ARTICLE IV
4020

4021 EDUCATIONAL RECORDS AND ENROLLMENT.—

4022 A. If a child's official education records cannot be
4023 released to the parents for the purpose of transfer, the
4024 custodian of the records in the sending state shall prepare and
4025 furnish to the parent a complete set of unofficial educational
4026 records containing uniform information as determined by the
4027 Interstate Commission. Upon receipt of the unofficial education
4028 records by a school in the receiving state, that school shall
4029 enroll and appropriately place the student based on the
4030 information provided in the unofficial records pending
4031 validation by the official records, as quickly as possible.

20091284er

4032 B. Simultaneous with the enrollment and conditional
4033 placement of the student, the school in the receiving state
4034 shall request the student's official education record from the
4035 school in the sending state. Upon receipt of the request, the
4036 school in the sending state shall process and furnish the
4037 official education records to the school in the receiving state
4038 within 10 days or within such time as is reasonably determined
4039 under the rules adopted by the Interstate Commission.

4040 C. Compact states must give 30 days from the date of
4041 enrollment or within such time as is reasonably determined under
4042 the rules adopted by the Interstate Commission for students to
4043 obtain any immunization required by the receiving state. For a
4044 series of immunizations, initial vaccinations must be obtained
4045 within 30 days or within such time as is reasonably determined
4046 under the rules promulgated by the Interstate Commission.

4047 D. Students shall be allowed to continue their enrollment
4048 at grade level in the receiving state commensurate with their
4049 grade level, including kindergarten, from a local education
4050 agency in the sending state at the time of transition,
4051 regardless of age. A student who has satisfactorily completed
4052 the prerequisite grade level in the local education agency in
4053 the sending state is eligible for enrollment in the next highest
4054 grade level in the receiving state, regardless of age. A student
4055 transferring after the start of the school year in the receiving
4056 state shall enter the school in the receiving state on their
4057 validated level from an accredited school in the sending state.

4058
4059 ARTICLE V
4060

20091284er

4061 PLACEMENT AND ATTENDANCE.—

4062 A. If a student transfers before or during the school year,
4063 the receiving state school shall initially honor placement of
4064 the student in educational courses based on the student's
4065 enrollment in the sending state school or educational
4066 assessments conducted at the school in the sending state if the
4067 courses are offered. Course placement includes, but is not
4068 limited to, Honors, International Baccalaureate, Advanced
4069 Placement, vocational, technical, and career pathways courses.
4070 Continuing the student's academic program from the previous
4071 school and promoting placement in academically and career
4072 challenging courses should be paramount when considering
4073 placement. A school in the receiving state is not precluded from
4074 performing subsequent evaluations to ensure appropriate
4075 placement and continued enrollment of the student in the
4076 courses.

4077 B. The receiving state school must initially honor
4078 placement of the student in educational programs based on
4079 current educational assessments conducted at the school in the
4080 sending state or participation or placement in like programs in
4081 the sending state. Such programs include, but are not limited
4082 to:

- 4083 1. Gifted and talented programs; and
4084 2. English as a second language (ESL).

4085
4086 A school in the receiving state is not precluded from performing
4087 subsequent evaluations to ensure appropriate placement and
4088 continued enrollment of the student in the courses.

4089 C. A receiving state must initially provide comparable

20091284er

4090 services to a student with disabilities based on his or her
4091 current individualized education program (IEP) in compliance
4092 with the requirements of the Individuals with Disabilities
4093 Education Act (IDEA), 20 U.S.C. s. 1400, et seq. A receiving
4094 state must make reasonable accommodations and modifications to
4095 address the needs of incoming students with disabilities,
4096 subject to an existing section 504 or title II plan, to provide
4097 the student with equal access to education, in compliance with
4098 the provisions of Section 504 of the Rehabilitation Act, 29
4099 U.S.C.A. s. 794, and with title II of the Americans with
4100 Disabilities Act, 42 U.S.C. ss. 12131-12165. A school in the
4101 receiving state is not precluded from performing subsequent
4102 evaluations to ensure appropriate placement and continued
4103 enrollment of the student in the courses.

4104 D. Local education agency administrative officials may
4105 waive course or program prerequisites, or other preconditions
4106 for placement in courses or programs offered under the
4107 jurisdiction of the local education agency.

4108 E. A student whose parent or legal guardian is an active-
4109 duty member of the uniformed services and has been called to
4110 duty for, is on leave from, or immediately returned from
4111 deployment to, a combat zone or combat support posting shall be
4112 granted additional excused absences at the discretion of the
4113 local education agency superintendent to visit with his or her
4114 parent or legal guardian relative to such leave or deployment of
4115 the parent or guardian.

4116

4117 ARTICLE VI

4118

20091284er

4119 ELIGIBILITY.—

4120 A. When considering the eligibility of a child for
4121 enrolling in a school:

4122 1. A special power of attorney relative to the guardianship
4123 of a child of a military family and executed under applicable
4124 law is sufficient for the purposes of enrolling the child in
4125 school and for all other actions requiring parental
4126 participation and consent.

4127 2. A local education agency is prohibited from charging
4128 local tuition to a transitioning military child placed in the
4129 care of a noncustodial parent or other person standing in loco
4130 parentis who lives in a school's jurisdiction different from
4131 that of the custodial parent.

4132 3. A transitioning military child, placed in the care of a
4133 noncustodial parent or other person standing in loco parentis
4134 who lives in a school's jurisdiction different from that of the
4135 custodial parent, may continue to attend the school in which he
4136 or she was enrolled while residing with the custodial parent.

4137 B. State and local education agencies must facilitate the
4138 opportunity for transitioning military children's inclusion in
4139 extracurricular activities, regardless of application deadlines,
4140 to the extent they are otherwise qualified.

4141

4142 ARTICLE VII

4143

4144 GRADUATION.—In order to facilitate the on-time graduation
4145 of children of military families, states and local education
4146 agencies shall incorporate the following procedures:

4147 A. Local education agency administrative officials shall

20091284er

4148 waive specific courses required for graduation if similar
4149 coursework has been satisfactorily completed in another local
4150 education agency or shall provide reasonable justification for
4151 denial. If a waiver is not granted to a student who would
4152 qualify to graduate from the sending school, the local education
4153 agency must provide an alternative means of acquiring required
4154 coursework so that graduation may occur on time.

4155 B. States shall accept exit or end-of-course exams required
4156 for graduation from the sending state; national norm-referenced
4157 achievement tests; or alternative testing, in lieu of testing
4158 requirements for graduation in the receiving state. If these
4159 alternatives cannot be accommodated by the receiving state for a
4160 student transferring in his or her senior year, then the
4161 provisions of Article VII, Section C shall apply.

4162 C. If a military student transfers at the beginning of or
4163 during his or her senior year and is not eligible to graduate
4164 from the receiving local education agency after all alternatives
4165 have been considered, the sending and receiving local education
4166 agencies must ensure the receipt of a diploma from the sending
4167 local education agency, if the student meets the graduation
4168 requirements of the sending local education agency. If one of
4169 the states in question is not a member of this compact, the
4170 member state shall use its best efforts to facilitate the on-
4171 time graduation of the student in accordance with Sections A and
4172 B of this Article.

