

20091744e1

1                   A bill to be entitled  
2           An act relating to the Department of Agriculture and  
3           Consumer Services; providing for a type two transfer  
4           of the licensing and regulation of Professional  
5           Surveyors and Mappers from the Division of Professions  
6           within the Department of Business and Professional  
7           Regulation to the Department of Agriculture and  
8           Consumer Services; amending s. 20.165, F.S.;  
9           conforming provisions to changes made by the act;  
10          amending s. 472.005, F.S.; revising a definition;  
11          creating s. 472.006, F.S.; setting forth the powers  
12          and duties of the Department of Agriculture and  
13          Consumer Services relating to surveyors and mappers;  
14          amending s. 472.007, F.S.; providing for the Board of  
15          Professional Surveyors and Mappers to be located  
16          within the Department of Agriculture and Consumer  
17          Services; providing for the appointment of members to  
18          the board; requiring each board member to be  
19          accountable to the Commissioner of Agriculture;  
20          creating s. 472.0075, F.S.; providing that the board  
21          may be contacted through the department; amending s.  
22          472.008, F.S.; authorizing the board to adopt rules;  
23          authorizing the department to challenge any rule of  
24          the board; creating s. 472.0101, F.S.; authorizing the  
25          participation of foreign-trained professionals under  
26          certain specified circumstances; amending s. 472.011,  
27          F.S.; requiring that fees collected pursuant to ch.  
28          472, F.S., be deposited into a specified trust fund;  
29          authorizing the board to assess and collect certain

20091744e1

30 fees; creating s. 472.0131, F.S.; requiring the  
31 department to prepare for professional examinations;  
32 creating s. 472.0132, F.S.; declaring that the  
33 wrongful taking or copying of an examination is a  
34 felony of the third degree; creating s. 472.0135,  
35 F.S.; providing for educational competencies; amending  
36 s. 472.015, F.S.; requiring any person desiring to be  
37 licensed to apply to the department in writing on a  
38 form prepared and furnished by the department;  
39 authorizing the department to collect a license fee;  
40 creating s. 472.016, F.S.; requiring that members of  
41 the Armed Forces be kept in good standing and not be  
42 charged dues and fees while on active duty; creating  
43 s. 472.0165, F.S.; providing qualifications and  
44 standards for immigrants who desire to be licensed as  
45 a surveyor or mapper; amending s. 472.018, F.S.;  
46 providing for continuing education; requiring the  
47 board to establish the criteria and course content for  
48 continuing education courses; creating s. 472.0201,  
49 F.S.; providing for access to public records;  
50 providing for certain specified exceptions; creating  
51 s. 472.02011, F.S.; prohibiting persons from  
52 disseminating confidential information; creating s.  
53 472.0202, F.S.; prohibiting a person from practicing  
54 the profession without an active status license;  
55 setting forth the permissible activities of an  
56 inactive licensee; creating s. 472.0203, F.S.;  
57 requiring the department to send a notice of renewal  
58 to the licensee; creating s. 472.0204, F.S.; requiring

20091744e1

59 each licensee to notify the department in writing of  
60 the licensee's current mailing address and place of  
61 practice; amending s. 472.033, F.S.; providing for  
62 disciplinary proceedings; providing for  
63 investigations; creating s. 472.0335, F.S.; providing  
64 for the classification of disciplinary actions;  
65 classifying actions as minor violations; creating s.  
66 472.034, F.S.; providing for mediation of disciplinary  
67 actions; providing procedures; creating s. 472.0345,  
68 F.S.; authorizing the department and the board the  
69 authority to issue citations; providing mediation  
70 procedures; creating s. 472.0351, F.S.; setting forth  
71 the grounds for disciplinary proceedings; listing the  
72 acts that are grounds for disciplinary actions;  
73 creating s. 472.0355, F.S.; providing disciplinary  
74 guidelines; creating s. 472.036, F.S.; providing  
75 penalties for the unlicensed practice of surveying and  
76 mapping; authorizing the department to issue a  
77 citation; providing for a civil penalty; creating s.  
78 472.0365, F.S.; authorizing the department to collect  
79 a fee to support enforcement activities; providing  
80 requirements for the Department of Agriculture and  
81 Consumer Services and the Department of business and  
82 Professional Regulation to minimize any interruption  
83 of service or function resulting from the transfer of  
84 duties; amending s. 482.2401, F.S.; replacing a  
85 requirement that the department use all revenues from  
86 certain administrative fines to support research or  
87 education in pest control with an authorization to use

20091744e1

88 such available revenues for those purposes; amending  
89 s. 487.041, F.S.; establishing supplemental biennial  
90 registration fees for certain brands of pesticide;  
91 requiring the department to adopt rules publishing a  
92 list of active ingredients contained in pesticides for  
93 which the supplemental fee is required; providing for  
94 retroactive assessment of the supplemental fees;  
95 providing for use of the revenues collected from the  
96 fees; providing for retroactive application; creating  
97 s. 531.60, F.S.; requiring a permit for weights and  
98 measures instruments or devices used commercially or  
99 tested by the department; creating s. 531.61, F.S.;  
100 providing exemptions from permit requirements;  
101 creating s. 531.62, F.S.; providing for permit  
102 application and annual renewal; creating s. 531.63,  
103 F.S.; providing for maximum permit fees based on the  
104 number and capacity of such instruments or devices;  
105 creating s. 531.64, F.S.; providing for the suspension  
106 or revocation of permits; creating s. 531.65, F.S.;  
107 authorizing the department to take certain actions and  
108 impose penalties for unpermitted use; creating s.  
109 531.66, F.S.; directing the department to develop  
110 forms and adopt rules; providing for future expiration  
111 of such provisions requiring a permit for a weights  
112 and measures instrument or device and providing for  
113 permit fees and enforcement; amending ss. 576.021 and  
114 576.045, F.S.; revising fees for the registration of  
115 specialty fertilizers; amending s. 578.08, F.S.;  
116 revising fees for the registration of seed dealers;

20091744e1

117 amending s. 589.08, F.S.; limiting the payment of a  
118 certain percentage of the gross receipts from a state  
119 forest to fiscally constrained counties; amending s.  
120 589.081, F.S.; limiting the payment of a certain  
121 percentage of the gross receipts from specified state  
122 forests to the board of county commissioners and the  
123 school board of certain fiscally constrained counties;  
124 providing effective dates.

125  
126 Be It Enacted by the Legislature of the State of Florida:

127  
128 Section 1. All powers, duties, functions, records,  
129 personnel, property, pending issues and existing contracts,  
130 administrative authority, administrative rules, and unexpended  
131 balances of appropriations, allocations, and other funds for the  
132 licensing and regulation of Professional Surveyors and Mappers  
133 are transferred by a type two transfer, as defined in s.  
134 20.06(2), Florida Statutes, from the Division of Professions  
135 within the Department of Business and Professional Regulation to  
136 the Department of Agriculture and Consumer Services.

137 Section 2. Paragraph (a) of subsection (4) of section  
138 20.165, Florida Statutes, is amended to read:

139 20.165 Department of Business and Professional Regulation.—  
140 There is created a Department of Business and Professional  
141 Regulation.

142 (4) (a) The following boards are established within the  
143 Division of Professions:

144 1. Board of Architecture and Interior Design, created under  
145 part I of chapter 481.

20091744e1

- 146           2. Florida Board of Auctioneers, created under part VI of  
147 chapter 468.
- 148           3. Barbers' Board, created under chapter 476.
- 149           4. Florida Building Code Administrators and Inspectors  
150 Board, created under part XII of chapter 468.
- 151           5. Construction Industry Licensing Board, created under  
152 part I of chapter 489.
- 153           6. Board of Cosmetology, created under chapter 477.
- 154           7. Electrical Contractors' Licensing Board, created under  
155 part II of chapter 489.
- 156           8. Board of Employee Leasing Companies, created under part  
157 XI of chapter 468.
- 158           9. Board of Landscape Architecture, created under part II  
159 of chapter 481.
- 160           10. Board of Pilot Commissioners, created under chapter  
161 310.
- 162           11. Board of Professional Engineers, created under chapter  
163 471.
- 164           12. Board of Professional Geologists, created under chapter  
165 492.
- 166           ~~13. Board of Professional Surveyors and Mappers, created  
167 under chapter 472.~~
- 168           13.14. Board of Veterinary Medicine, created under chapter  
169 474.
- 170           Section 3. Subsection (2) of section 472.005, Florida  
171 Statutes, is amended, and subsection (14) is added to that  
172 section, to read:
- 173           472.005 Definitions.—As used in ss. 472.001-472.037:
- 174           (2) "Department" means the Department of Agriculture and

20091744e1

175 Consumer Services Business and Professional Regulation.

176 (14) "Commissioner" means the Commissioner of Agriculture.

177 Section 4. Section 472.006, Florida Statutes, is created to  
178 read:

179 472.006 Department; powers and duties.—The department  
180 shall:

181 (1) Adopt rules establishing a procedure for the biennial  
182 renewal of licenses. However, the department may issue up to a  
183 4-year license to selected licensees notwithstanding any other  
184 law to the contrary. Fees for such renewal may not exceed the  
185 fee caps for individual professions on an annualized basis as  
186 authorized by law.

187 (2) Appoint the executive director of the board, subject to  
188 the approval of the board.

189 (3) Submit an annual budget to the Legislature at a time  
190 and in the manner provided by law.

191 (4) Develop a training program for persons newly appointed  
192 to membership on the board. The program shall familiarize such  
193 persons with the substantive and procedural laws and rules and  
194 fiscal information relating to the regulation of the profession  
195 and with the structure of the department.

196 (5) Adopt rules pursuant to ss. 120.536(1) and 120.54 to  
197 administer this chapter. The department also is authorized to  
198 join with, or withhold approval of, rules proposed for adoption  
199 by the board.

200 (6) Establish uniform application and other forms,  
201 including certificates of licensure, necessary to administer the  
202 provisions of this chapter. This subsection does not authorize  
203 the department to vary any substantive requirements, duties, or

20091744e1

204 eligibilities for licensure or certification as provided by law.

205 (7) Establish by rule procedures by which the department  
206 shall use the expert or technical advice of the board for the  
207 purposes of investigation, inspection, evaluation of  
208 applications, other duties of the department, or any other areas  
209 the department may deem appropriate.

210 (8) Require all proceedings of the board or panel thereof  
211 and all formal or informal proceedings conducted by the  
212 department, an administrative law judge, or a hearing officer  
213 with respect to licensing or discipline to be electronically  
214 recorded in a manner sufficient to ensure the accurate  
215 transcription of all matters so recorded.

216 (9) Select only those investigators, or consultants who  
217 undertake investigations, who meet criteria established with the  
218 advice of the board.

219 (10) Have authority to:

220 (a) Close and terminate deficient license application files  
221 2 years after the board or the department notifies the applicant  
222 of the deficiency; and

223 (b) Approve applications for professional licenses that  
224 meet all statutory and rule requirements for licensure.

225 (11) Provide legal counsel for the board by contracting  
226 with the Department of Legal Affairs, by retaining private  
227 counsel pursuant to s. 287.059, or by providing department staff  
228 counsel. The board shall periodically review and evaluate the  
229 services provided by its board counsel. Fees and costs of such  
230 counsel shall be paid from the General Inspection Trust Fund,  
231 subject to ss. 215.37 and 472.011. All contracts for independent  
232 legal counsel must provide for periodic review and evaluation by



20091744e1

233 the board and the department of services provided.

234 (a) The department may employ or use the legal services of  
235 outside counsel and the investigative services of outside  
236 personnel.

237 (b) Any person retained by the department under contract to  
238 review materials, make site visits, or provide expert testimony  
239 regarding any complaint or application filed with the department  
240 relating to the practice of surveying and mapping shall be  
241 considered an agent of the department in determining the state  
242 insurance coverage and sovereign immunity protection  
243 applicability of ss. 284.31 and 768.28.

244 Section 5. Section 472.007, Florida Statutes, is amended to  
245 read:

246 472.007 Board of Professional Surveyors and Mappers.—There  
247 is created in the Department of Agriculture and Consumer  
248 Services ~~Business and Professional Regulation~~ the Board of  
249 Professional Surveyors and Mappers.

250 (1) The board shall consist of nine members, six of whom  
251 shall be registered surveyors and mappers primarily engaged in  
252 the practice of surveying and mapping, one of whom shall be a  
253 registered surveyor and mapper with the designation of  
254 photogrammetrist, and two of whom shall be laypersons who are  
255 not and have never been surveyors and mappers or members of any  
256 closely related profession or occupation.

257 (2) Members shall be appointed by the Commissioner of  
258 Agriculture, subject to confirmation by the Senate for 4-year  
259 terms.

260 (a) Members shall be appointed for 4-year terms and such  
261 terms shall expire on October 31. However, a term of less than 4

20091744e1

262 years may be used to ensure that no more than 3 members' terms  
263 expire during the same calendar year.

264 (b) A member whose term has expired shall continue to serve  
265 on the board until such time as a replacement is appointed. A  
266 vacancy on the board must be filled for the unexpired portion of  
267 the term in the same manner as the original appointment. A  
268 member may not serve for more than the remaining portion of a  
269 previous member's unexpired term plus two consecutive 4-year  
270 terms of the member's own appointment thereafter.

271 (3) The board shall annually elect from among its number a  
272 chairperson and vice chairperson.

273 (4) The board shall meet at least once annually and may  
274 meet as often as is necessary. The chairperson or a quorum of  
275 the board have the authority to call other meetings.

276 (a) A quorum is necessary for the conduct of official  
277 business by the board or any committee thereof. Unless otherwise  
278 provided by law, 51 percent or more of the appointed members of  
279 the board or any committee, when applicable, constitute a  
280 quorum.

281 (b) The membership of committees of the board, except as  
282 otherwise authorized under this chapter, shall be composed of  
283 currently appointed members of the board. The vote of a majority  
284 of the members of the quorum is necessary for any official  
285 action by the board or committee.

286 (c) Three consecutive unexcused absences or absences  
287 constituting 50 percent or more of the board's meetings within  
288 any 12-month period shall cause the board membership of the  
289 member in question to become void, and the position shall be  
290 considered vacant. The board shall define unexcused absences by

20091744e1

291 rule.

