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Proposed Committee Substitute by the Committee on Military
Affairs and Domestic Security

A bill to be entitled

An act relating to seaport security; creating s.
311.115, F.S.; establishing the Seaport Security
Standards Advisory Council; providing for membership
and terms of office; providing duties; requiring
reports to the Governor and Legislature; amending s.
311.12, F.S.; revising provisions relating to seaport
security; authorizing the Department of Law
Enforcement to exempt all or part of a port from
certain security requirements; providing criteria for
determining eligibility to enter restricted access
areas; establishing a statewide access eligibility
reporting system within the department; requiring all
access eligibility to be submitted to the department
and retained within the system; deleting the
requirement that seaports promptly notify the
department of any changes in access levels; requiring
changes in access eligibility status to be reported
within a certain time; providing for fees; providing
an expedited process for obtaining access to
restricted areas; specifying the process for
conducting criminal history checks and for the
retention of fingerprint information; providing a
criminal penalty for providing false information
related to obtaining access to restricted seaport
areas; providing additional criminal offenses that
disqualify a person from employment by or access to a



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28 seaport; deleting the requirement that the department
29 notify the port authority that denied employment of
30 the final disposition of a waiver request from
31 background screening requirements; allowing, rather
32 than requiring, certain applications for a waiver from
33 security requirements to be submitted to the Domestic
34 Security Council for review; requiring a copy of the
35 department's legislative report to be provided to each
36 seaport governing body or authority; requiring the
37 department to provide assessment briefings to seaport
38 authority governing boards and local regional domestic
39 security task force co-chairs at least once per year;
40 requiring certain board members to attend assessment
41 briefings; adding the department to those entities
42 responsible for allocating funds for security
43 projects; repealing s. 311.111, F.S., relating to
44 unrestricted and restricted public access areas and
45 secured restricted access areas; repealing s. 311.125,
46 F.S., relating to the Uniform Port Access Credential
47 System and the Uniform Port Access Credential Card;
48 amending s. 311.121, F.S.; revising the membership of
49 the Seaport Security Officer Qualification, Training,
50 and Standards Coordinating Council; amending ss.
51 311.123, 311.124, 311.13, 943.0585, and 943.059, F.S.;
52 conforming terms and cross-references; directing the
53 Office of Drug Control to commission an update of the
54 Florida Seaport Security Assessment 2000, which shall
55 be presented to the Legislature by a certain date;
56 providing a contingency with respect to assessment



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57 briefings conducted by the department; providing an
58 effective date.

59
60 Be It Enacted by the Legislature of the State of Florida:

61
62 Section 1. Section 311.115, Florida Statutes, is created to
63 read:

64 311.115 Seaport Security Standards Advisory Council.—The
65 Seaport Security Standards Advisory Council is created under the
66 Office of Drug Control. The council shall serve as an advisory
67 council as provided in s. 20.03(7).

68 (1) The members of the council shall be appointed by the
69 Governor and consist of the following:

70 (a) Two seaport directors.

71 (b) Two seaport security directors.

72 (c) One designee to represent seaport tenants.

73 (d) One designee to represent seaport workers.

74 (e) One designee from the Department of Law Enforcement.

75 (f) One designee from the Office of Motor Carrier
76 Compliance of the Department of Transportation.

77 (g) One designee from the Attorney General's Office.

78 (h) One designee from the Department of Agriculture and
79 Consumer Services.

80 (i) One designee from the Office of Tourism, Trade, and
81 Economic Development.

82 (j) One designee from the Office of Drug Control.

83 (k) One designee from the Fish and Wildlife Conservation
84 Commission.

85 (l) The Director of the Division of Emergency Management,



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86 or designee.

87 (2) In addition to the members designated in subsection
88 (1), the council may invite a representative of the United
89 States Coast Guard to attend and participate in council meetings
90 as an ex officio, nonvoting member of the council.

91 (3) Members of the council shall be appointed to 4-year
92 terms. A vacancy shall be filled by the original appointing
93 authority for the balance of the unexpired term.

94 (4) The council shall be chaired by a designee from the
95 Office of Drug Control.

96 (5) Beginning January 15, 2007, and at least every 4 years
97 thereafter, the Office of Drug Control shall convene the council
98 to review the minimum security standards referenced in s.
99 311.12(1) for applicability to and effectiveness in combating
100 current narcotics and terrorism threats to the state's seaports.
101 All sources of information allowed by law shall be used in
102 assessing the applicability and effectiveness of the standards.

103 (6) Council members shall serve without pay; however, per
104 diem and travel allowances may be claimed for attendance at
105 officially called meetings as provided by s. 112.061.

106 (7) The council shall consult with the appropriate area
107 maritime security committees to assess possible impacts to
108 commerce and trade contained in the council's nonclassified
109 recommendations and findings.

110 (8) The recommendations and findings of the council shall
111 be transmitted to the Governor, the President of the Senate, and
112 the Speaker of the House of Representatives.

113 Section 2. Section 311.12, Florida Statutes, is amended to
114 read:



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115 (Substantial rewording of section. See
116 s. 311.12, F.S., for present text.)

117 311.12 Seaport security.—

118 (1) SECURITY STANDARDS.—

119 (a) The statewide minimum standards for seaport security
120 applicable to seaports listed in s. 311.09 shall be those based
121 on the Florida Seaport Security Assessment 2000 and set forth in
122 the Port Security Standards Compliance Plan delivered to the
123 Speaker of the House of Representatives and the President of the
124 Senate on December 11, 2000. The Office of Drug Control within
125 the Executive Office of the Governor shall maintain a sufficient
126 number of copies of the standards at its offices for
127 distribution to the public, and provide copies to each affected
128 seaport upon request.

129 (b) A seaport may implement security measures that are more
130 stringent, more extensive, or supplemental to the minimum
131 security standards established by this subsection, except that
132 for purposes of qualifying for employment and access to
133 restricted access areas, a seaport must meet but may not exceed
134 the disqualifying offenses provided in subsection (7).