4173
4174 ARTICLE VIII
4175

4176 STATE COORDINATION.—Each member state shall, through the

20091284er

4177 creation of a state council or use of an existing body or board,
4178 provide for the coordination among its agencies of government,
4179 local education agencies, and military installations concerning
4180 the state's participation in, and compliance with, this compact
4181 and Interstate Commission activities.

4182 A. Each member state may determine the membership of its
4183 own state council, but the membership must include at least: the
4184 state superintendent of education, the superintendent of a
4185 school district that has a high concentration of military
4186 children, a representative from a military installation, one
4187 representative each from the legislative and executive branches
4188 of government, and other offices and stakeholder groups the
4189 state council deems appropriate. A member state that does not
4190 have a school district deemed to contain a high concentration of
4191 military children may appoint a superintendent from another
4192 school district to represent local education agencies on the
4193 state council.

4194 B. The state council of each member state shall appoint or
4195 designate a military family education liaison to assist military
4196 families and the state in facilitating the implementation of
4197 this compact.

4198 C. The compact commissioner responsible for the
4199 administration and management of the state's participation in
4200 the compact shall be appointed by the Governor or as otherwise
4201 determined by each member state.

4202 D. The compact commissioner and the military family
4203 education liaison shall be ex officio members of the state
4204 council, unless either is already a full voting member of the
4205 state council.

20091284er

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ARTICLE IX

INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.—The member states hereby create the “Interstate Commission on Educational Opportunity for Military Children.” The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or state council may delegate voting authority to another person from their state for a specified meeting.

4. The bylaws may provide for meetings of the Interstate

20091284er

4235 Commission to be conducted by telecommunication or electronic
4236 communication.

4237 C. Consist of ex officio, nonvoting representatives who are
4238 members of interested organizations. The ex officio members, as
4239 defined in the bylaws, may include, but not be limited to,
4240 members of the representative organizations of military family
4241 advocates, local education agency officials, parent and teacher
4242 groups, the United States Department of Defense, the Education
4243 Commission of the States, the Interstate Agreement on the
4244 Qualification of Educational Personnel, and other interstate
4245 compacts affecting the education of children of military
4246 members.

4247 D. Meet at least once each calendar year. The chairperson
4248 may call additional meetings and, upon the request of a simple
4249 majority of the member states, shall call additional meetings.

4250 E. Establish an executive committee, whose members shall
4251 include the officers of the Interstate Commission and such other
4252 members of the Interstate Commission as determined by the
4253 bylaws. Members of the executive committee shall serve a 1-year
4254 term. Members of the executive committee are entitled to one
4255 vote each. The executive committee shall have the power to act
4256 on behalf of the Interstate Commission, with the exception of
4257 rulemaking, during periods when the Interstate Commission is not
4258 in session. The executive committee shall oversee the day-to-day
4259 activities of the administration of the compact, including
4260 enforcement and compliance with the compact, its bylaws and
4261 rules, and other such duties as deemed necessary. The United
4262 States Department of Defense shall serve as an ex officio,
4263 nonvoting member of the executive committee.

20091284er

4264 F. Establish bylaws and rules that provide for conditions
4265 and procedures under which the Interstate Commission shall make
4266 its information and official records available to the public for
4267 inspection or copying. The Interstate Commission may exempt from
4268 disclosure information or official records to the extent they
4269 would adversely affect personal privacy rights or proprietary
4270 interests.

4271 G. Give public notice of all meetings and all meetings
4272 shall be open to the public, except as set forth in the rules or
4273 as otherwise provided in the compact. The Interstate Commission
4274 and its committees may close a meeting, or portion thereof,
4275 where it determines by two-thirds vote that an open meeting
4276 would be likely to:

4277 1. Relate solely to the Interstate Commission's internal
4278 personnel practices and procedures;

4279 2. Disclose matters specifically exempted from disclosure
4280 by federal and state statute;

4281 3. Disclose trade secrets or commercial or financial
4282 information which is privileged or confidential;

4283 4. Involve accusing a person of a crime, or formally
4284 censuring a person;

4285 5. Disclose information of a personal nature where
4286 disclosure would constitute a clearly unwarranted invasion of
4287 personal privacy;

4288 6. Disclose investigative records compiled for law
4289 enforcement purposes; or

4290 7. Specifically relate to the Interstate Commission's
4291 participation in a civil action or other legal proceeding.

4292 H. For a meeting, or portion of a meeting, closed pursuant

20091284er

4293 to this provision, the Interstate Commission's legal counsel or
4294 designee shall certify that the meeting may be closed and shall
4295 reference each relevant exemptible provision. The Interstate
4296 Commission shall keep minutes which shall fully and clearly
4297 describe all matters discussed in a meeting and shall provide a
4298 full and accurate summary of actions taken, and the reasons
4299 therefor, including a description of the views expressed and the
4300 record of a roll call vote. All documents considered in
4301 connection with an action shall be identified in such minutes.
4302 All minutes and documents of a closed meeting shall remain under
4303 seal, subject to release by a majority vote of the Interstate
4304 Commission.

4305 I. The Interstate Commission shall collect standardized
4306 data concerning the educational transition of the children of
4307 military families under this compact as directed through its
4308 rules which shall specify the data to be collected, the means of
4309 collection and data exchange, and reporting requirements. The
4310 methods of data collection, exchange, and reporting shall,
4311 insofar as is reasonably possible, conform to current technology
4312 and coordinate its information functions with the appropriate
4313 custodian of records as identified in the bylaws and rules.

4314 J. The Interstate Commission shall create a procedure that
4315 permits military officials, education officials, and parents to
4316 inform the Interstate Commission if and when there are alleged
4317 violations of the compact or its rules or when issues subject to
4318 the jurisdiction of the compact or its rules are not addressed
4319 by the state or local education agency. This section does not
4320 create a private right of action against the Interstate
4321 Commission or any member state.

20091284er

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ARTICLE X

POWERS AND DUTIES OF THE INTERSTATE COMMISSION.—The Interstate Commission has the power to:

A. Provide for dispute resolution among member states.

B. Adopt rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact. The rules have the force and effect of statutory law and are binding in the compact states to the extent and in the manner provided in this compact.

C. Issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions.

D. Enforce compliance with the compact provisions, the rules adopted by the Interstate Commission, and the bylaws, using all necessary and proper means, including, but not limited to, the use of judicial process.

E. Establish and maintain offices that shall be located within one or more of the member states.

F. Purchase and maintain insurance and bonds.

G. Borrow, accept, hire, or contract for services of personnel.

H. Establish and appoint committees, including, but not limited to, an executive committee as required by Article IX, Section E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

I. Elect or appoint such officers, attorneys, employees,

20091284er

4351 agents, or consultants, and to fix their compensation, define
4352 their duties, and determine their qualifications; and to
4353 establish the Interstate Commission's personnel policies and
4354 programs relating to conflicts of interest, rates of
4355 compensation, and qualifications of personnel.

4356 J. Accept any and all donations and grants of money,
4357 equipment, supplies, materials, and services, and to receive,
4358 utilize, and dispose of it.

4359 K. Lease, purchase, accept contributions or donations of,
4360 or otherwise to own, hold, improve, or use any property, real,
4361 personal, or mixed.

4362 L. Sell, convey, mortgage, pledge, lease, exchange,
4363 abandon, or otherwise dispose of any property, real, personal,
4364 or mixed.