292 (5) Unless otherwise provided by law, a board member or  
293 former board member serving on a probable cause panel must be  
294 compensated \$50 for each day in attendance at an official  
295 meeting of the board and for each day participating in any other  
296 business involving the board. The board shall adopt a rule  
297 defining the phrase "other business involving the board."  
298 However, the phrase may not routinely be defined to include  
299 telephone conference calls. A board member is also entitled to  
300 reimbursement for expenses pursuant to s. 112.061. Travel out of  
301 state requires the prior approval of the commissioner or the  
302 commissioner's designee.

303 (6) The department and the board may advise licensees  
304 periodically, through the publication of a newsletter, of  
305 information that the department or the board determines is of  
306 interest to the industry. Unless otherwise prohibited by law,  
307 the department and the board shall publish a summary of final  
308 orders resulting in fines, suspensions, or revocations, and any  
309 other information the department or the board determines is of  
310 interest to the public.

311 (7) (a) Each board member is accountable to the commissioner  
312 for the proper performance of his or her duties as a member of  
313 the board. The commissioner shall investigate any legally  
314 sufficient complaint or unfavorable written report received by  
315 the commissioner or by the department or the board concerning  
316 the actions of the board or its individual members. The  
317 commissioner may suspend from office any board member for  
318 malfeasance, misfeasance, neglect of duty, drunkenness,  
319 incompetence, permanent inability to perform the member's

20091744e1

320 official duties, or commission of a felony.

321 (b) Each board member and each former board member serving  
322 on a probable cause panel is exempt from civil liability for any  
323 act or omission committed while acting in the member's official  
324 capacity. The department shall defend any member in any action  
325 against the board or a member of the board. In addition, the  
326 department may defend the member's company or business in any  
327 action against the company or business if the department  
328 determines that the actions from which the suit arises are  
329 actions taken by the member in the member's official capacity  
330 and were within the scope of the member's statutory authority.  
331 In providing such defense, the department may employ or use the  
332 legal services of the Department of Legal Affairs or outside  
333 counsel retained pursuant to s. 287.059. Fees and costs of  
334 providing legal services under this subsection shall be paid  
335 from the General Inspection Trust Fund, subject to ss. 215.37  
336 and 472.011.

337 Section 6. Section 472.0075, Florida Statutes, is created  
338 to read:

339 472.0075 Contacting board through department.—The board may  
340 be contacted through the headquarters of the department in the  
341 City of Tallahassee.

342 Section 7. Section 472.008, Florida Statutes, is amended to  
343 read:

344 472.008 Rules of the board.—

345 (1) The board has authority to adopt rules ~~pursuant to ss.~~  
346 ~~120.536(1) and 120.54~~ to implement ~~the provisions of this~~  
347 ~~chapter~~ conferring duties upon it. This specific grant of  
348 rulemaking authority to the board shall be exercised only

20091744e1

349 through proceedings pursuant to ss. 120.536(1) and 120.54 and  
350 with the prior approval of the department.

351 (2) The board shall adopt rules authorizing the use of  
352 professional titles by retired surveyors and mappers. Such rules  
353 shall establish guidelines designed to avoid abuse by retirees  
354 and confusion on the part of the general public. The rules shall  
355 not require continuing education requirements in order to use a  
356 professional title by a retiree.

357 (3) The department has standing to challenge any rule or  
358 proposed rule of the board pursuant to s. 120.56. In addition to  
359 challenges for any invalid exercise of delegated legislative  
360 authority, the administrative law judge, upon such a challenge  
361 by the department, may declare all or part of a rule or proposed  
362 rule invalid if it:

363 (a) Does not protect the public from any significant and  
364 discernible harm or damages;

365 (b) Unreasonably restricts competition or the availability  
366 of professional services in the state or in a significant part  
367 of the state; or

368 (c) Unnecessarily increases the cost of professional  
369 services without a corresponding or equivalent public benefit.

370  
371 A presumption is not created for the existence of any of the  
372 conditions cited in this subsection if the department challenges  
373 the rule or proposed rule.

374 (4) The department or the board is a substantially  
375 interested party for purposes of s. 120.54(7). The board may, as  
376 an adversely affected party, initiate and maintain an action  
377 pursuant to s. 120.68 challenging final agency action.

20091744e1

378 (5) Any proposed board rule that has not been modified to  
379 remove proposed committee objections of the Administrative  
380 Procedures Committee must receive approval from the department  
381 before filing the rule with the Department of State for final  
382 adoption. The department may repeal any rule enacted by the  
383 board which has taken effect without having met proposed  
384 committee objections of the Administrative Procedures Committee.

385 Section 8. Section 472.0101, Florida Statutes, is created  
386 to read:

387 472.0101 Foreign-trained professionals; special examination  
388 and license provisions.—

389 (1) When not otherwise provided by law, the department  
390 shall by rule provide procedures under which exiled  
391 professionals may be examined under this chapter. A person is  
392 eligible for the examination if the exiled professional:

393 (a) Immigrated to the United States after leaving the  
394 person's home country because of political reasons, provided the  
395 country is located in the Western Hemisphere and does not have  
396 diplomatic relations with the United States;

397 (b) Applies to the department and submits a fee;

398 (c) Was a resident of this state immediately preceding the  
399 person's application;

400 (d) Demonstrates to the department, through submission of  
401 documentation verified by the applicant's respective  
402 professional association in exile, that the applicant was  
403 graduated with an appropriate professional or occupational  
404 degree from a college or university. However, the department may  
405 not require receipt of any documentation from the Republic of  
406 Cuba as a condition of eligibility under this section;

20091744e1

407 (e) Lawfully practiced the profession for at least 3 years;

408 (f) Prior to 1980, successfully completed an approved  
409 course of study pursuant to chapters 74-105 and 75-177, Laws of  
410 Florida; and

411 (g) Presents a certificate demonstrating the successful  
412 completion of a continuing education program which offers a  
413 course of study that will prepare the applicant for the  
414 examination offered under subsection (2). The department shall  
415 develop rules for the approval of such programs for the board.

416 (2) Upon request of a person who meets the requirements of  
417 subsection (1) and submits an examination fee, the department,  
418 for the board, shall conduct a written practical examination  
419 that tests the person's current ability to practice the  
420 profession competently in accordance with the actual practice of  
421 the profession. Evidence of meeting the requirements of  
422 subsection (1) shall be treated by the department as evidence of  
423 the applicant's preparation in the academic and preprofessional  
424 fundamentals necessary for successful professional practice, and  
425 the applicant may not be examined by the department on such  
426 fundamentals.

427 (3) The fees charged for the examinations offered under  
428 subsection (2) shall be established by the department, for the  
429 board, by rule and shall be sufficient to develop or to contract  
430 for the development of the examination and its administration,  
431 grading, and grade reviews.

432 (4) The department shall examine any applicant who meets  
433 the requirements of subsections (1) and (2). Upon passing the  
434 examination and the issuance of the license, a licensee is  
435 subject to the administrative requirements of this chapter. Each

20091744e1

436 applicant so licensed is subject to all provisions of this  
437 chapter.

438 (5) Upon a request by an applicant otherwise qualified  
439 under this section, the examinations offered under subsection  
440 (2) may be given in the applicant's native language if any  
441 translation costs are borne by the applicant.

442 (6) The department, for the board, may not issue an initial  
443 license to, or renew a license of, any applicant or licensee who  
444 is under investigation or prosecution in any jurisdiction for an  
445 action that would constitute a violation of this chapter until  
446 such time as the investigation or prosecution is complete, at  
447 which time the provisions of this chapter shall apply.

448 Section 9. Subsections (10) through (16) are added to  
449 section 472.011, Florida Statutes, to read:

450 472.011 Fees.—

451 (10) All funds collected under this section, and the amount  
452 paid for licenses, fines, and fees, shall be deposited into the  
453 General Inspection Trust Fund of the Department of Agriculture  
454 and Consumer Services.

455 (11) If sufficient action is not taken by the board within  
456 1 year after notification by the department that license fees  
457 are projected to be inadequate, the department shall set license  
458 fees on behalf of the board to cover anticipated costs and to  
459 maintain the required cash balance. Further, it is the  
460 legislative intent that this regulated profession not operate  
461 with a negative cash balance. The department may provide by rule  
462 for the advancement of sufficient funds if this profession is  
463 operating with a negative cash balance. Such advancement may be  
464 for a period not to exceed 2 consecutive years and shall require



20091744e1

465 interest to be paid by the regulated profession. Interest shall  
466 be calculated at the current rate earned on General Inspection  
467 Trust Fund investments. Interest earned shall be allocated to  
468 the various funds in accordance with the allocation of  
469 investment earnings during the period of the advance.

470 (12) The board may, by rule, assess and collect a one-time  
471 fee from each active and each voluntary inactive licensee in an  
472 amount necessary to eliminate a cash deficit or, if there is not  
473 a cash deficit, in an amount sufficient to maintain the  
474 financial integrity of this profession as required in this  
475 subsection.

476 (13) The department may contract with public and private  
477 entities to receive and deposit revenue pursuant to this  
478 section. The Legislature shall appropriate funds from the  
479 General Inspection Trust Fund sufficient to carry out the  
480 provisions of this chapter. To the maximum extent possible, the  
481 department shall directly charge all expenses under this chapter  
482 to the account of the regulated profession. For the purpose of  
483 this subsection, direct charge expenses shall include, but not  
484 be limited to, costs for investigations, examinations, and legal  
485 services. The department shall maintain adequate records to  
486 support its allocation of department expenses. The department  
487 shall provide the board with reasonable access to these records  
488 upon request. The board shall be provided an annual report of  
489 revenue and direct and allocated expenses related to the  
490 operation of the profession. These reports shall be used by the  
491 board to determine the amount of license fees.

492 (14) A condensed management report of budgets, finances,  
493 performance statistics, and recommendations shall be provided to

20091744e1

494 the board at least once a quarter. The department shall identify  
495 and include in such presentations any changes, or projected  
496 changes, made to the board's budget since the last presentation.

497 (15) If a duplicate license is required or requested by a  
498 licensee, the board may charge a fee as determined by rule not  
499 to exceed \$25 before issuing a duplicate license.

500 (16) The department or the board shall charge a fee not to  
501 exceed \$25 for the certification of a public record. The fee  
502 shall be determined by rule of the department. The department or  
503 the appropriate board shall assess a fee for duplication of a  
504 public record as provided in s. 119.07(4).

505 Section 10. Section 472.0131, Florida Statutes, is created  
506 to read:

507 472.0131 Examinations; development; administration.-

508 (1) The department shall provide, contract, or approve  
509 services for the development, preparation, administration,  
510 scoring, score reporting, and evaluation of all examinations.  
511 The department shall consult with the board in providing such  
512 services.

513 (a) The department shall ensure that examinations  
514 adequately and reliably measure an applicant's ability to  
515 practice the profession of surveying and mapping. After an  
516 examination developed or approved by the department has been  
517 administered, the board or department may reject any question  
518 that does not reliably measure the general areas of competency  
519 specified in the rules of the board. The department shall use  
520 professional testing services for the development, preparation,  
521 and evaluation of examinations when such services are available  
522 and approved by the board.

20091744e1

523 (b) For each examination developed by the department or  
524 contracted vendor, to the extent not otherwise specified by  
525 statute, the board shall by rule specify the general areas of  
526 competency to be covered by the examination, the relative weight  
527 to be assigned in grading each area tested, the score necessary  
528 to achieve a passing grade, and the fees, where applicable, to  
529 cover the actual cost for any purchase, development, and  
530 administration of the required examination. However, statutory  
531 fee caps in this chapter shall apply. This subsection does not  
532 apply to national examinations approved and administered  
533 pursuant to paragraph (d).

534 (c) If a practical examination is deemed to be necessary,  
535 rules shall specify the criteria by which examiners are to be  
536 selected, the grading criteria to be used by the examiner, the  
537 relative weight to be assigned in grading each criterion, and  
538 the score necessary to achieve a passing grade. When a mandatory  
539 standardization exercise for a practical examination is required  
540 by law, the board may conduct such exercise. Board members may  
541 serve as examiners at a practical examination with the consent  
542 of the board.

543 (d) The board may approve by rule the use of any national  
544 examination which the department has certified as meeting  
545 requirements of national examinations and generally accepted  
546 testing standards under department rules. Providers of  
547 examinations, which may be profit or nonprofit entities, seeking  
548 certification by the department shall pay the actual costs  
549 incurred by the department in making a determination regarding  
550 the certification of the vendor. The department shall use any  
551 national examination that is available, certified by the

20091744e1

552 department, and approved by the board. The name and number of a  
553 candidate may be provided to a national contractor for the  
554 limited purpose of preparing the grade tape and information to  
555 be returned to the board or department or, to the extent  
556 otherwise specified by rule, the candidate may apply directly to  
557 the vendor of the national examination. The department may  
558 delegate to the board the duty to provide and administer the  
559 examination. Any national examination approved by the board  
560 prior to October 1, 1997, is deemed certified under this  
561 paragraph. Any licensing or certification examination that is  
562 not developed or administered by the department in-house or  
563 provided as a national examination shall be competitively bid.

564 (e) The department shall adopt rules regarding the security  
565 and monitoring of examinations. In order to maintain the  
566 security of examinations, the department may employ the  
567 procedures set forth in s. 472.033 to seek fines and injunctive  
568 relief against an examinee who violates s. 472.0132 or the rules  
569 adopted under this paragraph. The department, or any agent  
570 thereof, may, for the purposes of investigation, confiscate any  
571 written, photographic, or recording material or device in the  
572 possession of the examinee at the examination site which the  
573 department deems necessary to enforce such provisions or rules.

574 (f) If the board concurs, the department may, for a fee,  
575 share with any other state's licensing authority an examination  
576 developed by or for the department unless prohibited by a  
577 contract entered into by the department for development or  
578 purchase of the examination. The department, with the  
579 concurrence of the board, shall establish guidelines that ensure  
580 security of a shared exam and shall require that any other

20091744e1

581 state's licensing authority comply with those guidelines. Those  
582 guidelines shall be approved by the board. All fees paid by the  
583 user shall be applied to the department's examination and  
584 development program under this chapter.