135 (2) EXEMPTION.—The Department of Law Enforcement may exempt
136 all or part of a seaport listed in s. 311.09 from the
137 requirements of this section if the department determines that
138 activity associated with the use of the seaport or part of the
139 seaport is not vulnerable to criminal activity or terrorism. The
140 department shall periodically review such exemptions to
141 determine if there is a change in use. Such change may warrant
142 removal of all or part of the exemption.

143 (3) SECURITY PLAN.—Each seaport listed in s. 311.09 shall



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144 adopt and maintain a security plan specific to that seaport
145 which provides for a secure seaport infrastructure that promotes
146 the safety and security of state residents and visitors and the
147 flow of legitimate trade and travel.

148 (a) Beginning January 1, 2007, and every 5 years
149 thereafter, each seaport director, with the assistance of the
150 Regional Domestic Security Task Force and in conjunction with
151 the United States Coast Guard, shall revise the seaport's
152 security plan based on the director's ongoing assessment of
153 security risks, the risks of terrorist activities, and the
154 specific and identifiable needs of the seaport for ensuring that
155 the seaport is in substantial compliance with the minimum
156 security standards established under subsection (1).

157 (b) Each adopted or revised security plan must be reviewed
158 and approved by the Office of Drug Control and the Department of
159 Law Enforcement for compliance with federal facility security
160 assessment requirements under 33 C.F.R. s. 105.305 and the
161 minimum security standards established under subsection (1).
162 Within 30 days after completion, a copy of the written review
163 shall be delivered to the United States Coast Guard, the
164 Regional Domestic Security Task Force, and the Domestic Security
165 Oversight Council.

166 (4) RESTRICTED ACCESS AREAS.—Each seaport listed in s.
167 311.09 must clearly designate in seaport security plans, and
168 clearly identify with appropriate signs and markers on the
169 premises of a seaport, all restricted access areas, access
170 eligibility requirements, and corresponding security enforcement
171 authorizations, which may include, but not be limited to, clear
172 notice of the prohibition against possession of concealed



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173 weapons and other contraband material on the premises of the
174 seaport, as provided in paragraph (e).

175 (a) The seaport's security plan must set forth the
176 conditions and restrictions to be imposed on persons employed
177 at, doing business at, or visiting the seaport relating to
178 restricted access areas that are sufficient to provide
179 substantial compliance with the minimum security standards
180 established in subsection (1).

181 (b) Seaport employees and other persons working at the
182 seaport who have regular access to such areas, visitors who have
183 business with the seaport, and cruise ship passengers holding
184 valid boarding documents have express permission to enter a
185 restricted access area.

186 1. Seaport employees or other persons working at the
187 seaport are considered to have "regular access" if they enter a
188 restricted area more than five times in a 90-day period.

189 2. A person who enters a restricted access area five times
190 or less in a 90-day period is considered a "visitor." Upon
191 arrival at a restricted access area, a visitor must, at a
192 minimum, stop at a check point, show valid identification, and
193 receive a visitor's pass before proceeding. The visitor's pass
194 must be plainly displayed on the person of the visitor or in the
195 windshield of the vehicle, and designate which area of the
196 seaport may be accessed by the visitor. Failure to display the
197 visitor's pass shall result in revocation of permission to work
198 at the seaport. Public conveyances, such as buses carrying
199 passengers into restricted access areas, must be able to verify
200 that all passengers have legitimate business at the seaport.
201 Procedures for implementation of this requirement are the



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202 responsibility of each seaport.

203 3. Cruise ship passengers are those persons scheduled for
204 immediate departure who have permission to board a ship that is
205 in port. Upon arrival at a restricted access area, cruise ship
206 passengers must, at a minimum, stop at a check point and show
207 valid identification and boarding documents.

208 4. Any person found in these areas without the proper
209 permission is subject to the trespass provisions of ss. 810.08
210 and 810.09.

211 5. All persons and objects in these areas are subject to
212 search by a sworn state-certified law enforcement officer, a
213 Class D seaport security officer certified under Maritime
214 Transportation Security Act guidelines and s. 311.121, or an
215 employee of the seaport security force certified under the
216 Maritime Transportation Security Act guidelines and s. 311.121.

217 (c) During a period of high terrorist threat level, as
218 designated by the United States Department of Homeland Security
219 or the Department of Law Enforcement, or during an emergency
220 declared at a port by the seaport security director due to
221 events applicable to that particular seaport, the management or
222 controlling authority of the port may temporarily designate any
223 part of the seaport property as a restricted access area. The
224 duration of such designation is limited to the period in which
225 the high terrorist threat level is in effect or a port emergency
226 exists.

227 (d) As determined by the seaport director's most current
228 risk assessment report under paragraph (3) (a), any restricted
229 access area that has a potential human occupancy of 50 persons
230 or more, any cruise terminal, or any business operation that is



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231 adjacent to a public access area must be protected from the most
232 probable and credible terrorist threat to human life.

233 (e) Any person in a restricted access area who has in his
234 or her possession a concealed weapon, or who operates or has
235 possession or control of a vehicle in or upon which a concealed
236 weapon is placed or stored, commits a misdemeanor of the first
237 degree, punishable as provided in s. 775.082 or s. 775.083. This
238 paragraph does not apply to active-duty certified federal or
239 state law enforcement personnel or persons so designated by the
240 seaport director in writing.

241 (5) ACCESS ELIGIBILITY REPORTING SYSTEM.—Subject to
242 legislative appropriations, the Department of Law Enforcement
243 shall administer a statewide seaport access eligibility
244 reporting system.