4365 M. Establish a budget and make expenditures.

4366 N. Adopt a seal and bylaws governing the management and
4367 operation of the Interstate Commission.

4368 O. Report annually to the legislatures, governors,
4369 judiciary, and state councils of the member states concerning
4370 the activities of the Interstate Commission during the preceding
4371 year. Such reports shall also include any recommendations that
4372 may have been adopted by the Interstate Commission.

4373 P. Coordinate education, training, and public awareness
4374 regarding the compact, its implementation, and operation for
4375 officials and parents involved in such activity.

4376 Q. Establish uniform standards for the reporting,
4377 collecting, and exchanging of data.

4378 R. Maintain corporate books and records in accordance with
4379 the bylaws.

20091284er

4380 S. Perform such functions as may be necessary or
4381 appropriate to achieve the purposes of this compact.

4382 T. Provide for the uniform collection and sharing of
4383 information between and among member states, schools, and
4384 military families under this compact.

4385
4386 ARTICLE XI

4387
4388 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION.—

4389 A. The Interstate Commission shall, by a majority of the
4390 members present and voting, within 12 months after the first
4391 Interstate Commission meeting, adopt bylaws to govern its
4392 conduct as may be necessary or appropriate to carry out the
4393 purposes of the compact, including, but not limited to:

4394 1. Establishing the fiscal year of the Interstate
4395 Commission;

4396 2. Establishing an executive committee and such other
4397 committees as may be necessary;

4398 3. Providing for the establishment of committees and for
4399 governing any general or specific delegation of authority or
4400 function of the Interstate Commission;

4401 4. Providing reasonable procedures for calling and
4402 conducting meetings of the Interstate Commission and ensuring
4403 reasonable notice of each such meeting;

4404 5. Establishing the titles and responsibilities of the
4405 officers and staff of the Interstate Commission;

4406 6. Providing a mechanism for concluding the operations of
4407 the Interstate Commission and the return of surplus funds that
4408 may exist upon the termination of the compact after the payment

20091284er

4409 and reserving of all of its debts and obligations.

4410 7. Providing "start up" rules for initial administration of
4411 the compact.

4412 B. The Interstate Commission shall, by a majority of the
4413 members, elect annually from among its members a chairperson, a
4414 vice chairperson, and a treasurer, each of whom shall have such
4415 authority and duties as may be specified in the bylaws. The
4416 chairperson or, in the chairperson's absence or disability, the
4417 vice chairperson shall preside at all meetings of the Interstate
4418 Commission. The officers so elected shall serve without
4419 compensation or remuneration from the Interstate Commission;
4420 provided that, subject to the availability of budgeted funds,
4421 the officers shall be reimbursed for ordinary and necessary
4422 costs and expenses incurred by them in the performance of their
4423 responsibilities as officers of the Interstate Commission.

4424 C. The executive committee has the authority and duties as
4425 may be set forth in the bylaws, including, but not limited to:

4426 1. Managing the affairs of the Interstate Commission in a
4427 manner consistent with the bylaws and purposes of the Interstate
4428 Commission;

4429 2. Overseeing an organizational structure within, and
4430 appropriate procedures for, the Interstate Commission to provide
4431 for the adoption of rules, operating procedures, and
4432 administrative and technical support functions; and

4433 3. Planning, implementing, and coordinating communications
4434 and activities with other state, federal, and local government
4435 organizations in order to advance the goals of the Interstate
4436 Commission.

4437 D. The executive committee may, subject to the approval of

20091284er

4438 the Interstate Commission, appoint or retain an executive
4439 director for such period, upon such terms and conditions and for
4440 such compensation, as the Interstate Commission may deem
4441 appropriate. The executive director shall serve as secretary to
4442 the Interstate Commission but is not a member of the Interstate
4443 Commission. The executive director shall hire and supervise such
4444 other persons as may be authorized by the Interstate Commission.

4445 E. The Interstate Commission's executive director and its
4446 employees are immune from suit and liability, either personally
4447 or in their official capacity, for a claim for damage to or loss
4448 of property or personal injury or other civil liability caused
4449 or arising out of, or relating to, an actual or alleged act,
4450 error, or omission that occurred, or that such person had a
4451 reasonable basis for believing occurred, within the scope of
4452 Interstate Commission employment, duties, or responsibilities,
4453 provided that the person is not protected from suit or liability
4454 for damage, loss, injury, or liability caused by the intentional
4455 or willful and wanton misconduct of the person.

4456 1. The liability of the Interstate Commission's executive
4457 director and employees or Interstate Commission representatives,
4458 acting within the scope of the person's employment or duties,
4459 for acts, errors, or omissions occurring within the person's
4460 state may not exceed the limits of liability set forth under the
4461 constitution and laws of that state for state officials,
4462 employees, and agents. The Interstate Commission is considered
4463 to be an instrumentality of the states for the purposes of any
4464 such action. This subsection does not protect the person from
4465 suit or liability for damage, loss, injury, or liability caused
4466 by the intentional or willful and wanton misconduct of the

20091284er

4467 person.

4468 2. The Interstate Commission shall defend the executive
4469 director and its employees and, subject to the approval of the
4470 Attorney General or other appropriate legal counsel of the
4471 member state represented by an Interstate Commission
4472 representative, shall defend an Interstate Commission
4473 representative in any civil action seeking to impose liability
4474 arising out of an actual or alleged act, error, or omission that
4475 occurred within the scope of Interstate Commission employment,
4476 duties, or responsibilities, or that the defendant had a
4477 reasonable basis for believing occurred within the scope of
4478 Interstate Commission employment, duties, or responsibilities,
4479 provided that the actual or alleged act, error, or omission did
4480 not result from intentional or willful and wanton misconduct on
4481 the part of the person.

4482 3. To the extent not covered by the state involved, a
4483 member state, the Interstate Commission, and the representatives
4484 or employees of the Interstate Commission shall be held harmless
4485 in the amount of a settlement or judgment, including attorney's
4486 fees and costs, obtained against a person arising out of an
4487 actual or alleged act, error, or omission that occurred within
4488 the scope of Interstate Commission employment, duties, or
4489 responsibilities, or that the person had a reasonable basis for
4490 believing occurred within the scope of Interstate Commission
4491 employment, duties, or responsibilities, provided that the
4492 actual or alleged act, error, or omission did not result from
4493 intentional or willful and wanton misconduct on the part of the
4494 person.

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20091284er

ARTICLE XII

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION.—The Interstate Commission shall adopt rules to effectively and efficiently implement this act to achieve the purposes of this compact.

A. If the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this act, or the powers granted hereunder, the action undertaken by the Interstate Commission is invalid and has no force or effect.

B. Rules must be adopted pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

C. No later than 30 days after a rule is adopted, a person may file a petition for judicial review of the rule. The filing of the petition does not stay or otherwise prevent the rule from becoming effective unless a court finds that the petitioner has a substantial likelihood of success on the merits of the petition. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

D. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then the rule is invalid and has no further force and effect in any compacting

20091284er

4525 state.

4526
4527 ARTICLE XIII

4528
4529 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION.—

4530 A. The executive, legislative, and judicial branches of
4531 state government in each member state shall enforce this compact
4532 and shall take all actions necessary and appropriate to
4533 effectuate the compact's purposes and intent. The provisions of
4534 this compact and the rules adopted under it have the force and
4535 effect of statutory law.