585 (2) For each examination developed by the department or a  
586 contracted vendor, the board shall make rules providing for  
587 reexamination of any applicant who failed an examination. If  
588 both a written and a practical examination are given, an  
589 applicant is required to retake only the portion of the  
590 examination for which he or she failed to achieve a passing  
591 grade, if the applicant successfully passes that portion within  
592 a reasonable time, as determined by rule of the board, of his or  
593 her passing the other portion.

594 (3) Except for national examinations approved and  
595 administered pursuant to paragraph (1) (d), the department shall  
596 provide procedures for applicants who have taken and failed an  
597 examination developed by the department or a contracted vendor  
598 to review their examination questions, answers, papers, grades,  
599 and grading key for the questions the candidate answered  
600 incorrectly or, if not feasible, the parts of the examination  
601 failed. Applicants shall bear the actual cost for the department  
602 to provide examination review pursuant to this subsection. An  
603 applicant may waive in writing the confidentiality of his or her  
604 examination grades.

605 (4) For each examination developed or administered by the  
606 department or a contracted vendor, an accurate record of each  
607 applicant's examination questions, answers, papers, grades, and  
608 grading key shall be kept for a period of not less than 2 years  
609 immediately following the examination, and such record shall

20091744e1

610 thereafter be maintained or destroyed as provided in chapters  
611 119 and 257. This subsection does not apply to national  
612 examinations approved and administered pursuant to paragraph  
613 (1) (d).

614 (5) Meetings and records of meetings of any member of the  
615 department or of the board held for the exclusive purpose of  
616 creating or reviewing licensure examination questions or  
617 proposed examination questions are confidential and exempt from  
618 ss. 119.07(1) and 286.011. However, this exemption does not  
619 affect the right of any person to review an examination as  
620 provided in subsection (3).

621 (6) For examinations developed by the department, a  
622 contracted vendor or the board may provide licensure  
623 examinations in an applicant's native language. Applicants for  
624 examination or reexamination pursuant to this subsection bear  
625 the full cost for the department's development, preparation,  
626 administration, grading, and evaluation of any examination in a  
627 language other than English or Spanish. Requests for translated  
628 examinations, except for those in Spanish, must be on file in  
629 the board office at least 6 months before the scheduled  
630 examination. When determining whether it is in the public  
631 interest to allow the examination to be translated into a  
632 language other than English or Spanish, the board shall consider  
633 the percentage of the population who speak the applicant's  
634 native language.

635 (7) In addition to meeting any other requirements for  
636 licensure by examination or by endorsement, an applicant may be  
637 required by the board to pass an examination pertaining to state  
638 laws and rules applicable to the practice of surveying and

20091744e1

639 mapping.

640 (8) Notwithstanding any other law to the contrary, the  
641 department may use a professional testing service to prepare,  
642 administer, grade, and evaluate any computerized examination,  
643 when that service is available and approved by the board.

644 Section 11. Section 472.0132, Florida Statutes, is created  
645 to read:

646 472.0132 Penalty for theft or reproduction of an  
647 examination.—In addition to, or in lieu of, any other discipline  
648 imposed pursuant to s. 472.033, a person who wrongfully takes an  
649 examination in whole or in part or reproduces or copies an  
650 examination administered by the department, whether such  
651 examination is reproduced or copied in part or in whole and by  
652 any means, commits a felony of the third degree, punishable as  
653 provided in s. 775.082, s. 775.083, or s. 775.084.

654 Section 12. Section 472.0135, Florida Statutes, is created  
655 to read:

656 472.0135 Education; substituting demonstration of  
657 competency for clock-hour requirements; accreditation;  
658 consultation.—

659 (1) If the board requires a student to complete a specific  
660 number of clock hours of classroom instruction for initial  
661 licensure purposes, the board shall establish the minimal  
662 competencies that such student must demonstrate in order to be  
663 licensed. The demonstration of such competencies may be  
664 substituted for specific classroom clock-hour requirements  
665 established in statute or rule which are related to  
666 instructional programs for licensure purposes. Student  
667 demonstration of the established minimum competencies shall be

20091744e1

668 certified by the educational institution.

669 (2) Notwithstanding any other law, educational programs and  
670 institutions which are required by statute to be accredited, but  
671 which were accredited by an agency that has since ceased to  
672 perform an accrediting function, shall be recognized until such  
673 programs and institutions are accredited by a qualified  
674 successor to the original accrediting agency, an accrediting  
675 agency recognized by the United States Department of Education,  
676 or an accrediting agency recognized by the board.

677 (3) The board shall consult with the Commission for  
678 Independent Education, the Board of Governors of the State  
679 University System, and the State Board of Education prior to  
680 adopting any changes to training requirements relating to entry  
681 into the profession. This consultation must allow the  
682 educational board to provide advice regarding the impact of the  
683 proposed changes in terms of the length of time necessary to  
684 complete the training program and the fiscal impact of the  
685 changes. The educational board must be consulted only when an  
686 institution offering the training program falls under its  
687 jurisdiction.

688 Section 13. Section 472.015, Florida Statutes, is amended  
689 to read:

690 472.015 Licensure.—

691 (1) Notwithstanding any other law, the department is the  
692 sole authority for determining the contents of any documents to  
693 be submitted for initial licensure and licensure renewal. Such  
694 documents may contain information including, as appropriate:  
695 demographics, education, work history, personal background,  
696 criminal history, finances, business information, complaints,



20091744e1

697 inspections, investigations, discipline, bonding, signature  
698 notarization, photographs, performance periods, reciprocity,  
699 local government approvals, supporting documentation, periodic  
700 reporting requirements, continuing education requirements, and  
701 ongoing education monitoring. The application may be  
702 supplemented as needed to reflect any material change in any  
703 circumstance or condition stated in the application which takes  
704 place between the initial filing of the application and the  
705 final grant or denial of the license and which might affect the  
706 decision of the department.

707 (2)~~(1)~~ The department shall license any applicant who the  
708 board certifies is qualified to practice surveying and mapping.

709 (3) Before the issuance of any license, the department may  
710 charge an initial license fee as determined by rule of the  
711 board. Upon receipt of the appropriate license fee, except as  
712 provided in subsection (6), the department shall issue a license  
713 to any person certified by the board, or its designee, as having  
714 met the applicable requirements imposed by law or rule. However,  
715 an applicant who is not otherwise qualified for licensure is not  
716 entitled to licensure solely based on a passing score on a  
717 required examination.

718 (4)~~(2)~~ The board shall certify for licensure any applicant  
719 who satisfies the requirements of s. 472.013 and who has passed  
720 the licensing examination. The board may refuse to certify any  
721 applicant who has violated any of the provisions of s. 472.031.

722 (5)~~(3)~~(a) The board shall certify as qualified for a  
723 license by endorsement an applicant who:

724 1. Holds a valid license to practice surveying and mapping  
725 issued prior to July 1, 1999, by another state or territory of

20091744e1

726 the United States; has passed a national, regional, state, or  
727 territorial licensing examination that is substantially  
728 equivalent to the examination required by s. 472.013; and has a  
729 specific experience record of at least 8 years as a subordinate  
730 to a registered surveyor and mapper in the active practice of  
731 surveying and mapping, 6 years of which must be of a nature  
732 indicating that the applicant was in responsible charge of the  
733 accuracy and correctness of the surveying and mapping work  
734 performed;

735         2. Holds a valid license to practice surveying and mapping  
736 issued by another state or territory of the United States if the  
737 criteria for issuance of the license were substantially the same  
738 as the licensure criteria that existed in Florida at the time  
739 the license was issued; or

740         3. Is a practicing photogrammetrist who holds the Certified  
741 Photogrammetrist designation of the American Society for  
742 Photogrammetry and Remote Sensing and held such designation on  
743 or before July 1, 2005; is a graduate of a 4-year course of  
744 study at an accredited college or university; and has a specific  
745 experience record of 6 or more years as a subordinate to a  
746 Certified Photogrammetrist of the American Society for  
747 Photogrammetry and Remote Sensing in the active practice of  
748 surveying and mapping, 5 years of which shall be of a nature  
749 indicating that the applicant was in responsible charge of the  
750 accuracy and correctness of the surveying and mapping work  
751 performed. The course of study must have included not fewer than  
752 32 semester hours of study or its academic equivalent. The  
753 applicant must have completed a minimum of 25 semester hours  
754 from a college or university approved by the board in surveying

20091744e1

755 and mapping subjects or in any combination of courses in civil  
756 engineering, surveying, mapping, mathematics, photogrammetry,  
757 forestry, or land law and the physical sciences. Any of the  
758 required 25 semester hours of study completed not as a part of  
759 the 4-year course of study shall be approved at the discretion  
760 of the board. Work experience acquired as a part of the  
761 education requirement shall not be construed as experience in  
762 responsible charge. The applicant must have applied to the  
763 department for licensure on or before July 1, 2007.

764 (b) All applicants for licensure by endorsement must pass  
765 the Florida law and rules portion of the examination prior to  
766 licensure.

767 (6) (a) The board may refuse to issue an initial license to  
768 any applicant who is under investigation or prosecution in any  
769 jurisdiction for an action that would constitute a violation of  
770 this chapter until such time as the investigation or prosecution  
771 is complete.

772 (b) ~~(4)~~ The department shall not issue a license by  
773 endorsement to any applicant who is under investigation in  
774 another state for any act that would constitute a violation of  
775 ss. 472.001-472.037 or chapter 455 until such time as the  
776 investigation is complete and disciplinary proceedings have been  
777 terminated.

778 (7) When any administrative law judge conducts a hearing  
779 pursuant to chapter 120 with respect to the issuance of a  
780 license by the department, the administrative law judge shall  
781 submit his or her recommended order to the board, which shall  
782 thereupon issue a final order. The applicant for a license may  
783 appeal the final order of the board in accordance with the

20091744e1

784 provisions of chapter 120.

785 (8) A privilege against civil liability is hereby granted  
786 to any witness for any information furnished by the witness in  
787 any proceeding pursuant to this section, unless the witness  
788 acted in bad faith or with malice in providing such information.

789 (9) Notwithstanding anything to the contrary, any elected  
790 official who is licensed under this chapter may hold employment  
791 for compensation with any public agency concurrent with such  
792 public service. Such dual service must be disclosed according to  
793 any disclosure required by applicable law.

794 (10) In any instance in which a licensee or applicant to  
795 the department is required to be in compliance with a particular  
796 provision by, on, or before a certain date, and if that date  
797 occurs on a Saturday, Sunday, or a legal holiday, the licensee  
798 or applicant is deemed to be in compliance with the specific  
799 date requirement if the required action occurs on the first  
800 succeeding day that is not a Saturday, Sunday, or legal holiday.

801 (11) Any submission required to be in writing may otherwise  
802 be required by the department to be made by electronic means.

803 (12)~~(5)~~ A licensee or business entity that meets the  
804 requirements of this section or s. 472.021 must carry  
805 professional liability insurance or provide notice to any person  
806 or entity to which surveying and mapping services are offered  
807 that the licensee or business entity does not carry professional  
808 liability insurance. The notice must consist of a sign  
809 prominently displayed in the reception area and written  
810 statements provided in a form and frequency as required by rule  
811 of the Board of Professional Surveyors and Mappers.

812 (13)~~(6)~~ The department may revoke the license of a licensee

20091744e1

813 or business entity that fails to pay a final judgment in  
814 connection with the provision of, or failure to provide,  
815 services under this chapter.

816 (14) A person may not be disqualified from practicing  
817 surveying or mapping as regulated by the state solely because he  
818 or she is not a United States citizen.

819 Section 14. Section 472.016, Florida Statutes, is created  
820 to read:

821 472.016 Members of Armed Forces in good standing with the  
822 board.-

823 (1) Any member of the Armed Forces of the United States who  
824 is now or in the future on active duty and who, at the time of  
825 becoming such a member of the Armed Forces, was in good standing  
826 with the board and entitled to practice or engage in surveying  
827 and mapping in the state shall be kept in good standing by the  
828 board, without registering, paying dues or fees, or performing  
829 any other act on his or her part to be performed, as long as he  
830 or she is a member of the Armed Forces of the United States on  
831 active duty and for a period of 6 months after discharge from  
832 active duty, provided that he or she is not engaged the practice  
833 of surveying or mapping in the private sector for profit.

834 (2) The board shall adopt rules exempting the spouses of  
835 members of the Armed Forces of the United States from licensure  
836 renewal provisions, but only in cases of absence from the state  
837 because of their spouses' duties with the Armed Forces.

838 Section 15. Section 472.0165, Florida Statutes, is created  
839 to read:

840 472.0165 Qualification of immigrants for examination to  
841 practice a licensed profession or occupation.-

20091744e1

842 (1) It is the declared purpose of this section to encourage  
843 the use of foreign-speaking residents of this state duly  
844 qualified to become licensed surveyors and mappers so that all  
845 Florida citizens may receive better services.

846 (2) Any person who has successfully completed, or is  
847 currently enrolled in, an approved course of study created  
848 pursuant to chapters 74-105 and 75-177, Laws of Florida, shall  
849 be deemed qualified for an examination or reexamination for a  
850 license which shall be administered in the English language  
851 unless 15 or more such applicants request that the reexamination  
852 be administered in their native language. If a reexamination is  
853 administered in a foreign language, the full cost to the board  
854 of preparing and administering the examination must be borne by  
855 the applicants.

856 (3) The board shall adopt and implement programs designed  
857 to qualify for examination all persons who were resident  
858 nationals of the Republic of Cuba and who, on July 1, 1977, were  
859 residents of this state.