245 (a) The system must, at a minimum, include:

246 1. A centralized, secure method of collecting and
247 maintaining fingerprints or other biometric data, or other means
248 of confirming the identity of persons authorized to enter a
249 restricted access area of a seaport;

250 2. A methodology for receiving from and transmitting
251 information to each seaport regarding a person's authority to
252 enter a restricted access area of the seaport;

253 3. A means for receiving prompt notification from a seaport
254 when a person's authorization to enter a restricted access area
255 of a seaport has be suspended or revoked; and

256 4. A means to communicate to seaports when a person's
257 authorization to enter a restricted access area of a seaport has
258 been suspended or revoked.

259 (b) Each seaport listed in s. 311.09 is responsible for



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260 granting, modifying, restricting, or denying access to
261 restricted access areas to seaport employees, other persons
262 working at the seaport, visitors who have business with the
263 seaport, or other persons regularly appearing at the seaport.
264 Each seaport is responsible for access eligibility verification
265 at its location.

266 (c) In accordance with subsection (7), a fingerprint-based
267 criminal history check must be performed on employee applicants,
268 current employees, and other persons working within or
269 authorized to regularly enter a restricted access area. Based
270 upon the criminal history check, each seaport may determine the
271 specific access eligibility to be granted to that person.

272 (d) Upon determining that a person is eligible to enter a
273 restricted access area of a port, the seaport shall, within 3
274 business days, report the determination to the department for
275 inclusion in the system.

276 (e) All information submitted to the department regarding a
277 person's access eligibility screening may be retained by the
278 department for subsequent use in promoting seaport security,
279 including, but not limited to, the review of the person's
280 criminal history status to ensure that the person has not become
281 disqualified for such access.

282 (f) The following fees shall be paid by the seaport,
283 another employing entity, or the person being entered into the
284 system to the department or to the seaport if the seaport is
285 acting as an agent of the department for the purpose of
286 collecting the fees. Except as provided in subparagraph 4.,
287 persons who have been entered into the system may not be charged
288 by more than one seaport for the fees specified in subparagraphs



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289 1. through 3.

290 1. The cost of the state and federal criminal history
291 checks under subsection (7).

292 2. A \$50 fee to cover the initial cost of entering the
293 person into the system, and every 5 years thereafter to coincide
294 with the issuance of the federal Transportation Worker
295 Identification Credential described in subsection (6) or the
296 federal criminal history check required under paragraph (7)(f).
297 The fee covers all costs for entering or maintaining the person
298 in the system including the retention and use of their
299 fingerprint or other biometric data, or other identifying
300 information.

301 3. A seaport may charge an additional administrative fee to
302 cover, but not exceed, the amount charged to the seaport to
303 participate in the system.

304 4. A seaport, other than the seaport that entered the
305 person into the system, may charge a fee for the issuance of a
306 local credential authorizing the person to enter restricted
307 access areas in that seaport. Such credentials must also be
308 issued every 5 years to coincide with the issuance of the
309 federal credential or the federal criminal history check as
310 described in subparagraph 2.

311 (g) Each person working at a seaport is eligible to enter a
312 seaport participating in the system based on the level of
313 permission allowed by the seaport that entered the person into
314 the system.

315 (h) Persons, corporations, or other business entities that
316 employ persons to work or do business at seaports shall notify
317 the seaport of the termination, resignation, work-related



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318 incapacitation, or death of an employee who has access
319 permission.

320 1. If the seaport determines that the person has been
321 employed by another appropriate entity or is self-employed for
322 purposes of performing work at the seaport, the seaport may
323 reinstate the person's access eligibility.

324 2. A business entity's failure to report a change in an
325 employee's work status within 7 days after that change may
326 result in revocation of the business entity's access to the
327 seaport.

328 (i) In addition to access permissions granted or denied by
329 seaports, access eligibility may be restricted or revoked by the
330 department if there is a reasonable suspicion that the person is
331 involved in terrorism or criminal violations that could affect
332 the security of a port or otherwise render the person ineligible
333 for seaport access.

334 (j) Any suspension or revocation of port access must be
335 reported by the seaport to the department within 24 hours.

336 (k) The submission of information known to be false or
337 misleading to the department for entry into the system is a
338 felony of the third degree, punishable as provided in s.
339 775.082, s. 775.083, or s. 775.084.

340 (6) EXPEDITED ACCESS TO RESTRICTED ACCESS AREAS.—A person
341 who possesses a valid federal Transportation Worker
342 Identification Credential (TWIC) may use the following expedited
343 process to obtain authorization to access restricted access
344 areas.

345 (a) The person shall execute an affidavit under oath,
346 providing TWIC identification information and indicating that:



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347 1. The TWIC is currently valid and in full force and
348 effect;

349 2. He or she did not receive the TWIC through the waiver
350 process for disqualifying criminal history allowed by federal
351 law; and

352 3. He or she has not, in any jurisdiction, civilian or
353 military, been charged with, been convicted of, entered a plea
354 of guilty or nolo contendere to, regardless of adjudication, or
355 been found not guilty by reason of insanity, of any
356 disqualifying felony under subsection (7) or any crime which
357 includes the use or possession of a weapon or firearm.

358 (b) Upon submission of a completed affidavit as provided in
359 paragraph (a), the completion of the state criminal history
360 check as provided in subsection (7), and payment of all required
361 fees under subsection (5), a seaport may grant the person access
362 to restricted access areas of the port.

363 (c) Any port granting a person access to restricted access
364 areas by reason of this expedited process shall report the grant
365 of access to the Department of Law Enforcement for inclusion in
366 the access eligibility reporting system within 3 business days.

367 (d) The submission of false information on the affidavit
368 required by this section is a felony of the third degree,
369 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
370 Upon conviction of a violation of this provision, the person
371 forfeits all privilege of access to restricted access areas of a
372 seaport, must surrender all state or local port access
373 documents, and is disqualified from future approval for access
374 to any restricted access area of a seaport.

375 (e) Any affidavit form created for use in the expedited



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376 process must conspicuously state: "Submission of false
377 information on this affidavit is a felony under Florida law and
378 will, upon conviction, result in disqualification for access to
379 a seaport restricted access area."