4536 B. All courts shall take judicial notice of the compact and
4537 its adopted rules in any judicial or administrative proceeding
4538 in a member state pertaining to the subject matter of this
4539 compact which may affect the powers, responsibilities, or
4540 actions of the Interstate Commission.

4541 C. The Interstate Commission is entitled to receive all
4542 service of process in any such proceeding, and has standing to
4543 intervene in the proceeding for all purposes. Failure to provide
4544 service of process to the Interstate Commission renders a
4545 judgment or order void as to the Interstate Commission, this
4546 compact, or its adopted rules.

4547 D. If the Interstate Commission determines that a member
4548 state has defaulted in the performance of its obligations or
4549 responsibilities under this compact, or the bylaws or the
4550 adopted rules, the Interstate Commission shall:

4551 1. Provide written notice to the defaulting state and other
4552 member states of the nature of the default, the means of curing
4553 the default, and any action taken by the Interstate Commission.

20091284er

4554 The Interstate Commission must specify the conditions by which
4555 the defaulting state must cure its default.

4556 2. Provide remedial training and specific technical
4557 assistance regarding the default.

4558 3. If the defaulting state fails to cure the default,
4559 terminate the defaulting state from the compact upon an
4560 affirmative vote of a majority of the member states and all
4561 rights, privileges, and benefits conferred by this compact shall
4562 be terminated from the effective date of termination. A cure of
4563 the default does not relieve the offending state of obligations
4564 or liabilities incurred during the period of the default.

4565 E. Suspension or termination of membership in the compact
4566 may not be imposed on a member until all other means of securing
4567 compliance have been exhausted. Notice of the intent to suspend
4568 or terminate membership must be given by the Interstate
4569 Commission to the Governor, the majority and minority leaders of
4570 the defaulting state's legislature, and each of the member
4571 states.

4572 F. A state that has been suspended or terminated is
4573 responsible for all assessments, obligations, and liabilities
4574 incurred through the effective date of suspension or
4575 termination, including obligations, the performance of which
4576 extends beyond the effective date of suspension or termination.

4577 G. The remaining member states of the Interstate Commission
4578 do not bear any costs arising from a state that has been found
4579 to be in default or that has been suspended or terminated from
4580 the compact, unless otherwise mutually agreed upon in writing
4581 between the Interstate Commission and the defaulting state.

4582 H. A defaulting state may appeal the action of the

20091284er

4583 Interstate Commission by petitioning the United States District
4584 Court for the District of Columbia or the federal district where
4585 the Interstate Commission has its principal offices. The
4586 prevailing party shall be awarded all costs of such litigation,
4587 including reasonable attorney's fees.

4588 I. The Interstate Commission shall attempt, upon the
4589 request of a member state, to resolve disputes that are subject
4590 to the compact and that may arise among member states and
4591 between member and nonmember states. The Interstate Commission
4592 shall promulgate a rule providing for both mediation and binding
4593 dispute resolution for disputes as appropriate.

4594 1. The Interstate Commission, in the reasonable exercise of
4595 its discretion, shall enforce the provisions and rules of this
4596 compact.

4597 2. The Interstate Commission may, by majority vote of the
4598 members, initiate legal action in the United States District
4599 Court for the District of Columbia or, at the discretion of the
4600 Interstate Commission, in the federal district where the
4601 Interstate Commission has its principal offices to enforce
4602 compliance with the provisions of the compact, or its
4603 promulgated rules and bylaws, against a member state in default.
4604 The relief sought may include both injunctive relief and
4605 damages. In the event judicial enforcement is necessary, the
4606 prevailing party shall be awarded all costs of such litigation,
4607 including reasonable attorney's fees.

4608 3. The remedies herein are not the exclusive remedies of
4609 the Interstate Commission. The Interstate Commission may avail
4610 itself of any other remedies available under state law or the
4611 regulation of a profession.

20091284er

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ARTICLE XIV

FINANCING OF THE INTERSTATE COMMISSION.—

A. The Interstate Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall adopt a rule binding upon all member states.

C. The Interstate Commission may not incur any obligation of any kind before securing the funds adequate to meet the obligation and the Interstate Commission may not pledge the credit of any of the member states, except by and with the permission of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission are subject to audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

20091284er

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4642

ARTICLE XV

4643

MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT.—

A. Any state is eligible to become a member state.

B. The compact shall take effect and be binding upon legislative enactment of the compact into law by not less than 10 of the states. The effective date shall be no earlier than December 1, 2007. Thereafter, it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis before adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. An amendment does not become effective and binding upon the Interstate Commission and the member states until the amendment is enacted into law by unanimous consent of the member states.

4660

4661

ARTICLE XVI

4662

WITHDRAWAL AND DISSOLUTION.—

A. Once in effect, the compact continues in force and remains binding upon each and every member state, provided that a member state may withdraw from the compact, specifically repealing the statute that enacted the compact into law.

1. Withdrawal from the compact occurs when a statute repealing its membership is enacted by the state, but does not

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20091284er

4670 take effect until 1 year after the effective date of the statute
4671 and until written notice of the withdrawal has been given by the
4672 withdrawing state to the Governor of each other member state.

4673 2. The withdrawing state must immediately notify the
4674 chairperson of the Interstate Commission in writing upon the
4675 introduction of legislation repealing this compact in the
4676 withdrawing state. The Interstate Commission shall notify the
4677 other member states of the withdrawing state's intent to
4678 withdraw within 60 days after its receipt thereof.

4679 3. A withdrawing state is responsible for all assessments,
4680 obligations, and liabilities incurred through the effective date
4681 of withdrawal, including obligations, the performance of which
4682 extend beyond the effective date of withdrawal.

4683 4. Reinstatement following withdrawal of a member state
4684 shall occur upon the withdrawing state reenacting the compact or
4685 upon such later date as determined by the Interstate Commission.

4686 B. This compact shall dissolve effective upon the date of
4687 the withdrawal or default of the member state which reduces the
4688 membership in the compact to one member state.

4689 C. Upon the dissolution of this compact, the compact
4690 becomes void and has no further force or effect, and the
4691 business and affairs of the Interstate Commission shall be
4692 concluded and surplus funds shall be distributed in accordance
4693 with the bylaws.

4694

4695 ARTICLE XVII

4696

4697 SEVERABILITY AND CONSTRUCTION.—

4698 A. The provisions of this compact shall be severable, and

20091284er

4699 if any phrase, clause, sentence, or provision is deemed
4700 unenforceable, the remaining provisions of the compact shall be
4701 enforceable.

4702 B. The provisions of this compact shall be liberally
4703 construed to effectuate its purposes.

4704 C. This compact does not prohibit the applicability of
4705 other interstate compacts to which the states are members.

4706

4707 ARTICLE XVIII

4708

4709 BINDING EFFECT OF COMPACT AND OTHER LAWS.—

4710 A. This compact does not prevent the enforcement of any
4711 other law of a member state that is not inconsistent with this
4712 compact.

4713 B. All member states' laws conflicting with this compact
4714 are superseded to the extent of the conflict.

4715 C. All lawful actions of the Interstate Commission,
4716 including all rules and bylaws promulgated by the Interstate
4717 Commission, are binding upon the member states.

