

20091744er

1
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

20091744er

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

20091744er

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

20091744er

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;

20091744er

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.

20091744er

- 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

20091744er

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

20091744er

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

20091744er

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

20091744er

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

20091744er

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

20091744er

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

20091744er

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.

20091744er

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;

20091744er

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

20091744er

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

20091744er

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

20091744er

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.

20091744er

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

20091744er

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

20091744er

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

20091744er

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

20091744er

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

20091744er

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,

20091744er

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

20091744er

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

20091744er

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

20091744er

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

20091744er

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.-

20091744er

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

20091744er

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.

20091744er

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

20091744er

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.—

20091744er

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,

20091744er

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

20091744er

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

20091744er

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.

20091744er

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

20091744er

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

20091744er

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

20091744er

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

20091744er

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

20091744er

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.

20091744er

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.

20091744er

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

20091744er

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~~

20091744er

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.-

20091744er

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

20091744er

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:

20091744er

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

20091744er

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

20091744er

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

20091744er

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.

20091744er

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

20091744er

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

20091744er

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

20091744er

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.

20091744er

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

20091744er

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

20091744er

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

20091744er

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

20091744er

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.

20091744er

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.

20091744er

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

20091744er

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

20091744er

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

20091744er

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

20091744er

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

20091744er

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:

20091744er

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</u>	
<u>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>

20091744er

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

20091744er

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,

20091744er

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

20091744er

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

20091744er

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

20091744er

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.