380 (f) Upon each 5-year renewal of a person's TWIC, the person
381 must submit another affidavit as required by this subsection.

382 (7) CRIMINAL HISTORY SCREENING.—A fingerprint-based
383 criminal history check must be performed on employee applicants,
384 current employees, and other persons authorized to regularly
385 enter a restricted access area, or the entire seaport if the
386 seaport security plan does not designate one or more restricted
387 access areas.

388 (a) A person is disqualified from employment or unescorted
389 access if the person:

390 1. Was convicted of, or entered a plea of guilty or nolo
391 contendere to, regardless of adjudication, any of the offenses
392 listed in paragraph (b) in any jurisdiction, civilian or
393 military, during the 7 years before the date of the person's
394 application for access; or

395 2. Was released from incarceration, or any supervision
396 imposed as a result of sentencing, for committing any of the
397 disqualifying crimes listed in paragraph (b) in any
398 jurisdiction, civilian or military, during the 5 years before
399 the date of the person's application for access.

400 (b) The disqualifying offenses include:

401 1. An act of terrorism as defined in s. 775.30.

402 2. A violation involving a weapon of mass destruction or
403 hoax weapon of mass destruction as provided in s. 790.166.

404 3. Planting of a hoax bomb as provided in s. 790.165.



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- 405 4. A violation of s. 876.02 or 876.36.
- 406 5. A violation of s. 860.065.
- 407 6. Trafficking as provided in s. 893.135.
- 408 7. Racketeering activity as provided in s. 895.03.
- 409 8. Dealing in stolen property as provided in s. 812.019.
- 410 9. Money laundering as provided in s. 896.101.
- 411 10. Criminal use of personal identification as provided in
412 s. 817.568.
- 413 11. Bribery as provided in s. 838.015.
- 414 12. A violation of s. 316.302, relating to the transport of
415 hazardous materials.
- 416 13. A forcible felony as defined in s. 776.08.
- 417 14. A violation of s. 790.07.
- 418 15. Any crime which includes the use or possession of a
419 weapon or firearm.
- 420 16. A felony violation for theft as provided in s. 812.014.
- 421 17. Robbery as provided in s. 812.13.
- 422 18. Burglary as provided in s. 810.02.
- 423 19. Any violation involving the sale, manufacture,
424 delivery, or possession with intent to sell, manufacture, or
425 deliver a controlled substance.
- 426 20. Any offense under the laws of another jurisdiction that
427 is similar to an offense in this list.
- 428 21. Conspiracy or attempt to commit any of the listed
429 offenses.
- 430 (c) Each individual who is subject to a criminal history
431 check shall file a complete set of fingerprints taken in a
432 manner acceptable to the Department of Law Enforcement for state
433 processing. Except for persons who are eligible for expedited



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434 access under subsection (6), the fingerprints shall be forwarded
435 by the department to the Federal Bureau of Investigation for
436 federal processing. The results of the criminal history check
437 must be reported to the requesting seaport and may be shared
438 among seaports.

439 (d) All fingerprints submitted to the Department of Law
440 Enforcement shall be retained by the department and entered into
441 the statewide automated fingerprint identification system
442 established in s. 943.05(2)(b) and available for use in
443 accordance with s. 943.05(2)(g) and (h). An arrest record that
444 is identified with the retained fingerprints of a person subject
445 to the screening shall be reported to the seaport where the
446 person has been granted access to a restricted access area. If
447 the fingerprints of a person who has been granted access to any
448 restricted area were not retained, or are otherwise not suitable
449 for use by the department, the person must be refingerprinted in
450 a manner that allows the department to perform its functions as
451 provided herein.

452 (e) All fees identified in subsection (5) must be paid
453 before the person may be granted access to a restricted access
454 area. Failure to comply with the criminal history checks or to
455 pay the annual fees are grounds for immediate denial of access.

456 (f) Except for persons who are eligible for expedited
457 access under subsection (6), the federal criminal history check
458 must be performed through the Department of Law Enforcement at
459 least once every 5 years, or at more frequent intervals as
460 required by the seaport security plan.

461 (g) The Department of Law Enforcement shall establish a
462 waiver process for an individual who is found to be unqualified



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463 under paragraph (a) and denied employment by a seaport or
464 unescorted access to restricted access areas.

465 1. Consideration for a waiver shall be based on the
466 circumstances of any disqualifying act or offense, restitution
467 made by the individual, and other factors from which it may be
468 determined that the individual does not pose a risk of engaging
469 in any act within the public seaports regulated under this
470 chapter which poses a risk to or threatens the security of the
471 seaport and the public's health, safety, or welfare.

472 2. The waiver process begins when an individual who has
473 been denied initial employment within or unescorted access to
474 restricted areas of a public seaport submits an application for
475 a waiver and a notarized letter or affidavit from the
476 individual's employer or union representative which states the
477 mitigating reasons for initiating the waiver process.

478 3. Within 90 days after receipt of the application, the
479 administrative staff of the Parole Commission shall conduct a
480 factual review of the waiver application. Findings of fact shall
481 be transmitted to the department for review. The department
482 shall make a copy of those findings available to the applicant
483 before final disposition of the waiver request.

484 4. The department shall make a final disposition of the
485 waiver request based on the factual findings of the
486 investigation by the Parole Commission. The department shall
487 notify the waiver applicant of the final disposition of the
488 waiver.

489 5. The review process under this paragraph is exempt from
490 chapter 120.

491 6. By October 1 of each year, each seaport shall report to



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492 the department each instance of denial of employment within, or
493 access to, restricted areas, and each instance waiving an appeal
494 of a denial occurring during the last 12 months. The report must
495 include the identity of the individual affected, the factors
496 supporting the denial or waiver, and any other material factors
497 used to make the determination.