860 Section 16. Section 472.018, Florida Statutes, is amended  
861 to read:

862 472.018 Continuing education.—The department may not renew  
863 a license until the licensee submits proof satisfactory to the  
864 board that during the 2 years prior to her or his application  
865 for renewal the licensee has completed at least 24 hours of  
866 continuing education. ~~Criteria and course content shall be~~  
867 ~~approved by the board by rule.~~

868 (1) The board shall adopt rules to establish the criteria  
869 and course content for continuing education courses. The rules  
870 may provide that up to a maximum of 25 percent of the required

20091744e1

871 continuing education hours can be fulfilled by the performance  
872 of pro bono services to the indigent or to underserved  
873 populations or in areas of critical need within the state where  
874 the licensee practices. The board must require that any pro bono  
875 services be approved in advance in order to receive credit for  
876 continuing education under this section. The standard for  
877 determining indigency shall be that recognized by the Federal  
878 Poverty Income Guidelines produced by the United States  
879 Department of Health and Human Services. The rules may provide  
880 for approval by the board that a part of the continuing  
881 education hours can be fulfilled by performing research in  
882 critical need areas or for training leading to advanced  
883 professional certification. The board, or the department when  
884 there is no board, may make rules to define underserved and  
885 critical need areas. The department shall adopt rules for the  
886 administration of continuing education requirements adopted by  
887 the boards or the department when there is no board.

888 (2) The board may provide by rule that distance learning  
889 may be used to satisfy continuing education requirements.

890 (3) The board may prorate the required continuing education  
891 hours in the following circumstances:

892 (a) For new licensees:

893 1. By requiring half of the required continuing education  
894 hours for any applicant who becomes licensed with more than half  
895 the renewal period remaining and no continuing education for any  
896 applicant who becomes licensed with half or less than half of  
897 the renewal period remaining; or

898 2. Requiring no continuing education hours until the first  
899 full renewal cycle of the licensee.

20091744e1

900 (b) When the number of hours required is increased by law  
901 or the board.

902 (4) Upon the request of a licensee, the provider must also  
903 furnish to the department information regarding courses  
904 completed by the licensee, in an electronic format required by  
905 rule of the department.

906 (5) Each continuing education provider shall retain all  
907 records relating to a licensee's completion of continuing  
908 education courses for at least 4 years after completion of a  
909 course.

910 (6) A continuing education provider may not be approved,  
911 and the approval may not be renewed, unless the provider agrees  
912 in writing to provide such cooperation under this section as  
913 required by the department.

914 (7) For the purpose of determining which persons or  
915 entities must meet the reporting, recordkeeping, and access  
916 provisions of this section, the board by rule shall adopt a  
917 definition of the term "continuing education provider"  
918 applicable to the profession's continuing education  
919 requirements. The intent of the rule is to ensure that all  
920 records and information necessary to carry out the requirements  
921 of this section are maintained and transmitted accordingly and  
922 to minimize disputes as to what person or entity is responsible  
923 for maintaining and reporting such records and information.

924 (8) The board shall approve the providers of continuing  
925 education. The approval of continuing education providers and  
926 courses must be for a specified period of time, not to exceed 4  
927 years. An approval that does not include such a time limitation  
928 may remain in effect under this chapter or the rules adopted



20091744e1

929 under this chapter.

930 (9) The department may fine, suspend, or revoke approval of  
931 any continuing education provider that fails to comply with its  
932 duties under this section. The fine may not exceed \$500 per  
933 violation. Investigations and prosecutions of a provider's  
934 failure to comply with its duties under this section shall be  
935 conducted pursuant to s. 472.033.

936 (10) The board shall issue an order requiring a person or  
937 entity to cease and desist from offering any continuing  
938 education programs for licensees, and fining, suspending, or  
939 revoking any approval of the provider previously granted by the  
940 board if the board determines that the person or entity failed  
941 to provide appropriate continuing education services that  
942 conform to approved course material. The fine may not exceed  
943 \$500 per violation. Investigations and prosecutions of a  
944 provider's failure to comply with its duties under this section  
945 shall be conducted under s. 472.033.

946 (11) The board may establish, by rule, a fee not to exceed  
947 \$250 for anyone seeking approval to provide continuing education  
948 courses and may establish, by rule, a biennial fee not to exceed  
949 \$250 for the renewal of providership of such courses. Such  
950 postlicensure education courses are subject to the reporting,  
951 monitoring, and compliance provisions of this section.

952 (12) The department and the board may adopt rules under ss.  
953 120.536(1) and 120.54 to administer this section.

954 Section 17. Section 472.0201, Florida Statutes, is created  
955 to read:

956 472.0201 Public inspection of information required from  
957 applicants; exceptions; examination hearing.-

20091744e1

958       (1) All information required by the department of any  
959 applicant shall be a public record and shall be open to public  
960 inspection pursuant to s. 119.07, except financial information,  
961 medical information, school transcripts, examination questions,  
962 answers, papers, grades, and grading keys, which are  
963 confidential and exempt from s. 119.07(1) and shall not be  
964 discussed with or made accessible to anyone except members of  
965 the board, the department, and staff thereof, who have a bona  
966 fide need to know such information. Any information supplied to  
967 the department by any other agency which is exempt from the  
968 provisions of chapter 119 or is confidential shall remain exempt  
969 or confidential pursuant to applicable law while in the custody  
970 of the department.

971       (2) The department shall establish by rule the procedure by  
972 which an applicant, and the applicant's attorney, may review  
973 examination questions and answers. Examination questions and  
974 answers are not subject to discovery but may be introduced into  
975 evidence and considered only in camera in any administrative  
976 proceeding under chapter 120. If an administrative hearing is  
977 held, the department shall provide challenged examination  
978 questions and answers to the administrative law judge. The  
979 examination questions and answers provided at the hearing are  
980 confidential and exempt from s. 119.07(1), unless invalidated by  
981 the administrative law judge.

982       (3) Unless an applicant notifies the department at least 5  
983 days before an examination hearing of the applicant's inability  
984 to attend, or unless an applicant can demonstrate an extreme  
985 emergency for failing to attend, the department may require an  
986 applicant who fails to attend to pay reasonable attorney's fees,

20091744e1

987 costs, and court costs of the department for the examination  
988 hearing.

989 Section 18. Section 472.02011, Florida Statutes, is created  
990 to read:

991 472.02011 Disclosure of confidential information.—

992 (1) An officer, employee, or person under contract with the  
993 department or the board, or any subject of an investigation may  
994 not convey knowledge or information to any person who is not  
995 lawfully entitled to such knowledge or information about any  
996 public meeting or public record, which at the time such  
997 knowledge or information is conveyed is exempt from the  
998 provisions of s. 119.01, s. 119.07(1), or s. 286.011.

999 (2) Any person who willfully violates this section commits  
1000 a misdemeanor of the first degree, punishable as provided in s.  
1001 775.082 or s. 775.083, and may be subject to discipline pursuant  
1002 to s. 472.033, and, if applicable, shall be removed from office,  
1003 employment, or the contractual relationship.

1004 Section 19. Section 472.0202, Florida Statutes, is created  
1005 to read:

1006 472.0202 Inactive and delinquent status.—

1007 (1) A licensee may practice a profession only if the  
1008 licensee has an active status license. A licensee who practices  
1009 a profession without an active status license is in violation of  
1010 this section and s. 472.033, and the board may impose discipline  
1011 on the licensee.

1012 (2) The board shall permit a licensee to choose, at the  
1013 time of licensure renewal, an active or inactive status.  
1014 However, a licensee who changes from inactive to active status  
1015 is not eligible to return to inactive status until the licensee

20091744e1

1016 thereafter completes a licensure cycle on active status.

1017 (3) The board, by rule, shall impose a fee for an inactive  
1018 status license which is no greater than the fee for an active  
1019 status license.

1020 (4) An inactive status licensee may change to active status  
1021 at any time, provided the licensee meets all requirements for  
1022 active status, pays any additional licensure fees necessary to  
1023 equal those imposed on an active status licensee, pays any  
1024 applicable reactivation fees as set by the board, and meets all  
1025 continuing education requirements as specified in this section.

1026 (5) A licensee shall apply with a complete application, as  
1027 defined by rule of the board, to renew an active or inactive  
1028 status license before the license expires. Failure of a licensee  
1029 to renew before the license expires shall cause the license to  
1030 become delinquent in the license cycle following expiration.

1031 (6) (a) A delinquent status licensee must affirmatively  
1032 apply with a complete application, as defined by rule of the  
1033 board, for active or inactive status during the licensure cycle  
1034 in which a licensee becomes delinquent. Failure by a delinquent  
1035 status licensee to become active or inactive before the  
1036 expiration of the current licensure cycle shall render the  
1037 license void without any further action by the board or the  
1038 department.

1039 (b) Notwithstanding this chapter, the board may, at its  
1040 discretion, reinstate the license of an individual whose license  
1041 has become void if the board determines that the individual has  
1042 made a good faith effort to comply with this section but has  
1043 failed to comply because of illness or unusual hardship. The  
1044 individual must apply to the board for reinstatement in a manner

20091744e1

1045 prescribed by rules of the board and shall pay an applicable fee  
1046 in an amount determined by rule. The board shall require that  
1047 such individual meet all continuing education requirements  
1048 prescribed by law, pay appropriate licensing fees, and otherwise  
1049 be eligible for renewal of licensure under this chapter.

1050 (7) The board, by rule, shall impose an additional  
1051 delinquency fee, not to exceed the biennial renewal fee for an  
1052 active status license, on a delinquent status licensee when such  
1053 licensee applies for active or inactive status.

1054 (8) The board, by rule, shall impose an additional fee, not  
1055 to exceed the biennial renewal fee for an active status license,  
1056 for processing a licensee's request to change licensure status  
1057 at any time other than at the beginning of a licensure cycle.

1058 (9) The board, by rule, may impose reasonable conditions,  
1059 excluding full reexamination but including part of a national  
1060 examination or a special purpose examination to assess current  
1061 competency, necessary to ensure that a licensee who has been on  
1062 inactive status for more than two consecutive biennial licensure  
1063 cycles and who applies for active status can practice with the  
1064 care and skill sufficient to protect the health, safety, and  
1065 welfare of the public. Reactivation requirements may differ  
1066 depending on the length of time licensees are inactive. The  
1067 costs to meet reactivation requirements shall be borne by  
1068 licensees requesting reactivation.

1069 (10) Before reactivation, an inactive or delinquent  
1070 licensee shall meet the same continuing education requirements,  
1071 if any, imposed on an active status licensee for all biennial  
1072 licensure periods in which the licensee was inactive or  
1073 delinquent.

20091744e1

1074 (11) The status or a change in status of a licensee does  
1075 not alter the board's right to impose discipline or to enforce  
1076 discipline previously imposed on a licensee for acts or  
1077 omissions committed by the licensee while holding a license,  
1078 whether active, inactive, or delinquent.

1079 Section 20. Section 472.0203, Florida Statutes, is created  
1080 to read:

1081 472.0203 Renewal and cancellation notices.-

1082 (1) At least 90 days before the end of a licensure cycle,  
1083 the department shall:

1084 (a) Forward a licensure renewal notification to an active  
1085 or inactive licensee at the licensee's last known address of  
1086 record with the department.

1087 (b) Forward a notice of pending cancellation of licensure  
1088 to a delinquent status licensee at the licensee's last known  
1089 address of record with the department.

1090 (2) Each licensure renewal notification and each notice of  
1091 pending cancellation of licensure must state conspicuously that  
1092 a licensee who remains on inactive status for more than two  
1093 consecutive biennial licensure cycles and who wishes to  
1094 reactivate the license may be required to demonstrate the  
1095 competency to resume active practice by sitting for a special  
1096 purpose examination or by completing other reactivation  
1097 requirements, as defined by rule of the board.

1098 Section 21. Section 472.0204, Florida Statutes, is created  
1099 to read:

1100 472.0204 Address of record.-

1101 (1) Each licensee of the department is solely responsible  
1102 for notifying the department in writing of the licensee's

20091744e1

1103 current mailing address and place of practice, as defined by  
1104 rule of the board. A licensee's failure to notify the department  
1105 of a change of address constitutes a violation of this section,  
1106 and the licensee may be disciplined by the board.

1107 (2) Notwithstanding any other provision of law, service by  
1108 regular mail to a licensee's last known address of record with  
1109 the department constitutes adequate and sufficient notice to the  
1110 licensee for any official communication to the licensee by the  
1111 board or the department except when other service is required  
1112 pursuant to s. 472.033.

1113 Section 22. Section 472.033, Florida Statutes, is amended  
1114 to read:

1115 472.033 Disciplinary proceedings.—Disciplinary proceedings  
1116 for the board shall be within the jurisdiction of the  
1117 department.

1118 (1) (a) The department shall investigate any complaint that  
1119 is filed before it if the complaint is in writing, signed by the  
1120 complainant, and legally sufficient. A complaint is legally  
1121 sufficient if it contains ultimate facts that show that a  
1122 violation of this chapter or of any rule adopted by the  
1123 department or the board has occurred. In order to determine  
1124 legal sufficiency, the department may require supporting  
1125 information or documentation. The department may investigate,  
1126 and the department or the board may take appropriate final  
1127 action on, a complaint even though the original complainant  
1128 withdraws it or otherwise indicates a desire not to cause the  
1129 complaint to be investigated or prosecuted to completion. The  
1130 department may investigate an anonymous complaint if the  
1131 complaint is in writing and is legally sufficient, if the

20091744e1

1132 alleged violation of law or rules is substantial, and if the  
1133 department has reason to believe, after preliminary inquiry,  
1134 that the violations alleged in the complaint are true. The  
1135 department may investigate a complaint made by a confidential  
1136 informant if the complaint is legally sufficient, if the alleged  
1137 violation of law or rule is substantial, and if the department  
1138 has reason to believe, after preliminary inquiry, that the  
1139 allegations of the complainant are true. The department may  
1140 initiate an investigation if it has reasonable cause to believe  
1141 that a licensee or a group of licensees has violated a Florida  
1142 statute, a rule of the department, or a rule of the board.

1143 (b) If an investigation of any subject is undertaken, the  
1144 department shall promptly furnish to the subject or the  
1145 subject's attorney a copy of the complaint or document that  
1146 resulted in the initiation of the investigation. The subject may  
1147 submit a written response to the information contained in such  
1148 complaint or document within 20 days after service to the  
1149 subject of the complaint or document. The subject's written  
1150 response shall be considered by the probable cause panel. The  
1151 right to respond does not prohibit the issuance of a summary  
1152 emergency order if necessary to protect the public. However, if  
1153 the commissioner, or the commissioner's designee, and the chair  
1154 of the respective board or the chair of its probable cause panel  
1155 agree in writing that such notification would be detrimental to  
1156 the investigation, the department may withhold notification. The  
1157 department may conduct an investigation without notification to  
1158 any subject if the act under investigation is a criminal  
1159 offense.