4718 D. All agreements between the Interstate Commission and the
4719 member states are binding in accordance with their terms.

4720 E. If any part of this compact exceeds the constitutional
4721 limits imposed on the legislature of any member state, the
4722 provision shall be ineffective to the extent of the conflict
4723 with the constitutional provision in question in that member
4724 state.

4725 Reviser's note.—Amended to confirm the insertion of
4726 the word "of" by the editors.

4727 Section 95. Subsection (1) of section 1001.395, Florida

20091284er

4728 Statutes, as amended by section 1 of chapter 2009-3, Laws of
4729 Florida, is amended to read:

4730 1001.395 District school board members; compensation.—

4731 (1) Each member of the district school board shall receive
4732 a base salary, the amounts indicated in this section, based on
4733 the population of the county the district school board member
4734 serves. In addition, compensation shall be made for population
4735 increments over the minimum for each population group, which
4736 shall be determined by multiplying the population in excess of
4737 the minimum for the group times the group rate. The product of
4738 such calculation shall be added to the base salary to determine
4739 the adjusted base salary. The adjusted base salaries of district
4740 school board members shall be increased annually as provided for
4741 in s. 145.19.

4742

4743	Pop. Group	County Pop.	Range	Base Salary	Group Rate
4744		Minimum	Maximum		
4745	I	-0-	9,999	\$5,000	\$0.08330
4746	II	10,000	49,999	5,833	0.020830
4747	III	50,000	99,999	6,666	0.016680
4748	IV	100,000	199,999	7,500	0.008330
4749	V	200,000	399,999	8,333	0.004165

20091284er

4750	VI	400,000	999,999	9,166	0.001390
4751	VII	1,000,000		10,000	0.000000

4752
4753 ~~District school board member salaries negotiated on or after~~
4754 ~~November of 2006 shall remain in effect up to the date of the~~
4755 ~~2007-2008 calculation provided pursuant to s. 145.19.~~

4756 Reviser's note.—Amended to delete a provision that has
4757 served its purpose.

4758 Section 96. Paragraph (e) of subsection (4) of section
4759 1002.36, Florida Statutes, is amended to read:

4760 1002.36 Florida School for the Deaf and the Blind.—

4761 (4) BOARD OF TRUSTEES.—

4762 (e) The board of trustees is invested with full power and
4763 authority to:

4764 1. Appoint a president, faculty, teachers, and other
4765 employees and remove the same as in its judgment may be best and
4766 fix their compensation.

4767 2. Procure professional services, such as medical, mental
4768 health, architectural, and engineering.

4769 3. Procure legal services without the prior written
4770 approval of the Attorney General.

4771 4. Determine eligibility of students and procedure for
4772 admission.

4773 5. Provide for the students of the school necessary
4774 bedding, clothing, food, and medical attendance and such other
4775 things as may be proper for the health and comfort of the
4776 students without cost to their parents, except that the board of

20091284er

4777 trustees may set tuition and other fees for nonresidents.
4778 6. Provide for the proper keeping of accounts and records
4779 and for budgeting of funds.
4780 7. Enter into contracts.
4781 8. Sue and be sued.
4782 9. Secure public liability insurance.
4783 10. Do and perform every other matter or thing requisite to
4784 the proper management, maintenance, support, and control of the
4785 school at the highest efficiency economically possible, the
4786 board of trustees taking into consideration the purposes of the
4787 establishment.
4788 11. Receive gifts, donations, and bequests of money or
4789 property, real or personal, tangible or intangible, from any
4790 person, firm, corporation, or other legal entity. However, the
4791 board of trustees may not obligate the state to any expenditure
4792 or policy that is not specifically authorized by law. If the
4793 bill of sale, will, trust indenture, deed, or other legal
4794 conveyance specifies terms and conditions concerning the use of
4795 such money or property, the board of trustees shall observe such
4796 terms and conditions.
4797 12. Deposit outside the State Treasury such moneys as are
4798 received as gifts, donations, or bequests and may disburse and
4799 expend such moneys, upon its own warrant, for the use and
4800 benefit of the Florida School for the Deaf and the Blind and its
4801 students, as the board of trustees deems to be in the best
4802 interest of the school and its students. Such money or property
4803 shall not constitute or be considered a part of any legislative
4804 appropriation.
4805 13. Sell or convey by bill of sale, deed, or other legal

20091284er

4806 instrument any property, real or personal, received as a gift,
4807 donation, or bequest, upon such terms and conditions as the
4808 board of trustees deems to be in the best interest of the school
4809 and its students.

4810 14. Invest such moneys in securities enumerated under s.
4811 215.47(1), (2)(c), (3), (4), and (10) ~~215.47(1), (2)(c), (3),~~
4812 ~~(4), and (9)~~, and in The Common Fund, an Investment Management
4813 Fund exclusively for nonprofit educational institutions.

4814 Reviser's note.—Amended to conform to the renumbering
4815 of subsections resulting from the addition of a new
4816 subsection (7) by s. 3, ch. 2008-31, Laws of Florida.

4817 Section 97. Subsection (4) of section 1006.035, Florida
4818 Statutes, is amended to read:

4819 1006.035 Dropout reentry and mentor project.—

4820 (4) In each of the four locations, the project shall
4821 identify 15 high-achieving minority students to serve as one-on-
4822 one mentors to the students who are being reentered in school.
4823 An alumnus of Bethune-Cookman University ~~College~~, Florida
4824 Memorial University ~~College~~, Edward Waters College, or Florida
4825 Agricultural and Mechanical University shall be assigned to each
4826 pair of students. Student mentors and alumni must serve as role
4827 models and resource people for the students who are being
4828 reentered in school.

4829 Reviser's note.—Amended to conform to the correct
4830 names of Bethune-Cookman University and Florida
4831 Memorial University.

4832 Section 98. Subsection (1) of section 1006.59, Florida
4833 Statutes, is amended to read:

4834 1006.59 The Historically Black College and University

20091284er

4835 Library Improvement Program.—

4836 (1) It is the intent of the Legislature to enhance the
4837 quality of the libraries at Florida Agricultural and Mechanical
4838 University, Bethune-Cookman University ~~College~~, Edward Waters
4839 College, and Florida Memorial University ~~College~~.

4840 Reviser's note.—Amended to conform to the correct
4841 names of Bethune-Cookman University and Florida
4842 Memorial University.