498 (h) In addition to the waiver procedure established by the
499 Department of Law Enforcement under paragraph (g), each seaport
500 security plan may establish a procedure to appeal a denial of
501 employment or access based upon procedural inaccuracies or
502 discrepancies regarding criminal history factors established
503 pursuant to this subsection.

504 (i) Each seaport may allow immediate waivers on a temporary
505 basis to meet special or emergency needs of the seaport or its
506 users. Policies, procedures, and criteria for implementation of
507 this provision must be included in the seaport security plan.
508 All waivers granted by the seaports pursuant to this paragraph
509 must be reported to the department within 30 days after
510 issuance.

511 (8) WAIVER FROM SECURITY REQUIREMENTS.—The Office of Drug
512 Control and the Department of Law Enforcement may modify or
513 wave any physical facility requirement or other requirement
514 contained in the minimum security standards upon a determination
515 that the purposes of the standards have been reasonably met or
516 exceeded by the seaport requesting the modification or waiver.
517 An alternate means of compliance must not diminish the safety or
518 security of the seaport and must be verified through an
519 extensive risk analysis conducted by the seaport director.

520 (a) Waiver requests shall be submitted in writing, along



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521 with supporting documentation, to the Office of Drug Control and
522 the Department of Law Enforcement. The office and the department
523 have 90 days to jointly grant or reject the waiver, in whole or
524 in part.

525 (b) The seaport may submit any waivers that are not granted
526 or are jointly rejected to the Domestic Security Oversight
527 Council for review within 90 days. The council shall recommend
528 that the Office of Drug Control and the Department of Law
529 Enforcement grant the waiver or reject the waiver, in whole or
530 in part. The office and the department shall give great weight
531 to the council's recommendations.

532 (c) A request seeking a waiver from the seaport law
533 enforcement personnel standards established under s. 311.122(3)
534 may not be granted for percentages below 10 percent.

535 (d) Any modifications or waivers granted under this
536 subsection shall be noted in the annual report submitted by the
537 Department of Law Enforcement pursuant to subsection (10).

538 (9) INSPECTIONS.—It is the intent of the Legislature that
539 the state's seaports adhere to security practices that are
540 consistent with the risks assigned to each seaport through the
541 ongoing risk assessment process established in paragraph (3)(a).

542 (a) The Department of Law Enforcement, or any entity
543 designated by the department, shall conduct at least one annual
544 unannounced inspection of each seaport to determine whether the
545 seaport is meeting the minimum security standards established
546 pursuant to subsection (1), and to identify seaport security
547 changes or improvements needed or otherwise recommended.

548 (b) The Department of Law Enforcement, or any entity
549 designated by the department, may conduct additional announced



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550 or unannounced inspections or operations within or affecting any
551 seaport to test compliance with, or the effectiveness of,
552 security plans and operations at each seaport, to determine
553 compliance with physical facility requirements and standards, or
554 to assist the department in identifying changes or improvements
555 needed to bring a seaport into compliance with minimum security
556 standards.

557 (c) Within 30 days after completing the inspection report,
558 the department shall submit a copy of the report to the Domestic
559 Security Oversight Council.

560 (d) A seaport may request that the Domestic Security
561 Oversight Council review the findings in the department's report
562 as they relate to the requirements of this section. The council
563 may review only those findings that are in dispute by the
564 seaport. In reviewing the disputed findings, the council may
565 concur in the findings of the department or the seaport, or may
566 recommend corrective action to the seaport. The department and
567 the seaport shall give great weight to the council's findings
568 and recommendations.

569 (e) All seaports shall allow the Department of Law
570 Enforcement, or entity designated by the department, unimpeded
571 access to affected areas and facilities for the purpose of plan
572 or compliance inspections or other operations authorized by this
573 section.

574 (10) REPORTS.—

575 (a) The Department of Law Enforcement, in consultation with
576 the Office of Drug Control, shall annually complete a report
577 indicating the observations and findings of all reviews,
578 inspections, or other operations relating to the seaports



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579 conducted during the year and any recommendations resulting from
580 such reviews, inspections, and operations. A copy of the report
581 shall be provided to the Governor, the President of the Senate,
582 the Speaker of the House of Representatives, the governing body
583 of each seaport or seaport authority, and each seaport director.
584 The report must include each director's response indicating what
585 actions, if any, have been taken or are planned to be taken
586 pursuant to the observations, findings, and recommendations
587 reported by the department.

588 (b) After the Department of Law Enforcement completes the
589 annual inspection report in paragraph (a), the department shall
590 provide an assessment briefing to the board members of the
591 governing authority of each seaport and to the local regional
592 domestic security task force co-chairs. The briefing must
593 address the findings from the inspections, areas of concern, and
594 recommendations for improvements.

595 1. The department shall provide at least one assessment
596 briefing per year to the board during a meeting of the board.
597 The board must make transcripts and audio recordings of all
598 proceedings during such briefings.

599 2. Each board member of a governing authority having
600 responsibility for seaport oversight or operations must attend
601 the assessment briefings. All attendance records shall be
602 published and announced at the next regular meeting of the
603 board.

604 (11) FUNDING.—

605 (a) In making security project or other funding decisions
606 applicable to each seaport listed in s. 311.09, the Legislature
607 may consider the Department of Law Enforcement's annual report



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608 under subsection (10) as authoritative, especially regarding
609 each seaport's degree of substantial compliance with the minimum
610 security standards established in subsection (1).

611 (b) The Legislature shall regularly review the ongoing
612 costs of operational security on seaports, the impacts of this
613 section on those costs, mitigating factors that may reduce costs
614 without reducing security, and the methods by which seaports may
615 implement operational security using a combination of sworn law
616 enforcement officers and private security services.

617 (c) Subject to the provisions of this chapter and
618 appropriations made for seaport security, state funds may not be
619 expended for security costs without certification of need for
620 such expenditures by the Office of Ports Administrator within
621 the Department of Law Enforcement.