1160 (2) The department shall allocate sufficient and adequately



20091744e1

1161 trained staff to expeditiously and thoroughly determine legal  
1162 sufficiency and investigate all legally sufficient complaints.  
1163 When its investigation is complete and legally sufficient, the  
1164 department shall prepare and submit to the probable cause panel  
1165 of the board the investigative report of the department. The  
1166 report shall contain the investigative findings and the  
1167 recommendations of the department concerning the existence of  
1168 probable cause. At any time after legal sufficiency is found,  
1169 the department may dismiss any case, or any part thereof, if the  
1170 department determines that there is insufficient evidence to  
1171 support the prosecution of allegations contained therein. The  
1172 department shall provide a detailed report to the appropriate  
1173 probable cause panel before dismissing any case or part thereof,  
1174 and to the subject of the complaint after dismissal of any case  
1175 or part thereof, under this section. For cases dismissed before  
1176 a finding of probable cause, such report is confidential and  
1177 exempt from s. 119.07(1). The probable cause panel shall have  
1178 access, upon request, to the investigative files pertaining to a  
1179 case before dismissing the case.

1180 (3) (a) As an alternative to subsections (1) and (2), if a  
1181 complaint is received, the department may provide a licensee  
1182 with a notice of noncompliance for an initial offense of a minor  
1183 violation. A violation is a minor violation if it does not  
1184 demonstrate a serious inability to practice the profession,  
1185 result in economic or physical harm to a person, or adversely  
1186 affect the public health, safety, or welfare or create a  
1187 significant threat of such harm. The board shall establish by  
1188 rule those violations which are minor violations under this  
1189 provision. Failure of a licensee to take action in correcting

20091744e1

1190 the violation within 15 days after notice may result in the  
1191 institution of regular disciplinary proceedings.

1192 (b) The department may issue a notice of noncompliance for  
1193 an initial offense of a minor violation, notwithstanding the  
1194 board's failure to designate a particular minor violation by  
1195 rule as provided in paragraph (a).

1196 (4) The determination as to whether probable cause exists  
1197 shall be made by majority vote of a probable cause panel of the  
1198 board, or by the department, as appropriate. The board shall  
1199 provide by rule that the determination of probable cause shall  
1200 be made by a panel of its members or by the department. The  
1201 board may provide by rule for multiple probable cause panels  
1202 composed of at least two members. The board may provide by rule  
1203 that one or more members of the panel or panels may be a former  
1204 board member. The length of term or repetition of service of any  
1205 such former board member on a probable cause panel may vary  
1206 according to the direction of the board when authorized by board  
1207 rule. Any probable cause panel must include one of the board's  
1208 former or present consumer members, if one is available, willing  
1209 to serve, and is authorized to do so by the board chair. Any  
1210 probable cause panel must include a present board member. Any  
1211 probable cause panel must include a former or present  
1212 professional board member. However, any former professional  
1213 board member serving on the probable cause panel must hold an  
1214 active valid license for that profession. All proceedings of the  
1215 panel are exempt from s. 286.011 until 10 days after probable  
1216 cause has been found to exist by the panel or until the subject  
1217 of the investigation waives his or her privilege of  
1218 confidentiality. The probable cause panel may make a reasonable

20091744e1

1219 request, and upon such request the department shall provide such  
1220 additional investigative information as is necessary to the  
1221 determination of probable cause. A request for additional  
1222 investigative information shall be made within 15 days from the  
1223 date of receipt by the probable cause panel of the investigative  
1224 report of the department. The probable cause panel or the  
1225 department, as may be appropriate, shall make its determination  
1226 of probable cause within 30 days after receipt by it of the  
1227 final investigative report of the department. The commissioner  
1228 or the commissioner's designee may grant extensions of the 15-  
1229 day and the 30-day time limits. In lieu of a finding of probable  
1230 cause, the probable cause panel may issue a letter of guidance  
1231 to the subject. If, within the 30-day time limit, as may be  
1232 extended, the probable cause panel does not make a determination  
1233 regarding the existence of probable cause or does not issue a  
1234 letter of guidance in lieu of a finding of probable cause, the  
1235 department, for disciplinary cases under its jurisdiction, must  
1236 make a determination regarding the existence of probable cause  
1237 within 10 days after the expiration of the time limit. If the  
1238 probable cause panel finds that probable cause exists, it shall  
1239 direct the department to file a formal complaint against the  
1240 licensee. The department shall follow the directions of the  
1241 probable cause panel regarding the filing of a formal complaint.  
1242 If directed to do so, the department shall file a formal  
1243 complaint against the subject of the investigation and prosecute  
1244 that complaint pursuant to chapter 120. However, the department  
1245 may decide not to prosecute the complaint if it finds that  
1246 probable cause had been improvidently found by the panel. In  
1247 such cases, the department shall refer the matter to the board.

20091744e1

1248 The board may then file a formal complaint and prosecute the  
1249 complaint pursuant to chapter 120. The department shall also  
1250 refer to the board any investigation or disciplinary proceeding  
1251 not before the Division of Administrative Hearings pursuant to  
1252 chapter 120 or otherwise completed by the department within 1  
1253 year after the filing of a complaint. The department, for  
1254 disciplinary cases under its jurisdiction, must establish a  
1255 uniform reporting system to quarterly refer to the board the  
1256 status of any investigation or disciplinary proceeding that is  
1257 not before the Division of Administrative Hearings or otherwise  
1258 completed by the department within 1 year after the filing of  
1259 the complaint. All proceedings of the probable cause panel are  
1260 exempt from s. 120.525.

1261 (5) A formal hearing before an administrative law judge  
1262 from the Division of Administrative Hearings shall be held  
1263 pursuant to chapter 120 if there are any disputed issues of  
1264 material fact. The administrative law judge shall issue a  
1265 recommended order pursuant to chapter 120. If any party raises  
1266 an issue of disputed fact during an informal hearing, the  
1267 hearing shall be terminated and a formal hearing pursuant to  
1268 chapter 120 shall be held.

1269 (6) The board, with those members of the panel, if any, who  
1270 reviewed the investigation pursuant to subsection (4) being  
1271 excused, shall determine and issue the final order in each  
1272 disciplinary case. Such order shall constitute final agency  
1273 action. Any consent order or agreed settlement shall be subject  
1274 to the approval of the department.

1275 (7) The department has standing to seek judicial review of  
1276 any final order of the board, pursuant to s. 120.68.

20091744e1

1277 (8) Any proceeding for the purpose of summary suspension of  
1278 a license, or for the restriction of the license, of a licensee  
1279 pursuant to s. 120.60(6) shall be conducted by the commissioner  
1280 or the commissioner's designee, who shall issue the final  
1281 summary order.

1282 (9) The department shall periodically notify the person who  
1283 filed the complaint of the status of the investigation, whether  
1284 probable cause has been found, and the status of any civil  
1285 action or administrative proceeding or appeal.

1286 (10) The complaint and all information obtained pursuant to  
1287 the investigation by the department are confidential and exempt  
1288 from s. 119.07(1) until 10 days after probable cause has been  
1289 found to exist by the probable cause panel or by the department,  
1290 or until the regulated professional or subject of the  
1291 investigation waives his or her privilege of confidentiality,  
1292 whichever occurs first. However, this exemption does not apply  
1293 to actions against unlicensed persons pursuant to s. 472.036 .  
1294 Upon completion of the investigation and pursuant to a written  
1295 request by the subject, the department shall provide the subject  
1296 an opportunity to inspect the investigative file or, at the  
1297 subject's expense, forward to the subject a copy of the  
1298 investigative file. The subject may file a written response to  
1299 the information contained in the investigative file. Such  
1300 response must be filed within 20 days, unless an extension of  
1301 time has been granted by the department. This subsection does  
1302 not prohibit the department from providing such information to  
1303 any law enforcement agency or to any other regulatory agency.

1304 (11) A privilege against civil liability is granted to any  
1305 complainant or any witness with regard to information furnished

20091744e1

1306 with respect to any investigation or proceeding pursuant to this  
1307 section, unless the complainant or witness acted in bad faith or  
1308 with malice in providing such information.

1309 ~~(1) The following acts constitute grounds for which the~~  
1310 ~~disciplinary actions in subsection (2) may be taken:~~

1311 ~~(a) Violation of any provision of s. 472.031 or s.~~  
1312 ~~455.227(1);~~

1313 ~~(b) Attempting to procure a license to practice surveying~~  
1314 ~~and mapping by bribery or fraudulent misrepresentations;~~

1315 ~~(c) Having a license to practice surveying and mapping~~  
1316 ~~revoked, suspended, or otherwise acted against, including the~~  
1317 ~~denial of licensure, by the licensing authority of another~~  
1318 ~~state, territory, or country;~~

1319 ~~(d) Being convicted or found guilty of, or entering a plea~~  
1320 ~~of nolo contendere to, regardless of adjudication, a crime in~~  
1321 ~~any jurisdiction which directly relates to the practice of~~  
1322 ~~surveying and mapping or the ability to practice surveying and~~  
1323 ~~mapping;~~

1324 ~~(e) Making or filing a report or record that the licensee~~  
1325 ~~knows to be false, willfully failing to file a report or record~~  
1326 ~~required by state or federal law, willfully impeding or~~  
1327 ~~obstructing such filing, or inducing another person to impede or~~  
1328 ~~obstruct such filing. Such reports or records shall include only~~  
1329 ~~those that are signed in the capacity of a registered surveyor~~  
1330 ~~and mapper;~~

1331 ~~(f) Advertising goods or services in a manner that is~~  
1332 ~~fraudulent, false, deceptive, or misleading in form or content;~~

1333 ~~(g) Upon proof that the licensee is guilty of fraud or~~  
1334 ~~deceit, or of negligence, incompetency, or misconduct, in the~~

20091744e1

1335 ~~practice of surveying and mapping;~~

1336 ~~(h) Failing to perform any statutory or legal obligation~~  
1337 ~~placed upon a licensed surveyor and mapper; violating any~~  
1338 ~~provision of this chapter, a rule of the board or department, or~~  
1339 ~~a lawful order of the board or department previously entered in~~  
1340 ~~a disciplinary hearing; or failing to comply with a lawfully~~  
1341 ~~issued subpoena of the department; or~~

1342 ~~(i) Practicing on a revoked, suspended, inactive, or~~  
1343 ~~delinquent license.~~

1344 ~~(2) When the board finds any surveyor and mapper guilty of~~  
1345 ~~any of the grounds set forth in subsection (1), it may enter an~~  
1346 ~~order imposing one or more of the following penalties:~~

1347 ~~(a) Denial of an application for licensure.~~

1348 ~~(b) Revocation or suspension of a license.~~

1349 ~~(c) Imposition of an administrative fine not to exceed~~  
1350 ~~\$1,000 for each count or separate offense.~~

1351 ~~(d) Issuance of a reprimand.~~

1352 ~~(e) Placement of the surveyor and mapper on probation for a~~  
1353 ~~period of time and subject to such conditions as the board may~~  
1354 ~~specify.~~

1355 ~~(f) Restriction of the authorized scope of practice by the~~  
1356 ~~surveyor and mapper.~~

1357 ~~(3) The department shall reissue the license of a~~  
1358 ~~disciplined surveyor and mapper upon certification by the board~~  
1359 ~~that he or she has complied with all of the terms and conditions~~  
1360 ~~set forth in the final order.~~

1361 Section 23. Section 472.0335, Florida Statutes, is created  
1362 to read:

1363 472.0335 Classification of disciplinary actions.-

20091744e1

1364 (1) A licensee may petition the department to review a  
1365 disciplinary incident to determine whether the specific  
1366 violation meets the standard of a minor violation as set forth  
1367 in s. 472.033(3). If the circumstances of the violation meet  
1368 that standard and 2 years have passed since the issuance of a  
1369 final order imposing discipline, the department shall reclassify  
1370 that violation as inactive if the licensee has not been  
1371 disciplined for any subsequent minor violation of the same  
1372 nature. After the department has reclassified the violation as  
1373 inactive, it is no longer considered to be part of the  
1374 licensee's disciplinary record, and the licensee may lawfully  
1375 deny or fail to acknowledge the incident as a disciplinary  
1376 action.

1377 (2) The department may establish a schedule classifying  
1378 violations according to the severity of the violation. After the  
1379 expiration of set periods of time, the department may provide  
1380 for such disciplinary records to become inactive, according to  
1381 their classification. After the disciplinary record has become  
1382 inactive, the department may clear the violation from the  
1383 disciplinary record and the subject person or business may  
1384 lawfully deny or fail to acknowledge such disciplinary actions.  
1385 The department may adopt rules to administer this subsection.

1386 Section 24. Section 472.034, Florida Statutes, is created  
1387 to read:

1388 472.034 Mediation.—

1389 (1) Notwithstanding s. 472.033, the board shall adopt rules  
1390 to designate which violations of this chapter are appropriate  
1391 for mediation. The board may designate as mediation offenses  
1392 those complaints where harm caused by the licensee is economic



20091744e1

1393 in nature or can be remedied by the licensee.

1394 (2) After the department determines a complaint is legally  
1395 sufficient and the alleged violations are defined as mediation  
1396 offenses, the department or any agent of the department may  
1397 conduct informal mediation to resolve the complaint. If the  
1398 complainant and the subject of the complaint agree to a  
1399 resolution of a complaint within 14 days after contact by the  
1400 mediator, the mediator shall notify the department of the terms  
1401 of the resolution. The department or board shall take no further  
1402 action unless the complainant and the subject each fail to  
1403 record with the department an acknowledgment of satisfaction of  
1404 the terms of mediation within 60 days of the mediator's  
1405 notification to the department. In the event the complainant and  
1406 subject fail to reach settlement terms or to record the required  
1407 acknowledgment, the department shall process the complaint  
1408 according to the provisions of s. 472.033.