4843 Section 99. Paragraph (c) of subsection (3) of section
4844 1008.22, Florida Statutes, is amended to read:

4845 1008.22 Student assessment program for public schools.—

4846 (3) STATEWIDE ASSESSMENT PROGRAM.—The commissioner shall
4847 design and implement a statewide program of educational
4848 assessment that provides information for the improvement of the
4849 operation and management of the public schools, including
4850 schools operating for the purpose of providing educational
4851 services to youth in Department of Juvenile Justice programs.
4852 The commissioner may enter into contracts for the continued
4853 administration of the assessment, testing, and evaluation
4854 programs authorized and funded by the Legislature. Contracts may
4855 be initiated in 1 fiscal year and continue into the next and may
4856 be paid from the appropriations of either or both fiscal years.
4857 The commissioner is authorized to negotiate for the sale or
4858 lease of tests, scoring protocols, test scoring services, and
4859 related materials developed pursuant to law. Pursuant to the
4860 statewide assessment program, the commissioner shall:

4861 (c) Develop and implement a student achievement testing
4862 program known as the Florida Comprehensive Assessment Test
4863 (FCAT) as part of the statewide assessment program to measure a

20091284er

4864 student's content knowledge and skills in reading, writing,
4865 science, and mathematics. Other content areas may be included as
4866 directed by the commissioner. Comprehensive assessments of
4867 reading and mathematics shall be administered annually in grades
4868 3 through 10. Comprehensive assessments of writing and science
4869 shall be administered at least once at the elementary, middle,
4870 and high school levels. End-of-course assessments for a subject
4871 may be administered in addition to the comprehensive assessments
4872 required for that subject under this paragraph. An end-of-course
4873 assessment must be rigorous, statewide, standardized, and
4874 developed or approved by the department. The content knowledge
4875 and skills assessed by comprehensive and end-of-course
4876 assessments must be aligned to the core curricular content
4877 established in the Sunshine State Standards. The commissioner
4878 may select one or more nationally developed comprehensive
4879 examinations, which may include, but need not be limited to,
4880 examinations for a College Board Advanced Placement course,
4881 International Baccalaureate course, or Advanced International
4882 Certificate of Education course or industry-approved
4883 examinations to earn national industry certifications as defined
4884 in s. 1003.492, for use as end-of-course assessments under this
4885 paragraph, if the commissioner determines that the content
4886 knowledge and skills assessed by the examinations meet or exceed
4887 the grade level expectations for the core curricular content
4888 established for the course in the Next Generation Sunshine State
4889 Standards. The commissioner may collaborate with the American
4890 Diploma Project in the adoption or development of rigorous end-
4891 of-course assessments that are aligned to the Next Generation
4892 Sunshine State Standards. The testing program must be designed

20091284er

4893 as follows:

4894 1. The tests shall measure student skills and competencies
4895 adopted by the State Board of Education as specified in
4896 paragraph (a). The tests must measure and report student
4897 proficiency levels of all students assessed in reading, writing,
4898 mathematics, and science. The commissioner shall provide for the
4899 tests to be developed or obtained, as appropriate, through
4900 contracts and project agreements with private vendors, public
4901 vendors, public agencies, postsecondary educational
4902 institutions, or school districts. The commissioner shall obtain
4903 input with respect to the design and implementation of the
4904 testing program from state educators, assistive technology
4905 experts, and the public.

4906 2. The testing program shall be composed of criterion-
4907 referenced tests that shall, to the extent determined by the
4908 commissioner, include test items that require the student to
4909 produce information or perform tasks in such a way that the core
4910 content knowledge and skills he or she uses can be measured.

4911 3. Beginning with the 2008-2009 school year, the
4912 commissioner shall discontinue administration of the selected-
4913 response test items on the comprehensive assessments of writing.
4914 Beginning with the 2012-2013 school year, the comprehensive
4915 assessments of writing shall be composed of a combination of
4916 selected-response test items, short-response performance tasks,
4917 and extended-response performance tasks, which shall measure a
4918 student's content knowledge of writing, including, but not
4919 limited to, paragraph and sentence structure, sentence
4920 construction, grammar and usage, punctuation, capitalization,
4921 spelling, parts of speech, verb tense, irregular verbs, subject-

20091284er

4922 verb agreement, and noun-pronoun agreement.

4923 4. A score shall be designated for each subject area
4924 tested, below which score a student's performance is deemed
4925 inadequate. The school districts shall provide appropriate
4926 remedial instruction to students who score below these levels.

4927 5. Except as provided in s. 1003.428(8)(b) or s.
4928 1003.43(11)(b), students must earn a passing score on the grade
4929 10 assessment test described in this paragraph or attain
4930 concordant scores as described in subsection (10) ~~(9)~~ in
4931 reading, writing, and mathematics to qualify for a standard high
4932 school diploma. The State Board of Education shall designate a
4933 passing score for each part of the grade 10 assessment test. In
4934 establishing passing scores, the state board shall consider any
4935 possible negative impact of the test on minority students. The
4936 State Board of Education shall adopt rules which specify the
4937 passing scores for the grade 10 FCAT. Any such rules, which have
4938 the effect of raising the required passing scores, shall apply
4939 only to students taking the grade 10 FCAT for the first time
4940 after such rules are adopted by the State Board of Education.

4941 6. Participation in the testing program is mandatory for
4942 all students attending public school, including students served
4943 in Department of Juvenile Justice programs, except as otherwise
4944 prescribed by the commissioner. If a student does not
4945 participate in the statewide assessment, the district must
4946 notify the student's parent and provide the parent with
4947 information regarding the implications of such nonparticipation.
4948 A parent must provide signed consent for a student to receive
4949 classroom instructional accommodations that would not be
4950 available or permitted on the statewide assessments and must

20091284er

4951 acknowledge in writing that he or she understands the
4952 implications of such instructional accommodations. The State
4953 Board of Education shall adopt rules, based upon recommendations
4954 of the commissioner, for the provision of test accommodations
4955 for students in exceptional education programs and for students
4956 who have limited English proficiency. Accommodations that negate
4957 the validity of a statewide assessment are not allowable in the
4958 administration of the FCAT. However, instructional
4959 accommodations are allowable in the classroom if included in a
4960 student's individual education plan. Students using
4961 instructional accommodations in the classroom that are not
4962 allowable as accommodations on the FCAT may have the FCAT
4963 requirement waived pursuant to the requirements of s.
4964 1003.428(8)(b) or s. 1003.43(11)(b).

4965 7. A student seeking an adult high school diploma must meet
4966 the same testing requirements that a regular high school student
4967 must meet.

4968 8. District school boards must provide instruction to
4969 prepare students to demonstrate proficiency in the core
4970 curricular content established in the Next Generation Sunshine
4971 State Standards adopted under s. 1003.41, including the core
4972 content knowledge and skills necessary for successful grade-to-
4973 grade progression and high school graduation. If a student is
4974 provided with instructional accommodations in the classroom that
4975 are not allowable as accommodations in the statewide assessment
4976 program, as described in the test manuals, the district must
4977 inform the parent in writing and must provide the parent with
4978 information regarding the impact on the student's ability to
4979 meet expected proficiency levels in reading, writing, and

20091284er

4980 mathematics. The commissioner shall conduct studies as necessary
4981 to verify that the required core curricular content is part of
4982 the district instructional programs.

4983 9. District school boards must provide opportunities for
4984 students to demonstrate an acceptable level of performance on an
4985 alternative standardized assessment approved by the State Board
4986 of Education following enrollment in summer academies.

4987 10. The Department of Education must develop, or select,
4988 and implement a common battery of assessment tools that will be
4989 used in all juvenile justice programs in the state. These tools
4990 must accurately measure the core curricular content established
4991 in the Sunshine State Standards.

4992 11. For students seeking a special diploma pursuant to s.
4993 1003.438, the Department of Education must develop or select and
4994 implement an alternate assessment tool that accurately measures
4995 the core curricular content established in the Sunshine State
4996 Standards for students with disabilities under s. 1003.438.