622 (d) If funds are appropriated for seaport security, the
623 Office of Drug Control, the Department of Law Enforcement, and
624 the Florida Seaport Transportation and Economic Development
625 Council shall mutually determine the allocation of such funds
626 for security project needs identified in the approved seaport
627 security plans. Any seaport that receives state funds for
628 security projects must enter into a joint participation
629 agreement with the appropriate state entity and use the seaport
630 security plan as the basis for the agreement.

631 1. If funds are made available over more than 1 fiscal
632 year, the agreement must reflect the entire scope of the project
633 approved in the security plan and, as practicable, allow for
634 reimbursement for authorized projects over more than 1 year.

635 2. The agreement may include specific timeframes for
636 completion of a security project and the applicable funding



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637 reimbursement dates. The agreement may also require a
638 contractual penalty of up to \$1,000 per day to be imposed for
639 failure to meet project completion dates if state funding is
640 available. Any such penalty shall be deposited into the State
641 Transportation Trust Fund and used for seaport security
642 operations and capital improvements.

643 Section 3. Sections 311.111 and 311.125, Florida Statutes,
644 are repealed.

645 Section 4. Subsection (3) of section 311.121, Florida
646 Statutes, is amended to read:

647 311.121 Qualifications, training, and certification of
648 licensed security officers at Florida seaports.-

649 (3) ~~(a)~~ The Seaport Security Officer Qualification,
650 Training, and Standards Coordinating Council is created under
651 the Department of Law Enforcement.

652 ~~(a) (b) 1.~~ The executive director of the Department of Law
653 Enforcement shall appoint 11 members to the council to which
654 ~~shall~~ include:

655 ~~1. a.~~ The seaport administrator of the Department of Law
656 Enforcement.

657 ~~2. b.~~ The Commissioner of Education or designee ~~chancellor~~
658 ~~of the Community College System.~~

659 ~~3. c.~~ The director of the Division of Licensing of the
660 Department of Agriculture and Consumer Services.

661 ~~4. d.~~ The administrator of the Florida Seaport
662 Transportation and Economic Development Council.

663 ~~5. e.~~ Two seaport security directors from seaports
664 designated under s. 311.09.

665 ~~6. f.~~ One director of a state law enforcement academy.



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666 ~~7.g.~~ One representative of a local law enforcement agency.

667 ~~8.h.~~ Two representatives of contract security services.

668 ~~9.i.~~ One representative of the Division of Driver Licenses
669 of the Department of Highway Safety and Motor Vehicles.

670 ~~(b)2.~~ In addition to the members designated in paragraph
671 (a) subparagraph 1., the executive director may invite a
672 representative of the United States Coast Guard to attend and
673 participate in council meetings as an ex officio, nonvoting
674 member of the council.

675 (c) Council members designated under subparagraphs (a)1.-4.
676 ~~in sub-subparagraphs (b)1.a.-d.~~ shall serve for the duration of
677 their employment or appointment. Council members designated
678 under subparagraphs (b)5.-9. ~~sub-subparagraphs (b)1.e.-i.~~ shall
679 be appointed for ~~serve~~ 4-year terms, except that the initial
680 appointment for the representative of a local law enforcement
681 agency, one representative of a contract security agency, and
682 one seaport security director from a seaport designated in s.
683 311.09 shall be appointed for 2-year terms ~~serve for terms of 2~~
684 ~~years.~~

685 (d) The chancellor of the Community College System shall
686 serve as chair of the council.

687 (e) The council shall meet upon the call of the chair, and
688 at least once a year to update or modify curriculum
689 recommendations.

690 (f) Council members shall serve without pay; however, per
691 diem and travel allowances may be claimed for attendance of
692 officially called meetings as provided by s. 112.061.

693 (g) ~~By December 1, 2006,~~ The council shall identify the
694 qualifications, training, and standards for seaport security



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695 officer certification and recommend a curriculum for the seaport
696 security officer training program that includes at least ~~shall~~
697 ~~include no less than~~ 218 hours of initial certification training
698 and that conforms to or exceeds model courses approved under ~~by~~
699 ~~the Federal Maritime Act under~~ s. 109 of the Federal Maritime
700 Transportation Security Act of 2002 for facility personnel with
701 specific security duties.

702 1. ~~(h)~~ The council may recommend training equivalencies that
703 may be substituted for portions of the required training.

704 2. ~~(i)~~ The council shall recommend a continuing education
705 curriculum of at least ~~no less than~~ 8 hours of additional
706 training for each annual licensing period.

707 Section 5. Section 311.123, Florida Statutes, is amended to
708 read:

709 311.123 Maritime domain security awareness training
710 program.—

711 (1) The Florida Seaport Transportation and Economic
712 Development Council, in conjunction with the Department of Law
713 Enforcement and the Office of Drug Control within the Executive
714 Office of the Governor, shall create a maritime domain security
715 awareness training program to instruct all personnel employed
716 within a seaport's boundaries about the security procedures
717 required of them for implementation of the seaport security plan
718 required under s. 311.12(3).

719 (2) The training program curriculum must include security
720 training required pursuant to 33 C.F.R. part 105 and must be
721 designed to enable the seaports in this state to meet the
722 training, drill, and exercise requirements of 33 C.F.R. part 105
723 and individual seaport security plans and to otherwise comply



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724 with the requirements of s. 311.12 ~~relating to security~~
725 ~~awareness.~~

726 Section 6. Subsection (1) of section 311.124, Florida
727 Statutes, is amended to read:

728 311.124 Trespassing; detention by a certified seaport
729 security officer.—

730 (1) Any Class D or Class G seaport security officer
731 certified under the Maritime Transportation Security Act
732 guidelines and s. 311.121 or any employee of the seaport
733 security force certified under the Maritime Transportation
734 Security Act guidelines and s. 311.121 who has probable cause to
735 believe that a person is trespassing pursuant to ~~the provisions~~
736 ~~of~~ s. 810.08 or s. 810.09 or this chapter in a designated
737 restricted access area pursuant to s. 311.12(4) ~~s. 311.111~~ is
738 authorized to detain such person in a reasonable manner for a
739 reasonable period of time pending the arrival of a law
740 enforcement officer, and such action does ~~shall~~ not render the
741 security officer criminally or civilly liable for false arrest,
742 false imprisonment, or unlawful detention.