1409 (3) Conduct or statements made during mediation are  
1410 inadmissible in any proceeding pursuant to s. 472.033. Further,  
1411 any information relating to the mediation of a case shall be  
1412 subject to the confidentiality provisions of s. 472.033.

1413 (4) A licensee may not go through the mediation process  
1414 more than three times without approval of the department. The  
1415 department may consider the subject and dates of the earlier  
1416 complaints in rendering its decision. The decision is not final  
1417 agency action for purposes of chapter 120.

1418 (5) The board has the continuing authority to amend its  
1419 rules adopted pursuant to this section.

1420 Section 25. Section 472.0345, Florida Statutes, is created  
1421 to read:

20091744e1

1422 472.0345 Authority to issue citations.-

1423 (1) Notwithstanding s. 472.033, the board or the department  
1424 shall adopt rules to permit the issuance of citations. The  
1425 citation shall be issued to the subject and shall contain the  
1426 subject's name and address, the subject's license number if  
1427 applicable, a brief factual statement, the sections of the law  
1428 allegedly violated, and the penalty imposed. The citation must  
1429 clearly state that the subject may choose, in lieu of accepting  
1430 the citation, to follow the procedure under s. 472.033. If the  
1431 subject disputes the matter in the citation, the procedures set  
1432 forth in s. 472.033 must be followed. However, if the subject  
1433 does not dispute the matter in the citation with the department  
1434 within 30 days after the citation is served, the citation  
1435 becomes a final order and constitutes discipline. The penalty  
1436 shall be a fine or other conditions as established by rule.

1437 (2) The board shall adopt rules designating violations for  
1438 which a citation may be issued. Such rules shall designate as  
1439 citation violations those violations for which there is no  
1440 substantial threat to the public health, safety, and welfare.

1441 (3) The department shall be entitled to recover the costs  
1442 of investigation, in addition to any penalty provided according  
1443 to board or department rule, as part of the penalty levied  
1444 pursuant to the citation.

1445 (4) A citation must be issued within 6 months after the  
1446 filing of the complaint that is the basis for the citation.

1447 (5) Service of a citation may be made by personal service  
1448 or certified mail, restricted delivery, to the subject at the  
1449 subject's last known address.

1450 (6) The board has continuous authority to amend its rules

20091744e1

1451 adopted pursuant to this section.

1452 Section 26. Section 472.0351, Florida Statutes, is created  
1453 to read:

1454 472.0351 Grounds for discipline; penalties; enforcement.-

1455 (1) The following acts shall constitute grounds for which  
1456 the disciplinary actions specified in subsection (2) may be  
1457 taken:

1458 (a) Violation of any provision of s. 472.031;

1459 (b) Attempting to procure a license to practice surveying  
1460 and mapping by bribery or fraudulent misrepresentations;

1461 (c) Having a license to practice surveying and mapping  
1462 revoked, suspended, or otherwise acted against, including the  
1463 denial of licensure, by the licensing authority of another  
1464 state, territory, or country;

1465 (d) Being convicted or found guilty of, or entering a plea  
1466 of nolo contendere to, regardless of adjudication, a crime in  
1467 any jurisdiction which directly relates to the practice of  
1468 surveying and mapping or the ability to practice surveying and  
1469 mapping;

1470 (e) Making or filing a report or record that the licensee  
1471 knows to be false, willfully failing to file a report or record  
1472 required by state or federal law, willfully impeding or  
1473 obstructing such filing, or inducing another person to impede or  
1474 obstruct such filing. Such reports or records shall include only  
1475 those that are signed in the capacity of a registered surveyor  
1476 and mapper;

1477 (f) Advertising goods or services in a manner that is  
1478 fraudulent, false, deceptive, or misleading in form or content;

1479 (g) Upon proof that the licensee is guilty of fraud or

20091744e1

1480 deceit, or of negligence, incompetency, or misconduct, in the  
1481 practice of surveying and mapping;

1482 (h) Failing to perform any statutory or legal obligation  
1483 placed upon a licensed surveyor and mapper; violating any  
1484 provision of this chapter, a rule of the board or department, or  
1485 a lawful order of the board or department previously entered in  
1486 a disciplinary hearing; or failing to comply with a lawfully  
1487 issued subpoena of the department;

1488 (i) Practicing on a revoked, suspended, inactive, or  
1489 delinquent license;

1490 (j) Making misleading, deceptive, or fraudulent  
1491 representations in or related to the practice of the licensee's  
1492 profession;

1493 (k) Intentionally violating any rule adopted by the board  
1494 or the department, as appropriate;

1495 (l) Having a license or the authority to practice the  
1496 regulated profession revoked, suspended, or otherwise acted  
1497 against, including the denial of licensure, by the licensing  
1498 authority of any jurisdiction, including its agencies or  
1499 subdivisions, for a violation that would constitute a violation  
1500 under Florida law;

1501 (m) Having been found liable in a civil proceeding for  
1502 knowingly filing a false report or complaint with the department  
1503 against another licensee;

1504 (n) Failing to report to the department any person who the  
1505 licensee knows is in violation of this chapter or the rules of  
1506 the department or the board;

1507 (o) Aiding, assisting, procuring, employing, or advising  
1508 any unlicensed person or entity to practice surveying and

20091744e1

1509 mapping contrary to this chapter or the rules of the department  
1510 or the board;

1511 (p) Making deceptive, untrue, or fraudulent representations  
1512 in or related to the practice of a profession or employing a  
1513 trick or scheme in or related to the practice of a profession;

1514 (q) Exercising influence on the client for the purpose of  
1515 financial gain of the licensee or a third party;

1516 (r) Practicing or offering to practice beyond the scope  
1517 permitted by law or accepting and performing professional  
1518 responsibilities the licensee knows, or has reason to know, the  
1519 licensee is not competent to perform;

1520 (s) Delegating or contracting for the performance of  
1521 professional responsibilities by a person when the licensee  
1522 delegating or contracting for performance of such  
1523 responsibilities knows, or has reason to know, such person is  
1524 not qualified by training, experience, and authorization when  
1525 required to perform them;

1526 (t) Violating this chapter, the applicable professional  
1527 practice act, a rule of the department or the board, or a lawful  
1528 order of the department or the board, or failing to comply with  
1529 a lawfully issued subpoena of the department; or

1530 (u) Improperly interfering with an investigation or  
1531 inspection authorized by statute, or with any disciplinary  
1532 proceeding.

1533 (2) When the board finds any surveyor or mapper guilty of  
1534 any of the grounds set forth in subsection (1), it may enter an  
1535 order imposing one or more of the following penalties:

1536 (a) Denial of an application for licensure.

1537 (b) Revocation or suspension of a license.

20091744e1

1538 (c) Imposition of an administrative fine not to exceed  
1539 \$1,000 for each count or separate offense.

1540 (d) Issuance of a reprimand.

1541 (e) Placement of the surveyor or mapper on probation for a  
1542 period of time and subject to such conditions as the board may  
1543 specify. Those conditions may include, but are not limited to,  
1544 requiring the licensee to undergo treatment, attend continuing  
1545 education courses, submit to be reexamined, work under the  
1546 supervision of another licensee, or satisfy any terms which are  
1547 reasonably tailored to the violations found.

1548 (f) Restriction of the authorized scope of practice by the  
1549 surveyor or mapper.

1550 (3) The department shall reissue the license of a  
1551 disciplined surveyor or mapper upon certification by the board  
1552 that he or she has complied with all of the terms and conditions  
1553 set forth in the final order.

1554 (4) (a) In addition to any other discipline imposed pursuant  
1555 to this section, the board may assess costs and attorneys fees  
1556 related to the investigation and prosecution of the case.

1557 (b) In any case where the board or the department imposes a  
1558 fine or assessment and the fine or assessment is not paid within  
1559 a reasonable time, such reasonable time to be prescribed in the  
1560 rules of the board or in the order assessing such fines or  
1561 costs, the department or the Department of Legal Affairs may  
1562 contract for the collection of, or bring a civil action to  
1563 recover, the fine or assessment.

1564 (5) In addition to, or in lieu of, any other remedy or  
1565 criminal prosecution, the department may file a proceeding in  
1566 the name of the state seeking issuance of an injunction or a

20091744e1

1567 writ of mandamus against any person who violates any of the  
1568 provisions of this chapter, or any provision of law with respect  
1569 to professions regulated by the department, or any board  
1570 therein, or the rules adopted pursuant thereto.

1571 (6) If the board determines that revocation of a license is  
1572 the appropriate penalty, the revocation shall be permanent.  
1573 However, the board may establish, by rule, requirements for  
1574 reapplication by applicants whose licenses have been permanently  
1575 revoked. Such requirements may include, but shall not be limited  
1576 to, satisfying current requirements for an initial license.

1577 Section 27. Section 472.0355, Florida Statutes, is created  
1578 to read:

1579 472.0355 Disciplinary guidelines.—

1580 (1) The board by rule shall adopt and periodically review  
1581 the disciplinary guidelines applicable to each ground for  
1582 disciplinary action which may be imposed by the board pursuant  
1583 to this chapter and any rule of the board or department.

1584 (2) The disciplinary guidelines shall specify a meaningful  
1585 range of designated penalties based upon the severity and  
1586 repetition of specific offenses, it being the legislative intent  
1587 that minor violations be distinguished from those which endanger  
1588 the public health, safety, or welfare; that such guidelines  
1589 provide reasonable and meaningful notice to the public of likely  
1590 penalties which may be imposed for proscribed conduct; and that  
1591 such penalties be consistently applied by the board.

1592 (3) A specific finding of mitigating or aggravating  
1593 circumstances shall allow the board to impose a penalty other  
1594 than that provided for in such guidelines. If applicable, the  
1595 board shall adopt by rule disciplinary guidelines to designate

20091744e1

1596 possible mitigating and aggravating circumstances and the  
1597 variation and range of penalties permitted for such  
1598 circumstances.

1599 (4) The department must review such disciplinary guidelines  
1600 for compliance with the legislative intent as set forth herein  
1601 to determine whether the guidelines establish a meaningful range  
1602 of penalties and may also challenge such rules pursuant to s.  
1603 120.56.

1604 (5) The administrative law judge, in recommending penalties  
1605 in any recommended order, must follow the penalty guidelines  
1606 established by the board or department and must state in writing  
1607 the mitigating or aggravating circumstances upon which the  
1608 recommended penalty is based.

1609 Section 28. Section 472.036, Florida Statutes, is created  
1610 to read:

1611 472.036 Unlicensed practice of professional surveying and  
1612 mapping; cease and desist notice; civil penalty; enforcement;  
1613 citations; allocation of moneys collected.-

1614 (1) When the department has probable cause to believe that  
1615 any person not licensed by the department or the board has  
1616 violated any provision of this chapter, or any rule adopted  
1617 pursuant this chapter, the department may issue and deliver to  
1618 such person a notice to cease and desist from such violation. In  
1619 addition, the department may issue and deliver a notice to cease  
1620 and desist to any person who aids and abets the unlicensed  
1621 practice of surveying and mapping by employing such unlicensed  
1622 person. The issuance of a notice to cease and desist shall not  
1623 constitute agency action for which a hearing under ss. 120.569  
1624 and 120.57 may be sought. For the purpose of enforcing a cease



20091744e1

1625 and desist order, the department may file a proceeding in the  
1626 name of the state seeking issuance of an injunction or a writ of  
1627 mandamus against any person who violates any provisions of such  
1628 order. In addition to the foregoing remedies, the department may  
1629 impose an administrative penalty not to exceed \$5,000 per  
1630 incident pursuant to the provisions of chapter 120 or may issue  
1631 a citation pursuant to the provisions of subsection (3). If the  
1632 department is required to seek enforcement of the order for a  
1633 penalty pursuant to s. 120.569, it shall be entitled to collect  
1634 its attorney's fees and costs, together with any cost of  
1635 collection.

1636 (2) In addition to or in lieu of any remedy provided in  
1637 subsection (1), the department may seek the imposition of a  
1638 civil penalty through the circuit court for any violation for  
1639 which the department may issue a notice to cease and desist  
1640 under subsection (1). The civil penalty shall be no less than  
1641 \$500 and no more than \$5,000 for each offense. The court may  
1642 also award to the prevailing party court costs and reasonable  
1643 attorney fees and, in the event the department prevails, may  
1644 also award reasonable costs of investigation.

1645 (3) (a) Notwithstanding the provisions of s. 472.033, the  
1646 department shall adopt rules to permit the issuance of citations  
1647 for unlicensed practice of a profession. The citation shall be  
1648 issued to the subject and shall contain the subject's name and  
1649 any other information the department determines to be necessary  
1650 to identify the subject, a brief factual statement, the sections  
1651 of the law allegedly violated, and the penalty imposed. The  
1652 citation must clearly state that the subject may choose, in lieu  
1653 of accepting the citation, to follow the procedure under s.

20091744e1

1654 472.033. If the subject disputes the matter in the citation, the  
1655 procedures set forth in s. 472.033 must be followed. However, if  
1656 the subject does not dispute the matter in the citation with the  
1657 department within 30 days after the citation is served, the  
1658 citation shall become a final order of the department upon  
1659 filing with the agency clerk. The penalty shall be a fine of not  
1660 less than \$500 or more than \$5,000 or other conditions as  
1661 established by rule.

1662 (b) Each day that the unlicensed practice continues after  
1663 issuance of a citation constitutes a separate violation.

1664 (c) The department shall be entitled to recover the costs  
1665 of investigation, in addition to any penalty provided according  
1666 to department rule as part of the penalty levied pursuant to the  
1667 citation.

1668 (d) Service of a citation may be made by personal service  
1669 or certified mail, restricted delivery, to the subject at the  
1670 subject's last known address.

1671 (4) All fines, fees, and costs collected through the  
1672 procedures set forth in this section shall be deposited in the  
1673 General Inspection Trust Fund.

1674 (5) The provisions of this section apply only to the  
1675 provisions of this chapter.