4997 12. The Commissioner of Education shall establish schedules
4998 for the administration of statewide assessments and the
4999 reporting of student test results. The commissioner shall, by
5000 August 1 of each year, notify each school district in writing
5001 and publish on the department's Internet website the testing and
5002 reporting schedules for, at a minimum, the school year following
5003 the upcoming school year. The testing and reporting schedules
5004 shall require that:

5005 a. There is the latest possible administration of statewide
5006 assessments and the earliest possible reporting to the school
5007 districts of student test results which is feasible within
5008 available technology and specific appropriations; however, test

20091284er

5009 results must be made available no later than the final day of
5010 the regular school year for students.

5011 b. Beginning with the 2010-2011 school year, a
5012 comprehensive statewide assessment of writing is not
5013 administered earlier than the week of March 1 and a
5014 comprehensive statewide assessment of any other subject is not
5015 administered earlier than the week of April 15.

5016 c. A statewide standardized end-of-course assessment is
5017 administered within the last 2 weeks of the course.

5018
5019 The commissioner may, based on collaboration and input from
5020 school districts, design and implement student testing programs,
5021 for any grade level and subject area, necessary to effectively
5022 monitor educational achievement in the state, including the
5023 measurement of educational achievement of the Sunshine State
5024 Standards for students with disabilities. Development and
5025 refinement of assessments shall include universal design
5026 principles and accessibility standards that will prevent any
5027 unintended obstacles for students with disabilities while
5028 ensuring the validity and reliability of the test. These
5029 principles should be applicable to all technology platforms and
5030 assistive devices available for the assessments. The field
5031 testing process and psychometric analyses for the statewide
5032 assessment program must include an appropriate percentage of
5033 students with disabilities and an evaluation or determination of
5034 the effect of test items on such students.

5035 Reviser's note.—Amended to confirm the editorial
5036 substitution of a reference to subsection (10) for a
5037 reference to subsection (9) to conform to the

20091284er

5038 redesignation of subsection (9) as subsection (10) by
5039 s. 18, ch. 2008-235, Laws of Florida.

5040 Section 100. Paragraph (a) of subsection (3) of section
5041 1008.34, Florida Statutes, is amended to read:

5042 1008.34 School grading system; school report cards;
5043 district grade.—

5044 (3) DESIGNATION OF SCHOOL GRADES.—

5045 (a) Each school that has students who are tested and
5046 included in the school grading system shall receive a school
5047 grade, except as follows:

5048 1. A school shall not receive a school grade if the number
5049 of its students tested and included in the school grading system
5050 is less ~~are fewer~~ than the minimum sample size necessary, based
5051 on accepted professional practice, for statistical reliability
5052 and prevention of the unlawful release of personally
5053 identifiable student data under s. 1002.22 or 20 U.S.C. s.
5054 1232g.

5055 2. An alternative school may choose to receive a school
5056 grade under this section or a school improvement rating under s.
5057 1008.341.

5058 3. A school that serves any combination of students in
5059 kindergarten through grade 3 which does not receive a school
5060 grade because its students are not tested and included in the
5061 school grading system shall receive the school grade designation
5062 of a K-3 feeder pattern school identified by the Department of
5063 Education and verified by the school district. A school feeder
5064 pattern exists if at least 60 percent of the students in the
5065 school serving a combination of students in kindergarten through
5066 grade 3 are scheduled to be assigned to the graded school.

20091284er

5067 Reviser's note.—Amended to confirm the substitution by
5068 the editors of the words "is less" for the words "are
5069 fewer" to improve clarity and facilitate correct
5070 interpretation.

5071 Section 101. Subsection (2) of section 1008.341, Florida
5072 Statutes, is amended to read:

5073 1008.341 School improvement rating for alternative
5074 schools.—

5075 (2) SCHOOL IMPROVEMENT RATING.—An alternative school that
5076 provides dropout prevention and academic intervention services
5077 pursuant to s. 1003.53 shall receive a school improvement rating
5078 pursuant to this section. However, an alternative school shall
5079 not receive a school improvement rating if the number of its
5080 students for whom student performance data is available for the
5081 current year and previous year is less ~~are fewer~~ than the
5082 minimum sample size necessary, based on accepted professional
5083 practice, for statistical reliability and prevention of the
5084 unlawful release of personally identifiable student data under
5085 s. 1002.22 or 20 U.S.C. s. 1232g. The school improvement rating
5086 shall identify an alternative school as having one of the
5087 following ratings defined according to rules of the State Board
5088 of Education:

5089 (a) "Improving" means the students attending the school are
5090 making more academic progress than when the students were served
5091 in their home schools.

5092 (b) "Maintaining" means the students attending the school
5093 are making progress equivalent to the progress made when the
5094 students were served in their home schools.

5095 (c) "Declining" means the students attending the school are

20091284er

5096 making less academic progress than when the students were served
5097 in their home schools.

5098
5099 The school improvement rating shall be based on a comparison of
5100 student performance data for the current year and previous year.
5101 Schools that improve at least one level or maintain an
5102 "improving" rating pursuant to this section are eligible for
5103 school recognition awards pursuant to s. 1008.36.

5104 Reviser's note.—Amended to confirm the substitution by
5105 the editors of the words "is less" for the words "are
5106 fewer" to improve clarity and facilitate correct
5107 interpretation.

5108 Section 102. Subsection (5) of section 1008.345, Florida
5109 Statutes, is amended to read:

5110 1008.345 Implementation of state system of school
5111 improvement and education accountability.—

5112 (5) The commissioner shall report to the Legislature and
5113 recommend changes in state policy necessary to foster school
5114 improvement and education accountability. Included in the report
5115 shall be a list of the schools, including schools operating for
5116 the purpose of providing educational services to youth in
5117 Department of Juvenile Justice programs, for which district
5118 school boards have developed assistance and intervention plans
5119 and an analysis of the various strategies used by the school
5120 boards. School reports shall be distributed pursuant to this
5121 subsection and s. 1001.42(18)(e) ~~1001.42(16)(e)~~ and according to
5122 rules adopted by the State Board of Education.

5123 Reviser's note.—Amended to conform to the renumbering
5124 of subsections by s. 9, ch. 2008-108, Laws of Florida.

20091284er

5125 Section 103. Subsection (1) and paragraph (a) of subsection
5126 (5) of section 1009.73, Florida Statutes, are amended to read:

5127 1009.73 Mary McLeod Bethune Scholarship Program.—

5128 (1) There is established the Mary McLeod Bethune
5129 Scholarship Program to be administered by the Department of
5130 Education pursuant to this section and rules of the State Board
5131 of Education. The program shall provide matching grants for
5132 private sources that raise money for scholarships to be awarded
5133 to students who attend Florida Agricultural and Mechanical
5134 University, Bethune-Cookman University ~~College~~, Edward Waters
5135 College, or Florida Memorial University ~~College~~.

5136 (5) (a) In order to be eligible to receive a scholarship
5137 pursuant to this section, an applicant must:

5138 1. Meet the general eligibility requirements set forth in
5139 s. 1009.40.

5140 2. Be accepted at Florida Agricultural and Mechanical
5141 University, Bethune-Cookman University ~~College~~, Edward Waters
5142 College, or Florida Memorial University ~~College~~.

5143 3. Enroll as a full-time undergraduate student.

5144 4. Earn a 3.0 gradepoint average on a 4.0 scale, or the
5145 equivalent, for high school subjects creditable toward a
5146 diploma.

5147 Reviser's note.—Amended to conform to the correct
5148 names of Bethune-Cookman University and Florida
5149 Memorial University.