743 Section 7. Section 311.13, Florida Statutes, is amended to
744 read:

745 311.13 Certain information exempt from disclosure.—Seaport
746 security plans ~~of a seaport authority~~ created pursuant to s.
747 311.12 ~~by act of the Legislature or of a seaport department of a~~
748 ~~county or municipality that operates an international seaport~~
749 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
750 Constitution. In addition, photographs, maps, blueprints,
751 drawings, and similar materials that depict critical seaport
752 operating facilities are exempt from s. 119.07(1) and s. 24(a),



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753 Art. I of the State Constitution, to the extent that a seaport
754 ~~authority created by act of the Legislature or a seaport~~
755 ~~department of a county or municipality that operates a seaport~~
756 reasonably determines that such items contain information that
757 is not generally known and that could jeopardize the security of
758 the seaport; however, information relating to real estate
759 leases, layout plans, blueprints, or information relevant
760 thereto, is not ~~to be~~ included in this exemption. ~~The exemptions~~
761 ~~in this section are applicable only to records held by a seaport~~
762 ~~authority created by act of the Legislature or to records of a~~
763 ~~county or municipal seaport department that operates a seaport.~~

764 Section 8. Paragraph (a) of subsection (4) of section
765 943.0585, Florida Statutes, is amended to read:

766 943.0585 Court-ordered expunction of criminal history
767 records.—The courts of this state have jurisdiction over their
768 own procedures, including the maintenance, expunction, and
769 correction of judicial records containing criminal history
770 information to the extent such procedures are not inconsistent
771 with the conditions, responsibilities, and duties established by
772 this section. Any court of competent jurisdiction may order a
773 criminal justice agency to expunge the criminal history record
774 of a minor or an adult who complies with the requirements of
775 this section. The court shall not order a criminal justice
776 agency to expunge a criminal history record until the person
777 seeking to expunge a criminal history record has applied for and
778 received a certificate of eligibility for expunction pursuant to
779 subsection (2). A criminal history record that relates to a
780 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
781 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.



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782 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
783 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
784 any violation specified as a predicate offense for registration
785 as a sexual predator pursuant to s. 775.21, without regard to
786 whether that offense alone is sufficient to require such
787 registration, or for registration as a sexual offender pursuant
788 to s. 943.0435, may not be expunged, without regard to whether
789 adjudication was withheld, if the defendant was found guilty of
790 or pled guilty or nolo contendere to the offense, or if the
791 defendant, as a minor, was found to have committed, or pled
792 guilty or nolo contendere to committing, the offense as a
793 delinquent act. The court may only order expunction of a
794 criminal history record pertaining to one arrest or one incident
795 of alleged criminal activity, except as provided in this
796 section. The court may, at its sole discretion, order the
797 expunction of a criminal history record pertaining to more than
798 one arrest if the additional arrests directly relate to the
799 original arrest. If the court intends to order the expunction of
800 records pertaining to such additional arrests, such intent must
801 be specified in the order. A criminal justice agency may not
802 expunge any record pertaining to such additional arrests if the
803 order to expunge does not articulate the intention of the court
804 to expunge a record pertaining to more than one arrest. This
805 section does not prevent the court from ordering the expunction
806 of only a portion of a criminal history record pertaining to one
807 arrest or one incident of alleged criminal activity.
808 Notwithstanding any law to the contrary, a criminal justice
809 agency may comply with laws, court orders, and official requests
810 of other jurisdictions relating to expunction, correction, or



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811 confidential handling of criminal history records or information
812 derived therefrom. This section does not confer any right to the
813 expunction of any criminal history record, and any request for
814 expunction of a criminal history record may be denied at the
815 sole discretion of the court.

816 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
817 criminal history record of a minor or an adult which is ordered
818 expunged by a court of competent jurisdiction pursuant to this
819 section must be physically destroyed or obliterated by any
820 criminal justice agency having custody of such record; except
821 that any criminal history record in the custody of the
822 department must be retained in all cases. A criminal history
823 record ordered expunged that is retained by the department is
824 confidential and exempt from the provisions of s. 119.07(1) and
825 s. 24(a), Art. I of the State Constitution and not available to
826 any person or entity except upon order of a court of competent
827 jurisdiction. A criminal justice agency may retain a notation
828 indicating compliance with an order to expunge.

829 (a) The person who is the subject of a criminal history
830 record that is expunged under this section or under other
831 provisions of law, including former s. 893.14, former s. 901.33,
832 and former s. 943.058, may lawfully deny or fail to acknowledge
833 the arrests covered by the expunged record, except when the
834 subject of the record:

- 835 1. Is a candidate for employment with a criminal justice
836 agency;
- 837 2. Is a defendant in a criminal prosecution;
- 838 3. Concurrently or subsequently petitions for relief under
839 this section or s. 943.059;



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840 4. Is a candidate for admission to The Florida Bar;

841 5. Is seeking to be employed or licensed by or to contract

842 with the Department of Children and Family Services, the Agency

843 for Health Care Administration, the Agency for Persons with

844 Disabilities, or the Department of Juvenile Justice or to be

845 employed or used by such contractor or licensee in a sensitive

846 position having direct contact with children, the

847 developmentally disabled, the aged, or the elderly as provided

848 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.

849 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4),

850 chapter 916, s. 985.644, chapter 400, or chapter 429;

851 6. Is seeking to be employed or licensed by the Department

852 of Education, any district school board, any university

853 laboratory school, any charter school, any private or parochial

854 school, or any local governmental entity that licenses child

855 care facilities; or

856 7. Is seeking authorization from a ~~Florida~~ seaport listed

857 ~~identified~~ in s. 311.09 for employment within or access to one

858 or more of such seaports pursuant to s. 311.12 ~~or s. 311.125~~.