1676 Section 29. Section 472.0365, Florida Statutes, is created  
1677 to read:

1678 472.0365 Unlicensed activities; fees; disposition.—In order  
1679 to protect the public and to ensure a consumer-oriented  
1680 department, it is the intent of the Legislature that vigorous  
1681 enforcement of regulation for professional surveying and mapping  
1682 activities is a state priority. All enforcement costs under this

20091744e1

1683 chapter should be covered by the profession. Therefore, the  
1684 department shall impose, upon initial licensure and each renewal  
1685 thereof, a special fee of \$5 per licensee. Such fee shall be in  
1686 addition to all other fees collected from each licensee and  
1687 shall fund efforts to combat unlicensed activity. The board with  
1688 concurrence of the department may earmark \$5 of the current  
1689 licensure fee for this purpose, if the board is not in a deficit  
1690 and has a reasonable cash balance. The board with the  
1691 concurrence of the department may authorize the transfer of  
1692 funds from the operating fund account to the unlicensed activity  
1693 account if the operating fund account is not in a deficit and  
1694 has a reasonable cash balance. The department shall include all  
1695 financial and statistical data resulting from unlicensed  
1696 activity enforcement as a separate category in the quarterly  
1697 management report provided for in s. 472.011. For the unlicensed  
1698 activity account, a balance which remains at the end of a  
1699 renewal cycle may, with concurrence of the board and the  
1700 department, be transferred to the operating fund account of the  
1701 profession.

1702 Section 30. The following provisions are adopted to  
1703 minimize any interruption of service or function which may  
1704 result from implementing the type two transfer provided in this  
1705 act:

1706 (1) The Department of Agriculture and Consumer Services and  
1707 Department of Business and Professional Regulation shall  
1708 cooperate fully to complete this type two transfer not later  
1709 than October 1, 2009.

1710 (2) The Department of Business and Professional Regulation  
1711 shall transfer to the Department of Agriculture and Consumer

20091744e1

1712 Services the unexpended balances of appropriations, allocations,  
1713 and all other funds applicable to the licensing and regulation  
1714 of Professional Surveyors and Mappers outstanding as of October  
1715 1, 2009.

1716 (3) This type two transfer will require a full transfer of  
1717 all data and processing information necessary for complete  
1718 operation of the licensing and regulatory program under chapter  
1719 472, Florida Statutes, from the data processing system operated  
1720 by the Department of Business and Professional Regulation to the  
1721 data processing system operated by the Department of Agriculture  
1722 and Consumer Services. This transfer must be completed without  
1723 loss of relevant data or functionality required for the program.  
1724 In the event this necessary transfer of data processing  
1725 functionality cannot be completed before October 1, 2009, the  
1726 Department of Agriculture and Consumer Services may continue  
1727 operating some or all data processing functions required under  
1728 chapter 472, Florida Statutes, through the data processing  
1729 system operated by the Department of Business and Professional  
1730 Regulation. For this continued use of its data processing  
1731 system, the Department of Business and Professional Regulation  
1732 shall be reimbursed by the Department of Agriculture and  
1733 Consumer Services at the rate of \$2,000 per month; the monthly  
1734 fee shall be prorated by day for each partial month of continued  
1735 use. This authority for use and compensation shall terminate  
1736 upon the complete transfer of all data processing functions to  
1737 the separate data processing system operated by the Department  
1738 of Agriculture and Consumer Services.

1739 (4) The transfer of regulatory authority under chapter 472,  
1740 Florida Statutes, provided by this act shall not affect the

20091744e1

1741 validity of any judicial or administrative action pending as of  
1742 11:59 p.m. on the day before October 1, 2009, to which action  
1743 the Board of Professional Surveyors and Mappers, or the  
1744 Department of Business and Professional Regulation in relation  
1745 to the Board of Professional Surveyors and Mappers, are at that  
1746 time parties, and the Board of Professional Surveyors and  
1747 Mappers or the Department of Agriculture and Consumer Services,  
1748 as appropriate, shall be substituted as a party in interest in  
1749 any such action.

1750 (5) All lawful orders issued by the Board of Professional  
1751 Surveyors and Mappers, or by the Department of Business and  
1752 Professional Regulation, implementing or enforcing or otherwise  
1753 in regard to any provision of chapter 472, Florida Statutes,  
1754 issued prior to October 1, 2009, shall remain in effect and be  
1755 enforceable after October 1, 2009, unless thereafter modified in  
1756 accordance with law.

1757 (6) The rules of the Board of Professional Surveyors and  
1758 Mappers and of the Department of Business and Professional  
1759 Regulation relating to the Board of Professional Surveyors and  
1760 Mappers or implementation of chapter 472, Florida Statutes,  
1761 which were in effect at 11:59 p.m. on the day prior to October  
1762 1, 2009, shall become rules of the Department of Agriculture and  
1763 Consumer Services and the Board of Professional Surveyors and  
1764 Mappers and shall remain in effect until amended or repealed in  
1765 the manner provided by law.

1766 (7) (a) Notwithstanding the transfer of regulatory authority  
1767 over chapter 472, Florida Statutes, provided by this act,  
1768 persons and entities holding in good standing any license under  
1769 chapter 472, Florida Statutes, as of 11:59 p.m. on the day prior

20091744e1

1770 to October 1, 2009, shall be deemed to hold in good standing a  
1771 license in the same capacity under chapter 472, Florida  
1772 Statutes, as of October 1, 2009.

1773 (b) Notwithstanding the transfer of regulatory authority  
1774 over chapter 472, Florida Statutes, provided by this act,  
1775 persons and entities holding in good standing any registration  
1776 under chapter 472, Florida Statutes, as of 11:59 p.m. on the day  
1777 prior to October 1, 2009, shall as of October 1, 2009, be deemed  
1778 to be licensed in the same capacity in which they were formerly  
1779 registered, and their registration shall thereafter be deemed a  
1780 license for purposes of chapter 472, Florida Statutes.

1781 (8) No later than July 1, 2009, the Department of  
1782 Agriculture and Consumer Services and the Department of Business  
1783 and Professional Regulation shall cooperate in making available  
1784 all personnel and information necessary for a prompt and  
1785 complete transition of pending disciplinary matters, including  
1786 coordinating meetings of attorneys and investigators.

1787 (9) The Department of Agriculture and Consumer Services may  
1788 contract with the Department of Business and Professional  
1789 Regulation for the development, preparation, administration,  
1790 scoring, score reporting, and evaluation of examinations  
1791 currently scheduled to be conducted after October 1, 2009. Any  
1792 such contract shall be entered into only with the prior advice  
1793 and approval of the Board of Professional Surveyors and Mappers  
1794 and shall become effective on or after October 1, 2009. The  
1795 Department of Agriculture and Consumer Services and the  
1796 Department of Business and Professional Regulation shall confer  
1797 promptly with the board to determine at the earliest possible  
1798 time the need for the services described in this subsection.

20091744e1

1799 Section 31. Subsection (3) of section 482.2401, Florida  
1800 Statutes, is amended to read:

1801 482.2401 Disposition and use of revenues from fees and  
1802 fines.-

1803 (3) The department may use All revenues from administrative  
1804 fines ~~shall be used~~ to support contract research or education in  
1805 pest control. If revenues are available to support such research  
1806 or education, the department shall appoint a committee composed  
1807 of pest control industry members which shall assist the  
1808 department in establishing research or education priorities, in  
1809 developing requests for proposals for bids, and in selecting  
1810 research or education contractors from qualified bidders.

1811 Section 32. Effective upon this act becoming a law and  
1812 retroactive to January 1, 2009, subsections (1) and (2) of  
1813 section 487.041, Florida Statutes, as amended by section 14 of  
1814 chapter 2009-20, Laws of Florida, are amended to read:

1815 487.041 Registration.-

1816 (1) (a) Effective January 1, 2009, each brand of pesticide,  
1817 as defined in s. 487.021, which is distributed, sold, or offered  
1818 for sale, except as provided in this section, within this state  
1819 or delivered for transportation or transported in intrastate  
1820 commerce or between points within this state through any point  
1821 outside this state must be registered in the office of the  
1822 department, and such registration shall be renewed biennially.  
1823 Emergency exemptions from registration may be authorized in  
1824 accordance with the rules of the department. The registrant  
1825 shall file with the department a statement including:

1826 1. The name, business mailing address, and street address  
1827 of the registrant.

20091744e1

1828           2. The name of the brand of pesticide.

1829           3. An ingredient statement and a complete copy of the  
1830 labeling accompanying the brand of the pesticide, which must  
1831 conform to the registration, and a statement of all claims to be  
1832 made for it, including directions for use and a guaranteed  
1833 analysis showing the names and percentages by weight of each  
1834 active ingredient, the total percentage of inert ingredients,  
1835 and the names and percentages by weight of each "added  
1836 ingredient."

1837           (b) Effective January 1, 2009, for the purpose of defraying  
1838 expenses of the department in connection with carrying out the  
1839 provisions of this part, each registrant ~~person~~ shall pay a  
1840 biennial registration fee for each registered brand of  
1841 pesticide. The registration of each brand of pesticide shall  
1842 cover a designated 2-year period beginning on January 1 of each  
1843 odd-numbered year and expiring on December 31 of the following  
1844 year.

1845           (c) Each registration issued by the department to a  
1846 registrant for a period beginning in an odd-numbered year shall  
1847 be assessed a fee of \$700 per brand of pesticide and a fee of  
1848 \$200 for each special local need label and experimental use  
1849 permit, and the registration shall expire on December 31 of the  
1850 following year. Each registration issued by the department to a  
1851 registrant for a period beginning in an even-numbered year shall  
1852 be assessed a fee of \$350 per brand of pesticide and fee of \$100  
1853 for each special local need label and experimental use permit,  
1854 and the registration shall expire on December 31 of that year.

1855           (d)1. Effective January 1, 2009, in addition to the fees  
1856 assessed pursuant to paragraphs (b) and (c), for the purpose of



20091744e1

1857 defraying the expenses of the department for testing pesticides  
1858 for food safety, each registrant shall pay a supplemental  
1859 biennial registration fee for each registered brand of pesticide  
1860 that contains an active ingredient for which the United States  
1861 Environmental Protection Agency has established a food tolerance  
1862 limit in 40 C.F.R. part 180. The department shall biennially  
1863 publish by rule a list of the pesticide active ingredients for  
1864 which a brand of pesticide is subject to the supplemental  
1865 registration fee.

1866 2. Each registration issued by the department to a  
1867 registrant for a period beginning in an odd-numbered year shall  
1868 be assessed a supplemental registration fee of \$630 per brand of  
1869 pesticide that is subject to the fee pursuant to subparagraph 1.  
1870 Each registration issued by the department to a registrant for a  
1871 period beginning in an even-numbered year shall be assessed a  
1872 supplemental registration fee of \$315 per brand of pesticide  
1873 that is subject to the fee pursuant to subparagraph 1. The  
1874 department shall retroactively assess the supplemental  
1875 registration fee for each brand of pesticide that registered on  
1876 or after January 1, 2009, and that is subject to the fee  
1877 pursuant to subparagraph 1.

1878 (e)-~~d~~ All revenues collected, less those costs determined  
1879 by the department to be nonrecurring or one-time costs, shall be  
1880 deferred over the 2-year registration period, deposited in the  
1881 General Inspection Trust Fund, and used by the department in  
1882 carrying out the provisions of this chapter. Revenues collected  
1883 from the supplemental registration fee may also be used by the  
1884 department for testing pesticides for food safety.

1885 (f)-~~e~~ If the renewal of a brand of pesticide, including

20091744e1

1886 the special local need label and experimental use permit, is not  
1887 filed by January 31 of the renewal year, an additional fee of  
1888 \$25 per brand of pesticide shall be assessed per month and added  
1889 to the original fee. This additional fee may not exceed \$250 per  
1890 brand of pesticide. The additional fee must be paid by the  
1891 registrant before the renewal certificate for the registration  
1892 of the brand of pesticide is issued. The additional fee shall be  
1893 deposited into the General Inspection Trust Fund.

1894 (g)~~(f)~~ This subsection does not apply to distributors or  
1895 retail dealers selling brands of pesticide if such brands of  
1896 pesticide are registered by another person.

1897 (2) The department shall adopt rules governing the  
1898 procedures for the registration of a brand of pesticide, and for  
1899 the review of data submitted by an applicant for registration of  
1900 the brand of pesticide, and for biennially publishing the list  
1901 of active ingredients for which a brand of pesticide is subject  
1902 to the supplemental registration fee pursuant to subparagraph  
1903 (1) (d) 1. The department shall determine whether the brand of  
1904 pesticide should be registered, registered with conditions, or  
1905 tested under field conditions in this state. The department  
1906 shall determine whether each request for registration of a brand  
1907 of pesticide meets the requirements of current state and federal  
1908 law. The department, whenever it deems it necessary in the  
1909 administration of this part, may require the manufacturer or  
1910 registrant to submit the complete formula, quantities shipped  
1911 into or manufactured in the state for distribution and sale,  
1912 evidence of the efficacy and the safety of any pesticide, and  
1913 other relevant data. The department may review and evaluate a  
1914 registered pesticide if new information is made available that

20091744e1

1915 indicates that use of the pesticide has caused an unreasonable  
1916 adverse effect on public health or the environment. Such review  
1917 shall be conducted upon the request of the State Surgeon General  
1918 in the event of an unreasonable adverse effect on public health  
1919 or the Secretary of Environmental Protection in the event of an  
1920 unreasonable adverse effect on the environment. Such review may  
1921 result in modifications, revocation, cancellation, or suspension  
1922 of the registration of a brand of pesticide. The department, for  
1923 reasons of adulteration, misbranding, or other good cause, may  
1924 refuse or revoke the registration of the brand of any pesticide  
1925 after notice to the applicant or registrant giving the reason  
1926 for the decision. The applicant may then request a hearing,  
1927 pursuant to chapter 120, on the intention of the department to  
1928 refuse or revoke registration, and, upon his or her failure to  
1929 do so, the refusal or revocation shall become final without  
1930 further procedure. The registration of a brand of pesticide may  
1931 not be construed as a defense for the commission of any offense  
1932 prohibited under this part.