5150 Section 104. Paragraph (b) of subsection (1), paragraphs
5151 (d), (h), and (i) of subsection (2), paragraphs (f) and (g) of
5152 subsection (6), and paragraph (b) of subsection (7) of section
5153 1012.56, Florida Statutes, are amended to read:

20091284er

5154 1012.56 Educator certification requirements.—

5155 (1) APPLICATION.—Each person seeking certification pursuant
5156 to this chapter shall submit a completed application containing
5157 the applicant's social security number to the Department of
5158 Education and remit the fee required pursuant to s. 1012.59 and
5159 rules of the State Board of Education. Pursuant to the federal
5160 Personal Responsibility and Work Opportunity Reconciliation Act
5161 of 1996, each party is required to provide his or her social
5162 security number in accordance with this section. Disclosure of
5163 social security numbers obtained through this requirement is
5164 limited to the purpose of administration of the Title IV-D
5165 program of the Social Security Act for child support
5166 enforcement. Pursuant to s. 120.60, the department shall issue
5167 within 90 calendar days after the stamped receipted date of the
5168 completed application:

5169 (b) If the applicant meets the requirements and if
5170 requested by an employing school district or an employing
5171 private school with a professional education competence
5172 demonstration program pursuant to paragraphs (6) (f) and (8) (b)
5173 ~~(5) (f) and (7) (b)~~, a temporary certificate covering the
5174 classification, level, and area for which the applicant is
5175 deemed qualified and an official statement of status of
5176 eligibility; or

5177
5178 The statement of status of eligibility must advise the applicant
5179 of any qualifications that must be completed to qualify for
5180 certification. Each statement of status of eligibility is valid
5181 for 3 years after its date of issuance, except as provided in
5182 paragraph (2) (d).

20091284er

5183 (2) ELIGIBILITY CRITERIA.—To be eligible to seek
5184 certification, a person must:

5185 (d) Submit to background screening in accordance with
5186 subsection (10) ~~(9)~~. If the background screening indicates a
5187 criminal history or if the applicant acknowledges a criminal
5188 history, the applicant's records shall be referred to the
5189 investigative section in the Department of Education for review
5190 and determination of eligibility for certification. If the
5191 applicant fails to provide the necessary documentation requested
5192 by the department within 90 days after the date of the receipt
5193 of the certified mail request, the statement of eligibility and
5194 pending application shall become invalid.

5195 (h) Demonstrate mastery of subject area knowledge, pursuant
5196 to subsection (5) ~~(4)~~.

5197 (i) Demonstrate mastery of professional preparation and
5198 education competence, pursuant to subsection (6) ~~(5)~~.

5199 (6) MASTERY OF PROFESSIONAL PREPARATION AND EDUCATION
5200 COMPETENCE.—Acceptable means of demonstrating mastery of
5201 professional preparation and education competence are:

5202 (f) Completion of professional preparation courses as
5203 specified in state board rule, successful completion of a
5204 professional education competence demonstration program pursuant
5205 to paragraph (8) (b) ~~(7) (b)~~, and achievement of a passing score
5206 on the professional education competency examination required by
5207 state board rule;

5208 (g) Successful completion of a professional preparation
5209 alternative certification and education competency program,
5210 outlined in paragraph (8) (a) ~~(7) (a)~~; or

5211 (7) TYPES AND TERMS OF CERTIFICATION.—

20091284er

5212 (b) The department shall issue a temporary certificate to
5213 any applicant who completes the requirements outlined in
5214 paragraphs (2) (a)-(f) and completes the subject area content
5215 requirements specified in state board rule or demonstrates
5216 mastery of subject area knowledge pursuant to subsection (5) ~~(4)~~
5217 and holds an accredited degree or a degree approved by the
5218 Department of Education at the level required for the subject
5219 area specialization in state board rule.

5220
5221 Each temporary certificate is valid for 3 school fiscal years
5222 and is nonrenewable. However, the requirement in paragraph
5223 (2) (g) must be met within 1 calendar year of the date of
5224 employment under the temporary certificate. Individuals who are
5225 employed under contract at the end of the 1 calendar year time
5226 period may continue to be employed through the end of the school
5227 year in which they have been contracted. A school district shall
5228 not employ, or continue the employment of, an individual in a
5229 position for which a temporary certificate is required beyond
5230 this time period if the individual has not met the requirement
5231 of paragraph (2) (g). The State Board of Education shall adopt
5232 rules to allow the department to extend the validity period of a
5233 temporary certificate for 2 years when the requirements for the
5234 professional certificate, not including the requirement in
5235 paragraph (2) (g), were not completed due to the serious illness
5236 or injury of the applicant or other extraordinary extenuating
5237 circumstances. The department shall reissue the temporary
5238 certificate for 2 additional years upon approval by the
5239 Commissioner of Education. A written request for reissuance of
5240 the certificate shall be submitted by the district school

20091284er

5241 superintendent, the governing authority of a university lab
5242 school, the governing authority of a state-supported school, or
5243 the governing authority of a private school.

5244 Reviser's note.—Amended to conform to the renumbering
5245 of subunits by s. 25, ch. 2008-235, Laws of Florida.

5246 Section 105. Paragraph (a) of subsection (4) of section
5247 1012.795, Florida Statutes, is amended to read:

5248 1012.795 Education Practices Commission; authority to
5249 discipline.—

5250 (4) (a) An educator certificate that has been suspended
5251 under this section is automatically reinstated at the end of the
5252 suspension period, provided the certificate did not expire
5253 during the period of suspension. If the certificate expired
5254 during the period of suspension, the holder of the former
5255 certificate may secure a new certificate by making application
5256 therefor and by meeting the certification requirements of the
5257 state board current at the time of the application for the new
5258 certificate. An educator certificate suspended pursuant to
5259 paragraph (1) (i) ~~(1) (h)~~ may be reinstated only upon notice from
5260 the court or the Department of Revenue that the party has
5261 complied with the terms of the support order, subpoena, order to
5262 show cause, or written agreement.

5263 Reviser's note.—Amended to conform to the
5264 redesignation of paragraph (1) (h) as paragraph (1) (i)
5265 by s. 32, ch. 2008-108, Laws of Florida.

5266 Section 106. Subsection (6) of section 1013.12, Florida
5267 Statutes, is amended to read:

5268 1013.12 Casualty, safety, sanitation, and firesafety
5269 standards and inspection of property.—

20091284er

5270 (6) CORRECTIVE ACTION; FIRESAFETY DEFICIENCIES.—Upon
5271 failure of the board to take corrective action within the time
5272 designated in the plan of action to correct any firesafety
5273 deficiency noted under paragraph (2) (d) ~~(2) (e)~~ or paragraph
5274 (3) (c), the local fire official shall immediately report the
5275 deficiency to the State Fire Marshal, who shall have enforcement
5276 authority with respect to educational and ancillary plants and
5277 educational facilities as provided in chapter 633 for any other
5278 building or structure.

5279 Reviser's note.—Amended to conform to the
5280 redesignation of paragraph (2) (c) as paragraph (2) (d)
5281 by s. 29, ch. 2008-235, Laws of Florida.

5282 Section 107. This act shall take effect on the 60th day
5283 after adjournment sine die of the session of the Legislature in
5284 which enacted.