859 Section 9. Paragraph (a) of subsection (4) of section

860 943.059, Florida Statutes, is amended to read:

861 943.059 Court-ordered sealing of criminal history records.—

862 The courts of this state shall continue to have jurisdiction

863 over their own procedures, including the maintenance, sealing,

864 and correction of judicial records containing criminal history

865 information to the extent such procedures are not inconsistent

866 with the conditions, responsibilities, and duties established by

867 this section. Any court of competent jurisdiction may order a

868 criminal justice agency to seal the criminal history record of a



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869 minor or an adult who complies with the requirements of this
870 section. The court shall not order a criminal justice agency to
871 seal a criminal history record until the person seeking to seal
872 a criminal history record has applied for and received a
873 certificate of eligibility for sealing pursuant to subsection
874 (2). A criminal history record that relates to a violation of s.
875 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
876 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
877 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
878 916.1075, a violation enumerated in s. 907.041, or any violation
879 specified as a predicate offense for registration as a sexual
880 predator pursuant to s. 775.21, without regard to whether that
881 offense alone is sufficient to require such registration, or for
882 registration as a sexual offender pursuant to s. 943.0435, may
883 not be sealed, without regard to whether adjudication was
884 withheld, if the defendant was found guilty of or pled guilty or
885 nolo contendere to the offense, or if the defendant, as a minor,
886 was found to have committed or pled guilty or nolo contendere to
887 committing the offense as a delinquent act. The court may only
888 order sealing of a criminal history record pertaining to one
889 arrest or one incident of alleged criminal activity, except as
890 provided in this section. The court may, at its sole discretion,
891 order the sealing of a criminal history record pertaining to
892 more than one arrest if the additional arrests directly relate
893 to the original arrest. If the court intends to order the
894 sealing of records pertaining to such additional arrests, such
895 intent must be specified in the order. A criminal justice agency
896 may not seal any record pertaining to such additional arrests if
897 the order to seal does not articulate the intention of the court



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898 to seal records pertaining to more than one arrest. This section
899 does not prevent the court from ordering the sealing of only a
900 portion of a criminal history record pertaining to one arrest or
901 one incident of alleged criminal activity. Notwithstanding any
902 law to the contrary, a criminal justice agency may comply with
903 laws, court orders, and official requests of other jurisdictions
904 relating to sealing, correction, or confidential handling of
905 criminal history records or information derived therefrom. This
906 section does not confer any right to the sealing of any criminal
907 history record, and any request for sealing a criminal history
908 record may be denied at the sole discretion of the court.

909 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
910 history record of a minor or an adult which is ordered sealed by
911 a court of competent jurisdiction pursuant to this section is
912 confidential and exempt from the provisions of s. 119.07(1) and
913 s. 24(a), Art. I of the State Constitution and is available only
914 to the person who is the subject of the record, to the subject's
915 attorney, to criminal justice agencies for their respective
916 criminal justice purposes, which include conducting a criminal
917 history background check for approval of firearms purchases or
918 transfers as authorized by state or federal law, to judges in
919 the state courts system for the purpose of assisting them in
920 their case-related decisionmaking responsibilities, as set forth
921 in s. 943.053(5), or to those entities set forth in
922 subparagraphs (a)1., 4., 5., 6., and 8. for their respective
923 licensing, access authorization, and employment purposes.

924 (a) The subject of a criminal history record sealed under
925 this section or under other provisions of law, including former
926 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully



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927 deny or fail to acknowledge the arrests covered by the sealed
928 record, except when the subject of the record:

929 1. Is a candidate for employment with a criminal justice
930 agency;

931 2. Is a defendant in a criminal prosecution;

932 3. Concurrently or subsequently petitions for relief under
933 this section or s. 943.0585;

934 4. Is a candidate for admission to The Florida Bar;

935 5. Is seeking to be employed or licensed by or to contract
936 with the Department of Children and Family Services, the Agency
937 for Health Care Administration, the Agency for Persons with
938 Disabilities, or the Department of Juvenile Justice or to be
939 employed or used by such contractor or licensee in a sensitive
940 position having direct contact with children, the

941 developmentally disabled, the aged, or the elderly as provided
942 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
943 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
944 415.103, chapter 916, s. 985.644, chapter 400, or chapter 429;

945 6. Is seeking to be employed or licensed by the Department
946 of Education, any district school board, any university
947 laboratory school, any charter school, any private or parochial
948 school, or any local governmental entity that licenses child
949 care facilities;

950 7. Is attempting to purchase a firearm from a licensed
951 importer, licensed manufacturer, or licensed dealer and is
952 subject to a criminal history background check under state or
953 federal law; or

954 8. Is seeking authorization from a Florida seaport
955 identified in s. 311.09 for employment within or access to one



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956 or more of such seaports pursuant to s. 311.12 ~~or s. 311.125~~.

957 Section 10. The Office of Drug Control shall commission an
958 update of the Florida Seaport Security Assessment 2000
959 referenced in s. 311.12(1)(a), Florida Statutes. The office
960 shall consult with the Seaport Security Standards Advisory
961 Council in forming the parameters of the update. The updated
962 assessment shall be presented to the Legislature for review by
963 January 1, 2010. Pursuant to s. 311.13, Florida Statutes, any
964 records included in the assessment which are exempt from s.
965 119.07(1), Florida Statutes, are exempt from disclosure.

966 Section 11. Paragraph (b) of subsection (10) of s. 311.12,
967 Florida Statutes, as amended by this act, shall take effect only
968 if SB 2162, or similar legislation is enacted in the same
969 legislative session, or an extension thereof, and becomes law.

970 Section 12. Except as otherwise expressly provided in this
971 act, this act shall take effect July 1, 2009.