1933 Section 33. Section 531.60, Florida Statutes, is created to  
1934 read:

1935 531.60 Permit for commercially operated or tested weights  
1936 or measures instrument or devices.—

1937 (1) A weights and measures instrument or device may not  
1938 operate or be used for commercial purposes, as defined by  
1939 department rule, within this state without a valid commercial  
1940 use permit issued by the department, unless exempted as provided  
1941 in s. 531.61. Such permit applies only to the specific  
1942 instrument or device for which the permit was issued. However,  
1943 the department may allow such permit to be applicable to a

20091744e1

1944 replacement for the original instrument or device.

1945 (2) If ownership of an instrument or device for which a  
1946 permit has been issued changes and the instrument or device:

1947 (a) Remains in the same location, the permit transfers to  
1948 the new owner and remains in effect until its original  
1949 expiration date. Within 30 days after the change in ownership,  
1950 the new owner shall notify the department of the change and  
1951 provide the pertinent information regarding the change in  
1952 ownership and an updated replacement permit shall be issued if  
1953 needed.

1954 (b) Moves to a new location, the permit automatically  
1955 expires and a new permit must be issued which will expire 1 year  
1956 following the date of issuance.

1957 (3) Weights and measures instruments or devices that are  
1958 not used commercially may be tested by the department under this  
1959 chapter only if they are permitted and appropriate fees paid as  
1960 prescribed by this section and adopted rules.

1961 Section 34. Section 531.61, Florida Statutes, is created to  
1962 read:

1963 531.61 Exemptions from permit requirement.—Commercial  
1964 weights or measures instruments or devices are exempt from the  
1965 permit requirements of ss. 531.60-531.66 if:

1966 (1) The device is a taximeter that is licensed, permitted,  
1967 or registered by a municipality, county, or other local  
1968 government and is tested for accuracy and compliance with state  
1969 standards by the local government in cooperation with the state  
1970 as authorized in s. 531.421.

1971 (2) The device is used exclusively for weighing railroad  
1972 cars and is tested for accuracy and compliance with state

20091744e1

1973 standards by a private testing agency.

1974 (3) The device is used exclusively for measuring petroleum  
1975 products taxed under s. 525.09.

1976 Section 35. Section 531.62, Florida Statutes, is created to  
1977 read:

1978 531.62 Permit application and renewal.—

1979 (1) An application for a weights and measures commercial  
1980 use permit shall be submitted to the department on a form  
1981 prescribed and furnished by the department and must contain such  
1982 information as the department may require by rule.

1983 (2) The application must be accompanied by a fee in an  
1984 amount determined by department rule. However, the fee for each  
1985 instrument or device may not exceed the maximum limits set forth  
1986 in s. 531.63.

1987 (3) The department shall issue a permit and such other  
1988 identification tags or stickers as necessary to provide evidence  
1989 of compliance with ss. 531.60-531.66.

1990 (4) A permit expires 1 year following its date of issue and  
1991 must be renewed annually. If an application for renewal is not  
1992 received by the department within 30 days after its due date, a  
1993 late fee of up to \$100 must be paid in addition to the annual  
1994 commercial use permit fee.

1995 (5) All permit fees shall be deposited into the General  
1996 Inspection Trust Fund and used to carry out and enforce the  
1997 provisions of this chapter relating to testing, inspection,  
1998 licensing, and regulation of commercial weights and measures  
1999 instruments or devices and practices in the state.

2000 Section 36. Section 531.63, Florida Statutes, is created to  
2001 read:

20091744e1

531.63 Maximum permit fees.—The commercial use permit fees established for weights or measures instruments or devices shall be in an amount necessary to administer this chapter but may not exceed the amounts provided in this section.

(1) For weighing devices, the fees must be based on the manufacturer's rated capacity or the device's design and use and whether measuring by inch or pounds or the metric equivalent:

(a) For weighing devices of up to and including the 100-pound capacity which are used during any portion of the period covered by the permit, the maximum annual fees per retail establishment may not exceed the following:

| <u>Number of devices</u>                | <u>Maximum Fee</u> |
|---|--------------------|
| <u>in a single retail establishment</u> |                    |
| <u>1 to 5</u>                           | <u>\$60</u>        |
| <u>6 to 10</u>                          | <u>\$150</u>       |
| <u>11 to 30</u>                         | <u>\$200</u>       |
| <u>More than 30</u>                     | <u>\$300</u>       |

(b) For weighing devices of greater than the 100-pound capacity, the maximum annual registration fees may not exceed the following amounts per device:

| <u>Manufacturer's rated capacity</u> | <u>Maximum Fee Per Device</u> |
|--------------------------------------|-------------------------------|
| <u>100-5,000 pounds</u>              | <u>\$200</u>                  |
| <u>5,000-20,000 pounds</u>           | <u>\$300</u>                  |
| <u>20,000 pounds or more</u>         | <u>\$400</u>                  |
| <u>Wheel load weighers</u>           | <u>\$35</u>                   |

20091744e1

|      |  |                |
|------|--|----------------|
| 2031 | <u>Static railroad track scales</u>    | <u>\$1,000</u> |
| 2032 | <u>Belt-conveyor scales</u>            | <u>\$500</u>   |
| 2033 | <u>In-motion railroad track scales</u> | <u>\$1,000</u> |

2034

2035 (2) For other measuring devices, the annual permit fees per  
 2036 device may not exceed the following:

2037 (a) Mass flow meters having a maximum flow rate of up to  
 2038 150 pounds per minute \$100.

2039 (b) Mass flow meters having a maximum flow rate greater  
 2040 than 150 pounds per minute \$500.

2041 (c) Volumetric flow meters having a maximum flow rate of up  
 2042 to 20 gallons per minute \$50.

2043 (d) Volumetric flow meters having a maximum flow rate  
 2044 greater than 20 gallons per minute \$100.

2045 (e) Tanks, under 500 gallons capacity, used as measure  
 2046 containers, with or without gage rods or markers \$100.

2047 (f) Tanks, 500 or more gallons capacity, used as measure  
 2048 containers, with or without gage rods or markers \$200.

2049 (g) Taximeters \$50.

2050 (h) Grain moisture meters \$25.

2051 (i) Multiple-dimension measuring devices \$100.

2052 (3) The owner or person in possession of a weight or  
 2053 measures instrument or device for which the permit fees have not  
 2054 been paid in accordance with this section may not use such  
 2055 instrument or device for commercial purposes.

2056 Section 37. Section 531.64, Florida Statutes, is created to  
 2057 read:

2058 531.64 Suspension and revocation of permits.—Any permit  
 2059 issued under s. 531.62 may be suspended or revoked by the

20091744e1

2060 department if the devices or instruments for which the permit is  
2061 issued are operated or used contrary to this chapter or adopted  
2062 rules.

2063 Section 38. Section 531.65, Florida Statutes, is created to  
2064 read:

2065 531.65 Unauthorized use; penalties.—If a weights or  
2066 measures instrument or device is used commercially without a  
2067 valid commercial use permit, the department may:

2068 (1) Prohibit the further commercial use of the unpermitted  
2069 instrument or device until the proper permit has been issued;

2070 (2) Employ and attach to the instrument or device such  
2071 form, notice, tag, or seal to prevent the continued unauthorized  
2072 use of the instrument or device;

2073 (3) In addition to the permit fees prescribed by rule for  
2074 the commercial use of a weights and measures instrument or  
2075 device, assess the late fee authorized under s. 531.62; or

2076 (4) Impose penalties as prescribed in s. 531.50 in addition  
2077 to the payment of appropriate permit fees for the commercial use  
2078 of a weights and measures instrument or device.

2079 Section 39. Section 531.66, Florida Statutes, is created to  
2080 read:

2081 531.66 Forms; rules.—

2082 (1) The department shall prescribe such forms, permits,  
2083 certificates, and identification tags or stickers it considers  
2084 necessary to carry out the permitting provisions of ss. 531.60-  
2085 531.66.

2086 (2) The department shall adopt rules necessary to  
2087 administer ss. 531.60-531.66.

2088 Section 40. Sections 531.60, 531.61, 531.62, 531.63,



20091744e1

2089 531.64, 531.65, and 531.66, Florida Statutes, as created by this  
2090 act, shall expire July 1, 2014.

2091 Section 41. Paragraph (a) of subsection (2) of section  
2092 576.021, Florida Statutes, is amended to read:

2093 576.021 Registration and licensing.—

2094 (2) (a) A person may not distribute a specialty fertilizer  
2095 in this state until it is registered with the department by the  
2096 licensee whose name appears on the label. An application for  
2097 registration of each grade of specialty fertilizer shall be made  
2098 on a form furnished by the department and shall be accompanied  
2099 by an annual fee of \$100 for each specialty fertilizer that is  
2100 registered ~~for the first five registrations for each grade of~~  
2101 ~~each brand. If more than five grades of specialty fertilizer are~~  
2102 ~~to be registered by a licensee, the registration fee for the~~  
2103 ~~sixth grade registered and for each subsequent grade registered~~  
2104 ~~shall be \$25 for each grade of each brand.~~ All specialty  
2105 fertilizer registrations expire June 30 each year. All licensing  
2106 and registration fees paid to the department under this section  
2107 shall be deposited into the State Treasury to be placed in the  
2108 General Inspection Trust Fund to be used for the sole purpose of  
2109 funding the fertilizer inspection program.

2110 Section 42. Paragraph (a) of subsection (2) of section  
2111 576.045, Florida Statutes, is amended to read:

2112 576.045 Nitrogen and phosphorus; findings and intent; fees;  
2113 purpose; best-management practices; waiver of liability;  
2114 compliance; rules; exclusions; expiration.—

2115 (2) FEES.—

2116 (a) In addition to the fees imposed under ss. 576.021 and  
2117 576.041, the following supplemental fees shall be collected and

20091744e1

2118 paid by licensees for the sole purpose of implementing this  
2119 section:

2120 1. One hundred dollars for each license to distribute  
2121 fertilizer.

2122 2. One hundred dollars for each ~~of the first five~~ specialty  
2123 fertilizer ~~registrations and \$25 for each~~ registration ~~after the~~  
2124 ~~first five~~.

2125 3. Fifty cents per ton for all fertilizer that contains  
2126 nitrogen or phosphorus and that is sold in this state.

2127 Section 43. Subsection (1) of section 578.08, Florida  
2128 Statutes, is amended to read:

2129 578.08 Registrations.—

2130 (1) Every person, except as provided in subsection (4) and  
2131 s. 578.14, before selling, distributing for sale, offering for  
2132 sale, exposing for sale, handling for sale, or soliciting orders  
2133 for the purchase of any agricultural, vegetable, flower, or  
2134 forest tree seed or mixture thereof, shall first register with  
2135 the department as a seed dealer. The application for  
2136 registration shall include the name and location of each place  
2137 of business at which the seed is sold, distributed for sale,  
2138 offered for sale, exposed for sale, or handled for sale. The  
2139 application for registration shall be accompanied by an annual  
2140 registration fee for each such place of business based on the  
2141 gross receipts from the sale of such seed for the last preceding  
2142 license year as follows:

2143 (a)1. Receipts less than \$2,500.01, fee of.....\$100 ~~\$50~~

2144 2. Receipts more than \$2,500 and less than  
2145 \$5,000.01, fee of.....\$200 ~~\$100~~

2146 3. Receipts more than \$5,000 and less than

20091744e1

2147 \$10,000.01, fee of.....\$350 ~~\$175~~

2148 4. Receipts more than \$10,000 and less than

2149 \$20,000.01, fee of .....\$800 ~~\$400~~

2150 5. Receipts more than \$20,000 and less than

2151 \$40,000.01, fee of.....\$1,000 ~~\$500~~

2152 6. Receipts more than \$40,000 and less than

2153 \$70,000.01, fee of.....\$1,200 ~~\$600~~

2154 7. Receipts more than \$70,000 and less than

2155 \$150,000.01, fee of.....\$1,600 ~~\$800~~

2156 8. Receipts more than \$150,000 and less than

2157 \$400,000.01, fee of.....\$2,400 ~~\$1,200~~

2158 9. Receipts more than \$400,000, fee of.....\$4,600 ~~\$2,300~~

2159 (b) For places of business not previously in operation, the

2160 fee shall be based on anticipated receipts for the first license

2161 year.

2162 Section 44. Subsection (2) of section 589.08, Florida

2163 Statutes, is amended to read:

2164 589.08 Land acquisition restrictions.-

2165 (2) The division may receive, hold the custody of, and

2166 exercise the control of any lands, and set aside into a

2167 separate, distinct and inviolable fund, any ~~the~~ proceeds ~~which~~

2168 ~~may be~~ derived from the sales of the products of such lands, the

2169 use thereof in any manner, or the sale of such lands save the 25

2170 percent of the proceeds ~~thereof~~ to be paid into the State School

2171 Fund as provided by law. The division may use and apply such

2172 funds for the acquisition, use, custody, management,

2173 development, or improvement of any lands vested in or subject to

2174 the control of the ~~such~~ division. After full payment has been

2175 made for the purchase of a state forest, ~~to~~ the Federal

20091744e1

2176 Government or other grantor, ~~then~~ 15 percent of the gross  
2177 receipts from a state forest shall be paid to the fiscally  
2178 constrained county or counties, as described in s. 218.67(1), in  
2179 which it is located in proportion to the acreage located in each  
2180 county for use by the county or counties for school purposes.

2181 Section 45. Section 589.081, Florida Statutes, is amended  
2182 to read:

2183 589.081 Withlacoochee State Forest and Goethe State Forest;  
2184 payment ~~to counties~~ of portion of gross receipts.—The Division  
2185 of Forestry shall pay 15 percent of the gross receipts from  
2186 Withlacoochee State Forest and the Goethe State Forest to each  
2187 fiscally constrained county, as described in s. 218.67(1), in  
2188 which a portion of the respective forest is located in  
2189 proportion to the forest acreage located in such ~~each~~ county.  
2190 The funds must be equally divided between the board of county  
2191 commissioners and the school board of each fiscally constrained  
2192 county.

2193 Section 46. This act shall take effect July 1, 2009, except  
2194 that sections 1 through 30 of this act shall take effect October  
2195 1, 2009.