

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24 purpose, or have been impliedly repealed or superseded;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

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

34

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

36

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

39 39.01 Definitions.--When used in this chapter, unless the
 40 context otherwise requires:

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

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

48 Section 2. Paragraph (k) of subsection (1) of section
 49 39.806, Florida Statutes, is amended to read:

50 39.806 Grounds for termination of parental rights.--

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

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

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57 treatment administered to the mother or the newborn infant, and
 58 the biological mother of the child is the biological mother of
 59 at least one other child who was adjudicated dependent after a
 60 finding of harm to the child's health or welfare due to exposure
 61 to a controlled substance or alcohol as defined in s.

62 39.01(32)(g) ~~39.01(31)(g)~~, after which the biological mother had
 63 the opportunity to participate in substance abuse treatment.

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

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

69 45.035 Clerk's fees.--In addition to other fees or service
 70 charges authorized by law, the clerk shall receive service
 71 charges related to the judicial sales procedure set forth in ss.
 72 45.031-45.034 and this section:

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

84 Reviser's note.--Amended to conform to the increase in

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85 the service charge referenced in subsection (1) from
 86 \$60 to \$70 by s. 25, ch. 2008-111, Laws of Florida.

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

89 61.122 Parenting plan recommendation; presumption of
 90 psychologist's good faith; prerequisite to parent's filing suit;
 91 award of fees, costs, reimbursement.--

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

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

104 Section 5. Section 61.13001, Florida Statutes, is
 105 reenacted to read:

106 61.13001 Parental relocation with a child.--

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

108 (a) "Change of residence address" means the relocation of
 109 a child to a principal residence more than 50 miles away from
 110 his or her principal place of residence at the time of the entry
 111 of the last order establishing or modifying the parenting plan
 112 or the time-sharing schedule or both for the minor child, unless

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113 | the move places the principal residence of the minor child less
 114 | than 50 miles from either parent.

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

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

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

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

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

139 | (2) RELOCATION BY AGREEMENT.--

140 | (a) If the parents and every other person entitled to

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141 time-sharing with the child agree to the relocation of the
 142 child, they may satisfy the requirements of this section by
 143 signing a written agreement that:

- 144 1. Reflects the consent to the relocation;
- 145 2. Defines a time-sharing schedule for the nonrelocating
 146 parent and any other persons who are entitled to time-sharing;
 147 and
- 148 3. Describes, if necessary, any transportation
 149 arrangements related to the visitation.

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

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

167 (a) The parent seeking to relocate shall prepare a Notice
 168 of Intent to Relocate. The following information must be

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169 included with the Notice of Intent to Relocate and signed under
170 oath under penalty of perjury:

171 1. A description of the location of the intended new
172 residence, including the state, city, and specific physical
173 address, if known.

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

176 3. The home telephone number of the intended new
177 residence, if known.

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

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

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

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

194

195 AN OBJECTION TO THE PROPOSED RELOCATION MUST BE MADE IN WRITING,
196 FILED WITH THE COURT, AND SERVED ON THE PARENT OR OTHER PERSON

197 SEEKING TO RELOCATE WITHIN 30 DAYS AFTER SERVICE OF THIS NOTICE
 198 OF INTENT TO RELOCATE. IF YOU FAIL TO TIMELY OBJECT TO THE
 199 RELOCATION, THE RELOCATION WILL BE ALLOWED, UNLESS IT IS NOT IN
 200 THE BEST INTERESTS OF THE CHILD, WITHOUT FURTHER NOTICE AND
 201 WITHOUT A HEARING.

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

206
 207 The contents of the Notice of Intent to Relocate are not
 208 privileged. For purposes of encouraging amicable resolution of
 209 the relocation issue, a copy of the Notice of Intent to Relocate
 210 shall initially not be filed with the court but instead served
 211 upon the nonrelocating parent, other person, and every other
 212 person entitled to time-sharing with the child, and the original
 213 thereof shall be maintained by the parent or other person
 214 seeking to relocate.

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

220 (c) The Notice of Intent to Relocate, and the Certificate
 221 of Serving Notice of Intent to Relocate, shall be served on the
 222 other parent and on every other person entitled to time-sharing
 223 with the child. If there is a pending court action regarding the
 224 child, service of process may be according to court rule.

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225 Otherwise, service of process shall be according to chapters 48
226 and 49 or via certified mail, restricted delivery, return
227 receipt requested.

228 (d) A person giving notice of a proposed relocation or
229 change of residence address under this section has a continuing
230 duty to provide current and updated information required by this
231 section when that information becomes known.

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

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

- 253 | 1. A factor in making a determination regarding the
 254 | relocation of a child.
- 255 | 2. A factor in determining whether the parenting plan or
 256 | the time-sharing schedule should be modified.
- 257 | 3. A basis for ordering the temporary or permanent return
 258 | of the child.
- 259 | 4. Sufficient cause to order the parent or other person
 260 | seeking to relocate the child to pay reasonable expenses and
 261 | attorney's fees incurred by the party objecting to the
 262 | relocation.
- 263 | 5. Sufficient cause for the award of reasonable attorney's
 264 | fees and costs, including interim travel expenses incident to
 265 | time-sharing or securing the return of the child.
- 266 | (4) APPLICABILITY OF PUBLIC RECORDS LAW.--If the parent or
 267 | other person seeking to relocate a child, or the child, is
 268 | entitled to prevent disclosure of location information under any
 269 | public records exemption applicable to that person, the court
 270 | may enter any order necessary to modify the disclosure
 271 | requirements of this section in compliance with the public
 272 | records exemption.
- 273 | (5) CONTENT OF OBJECTION TO RELOCATION.--An objection
 274 | seeking to prevent the relocation of a child must be verified
 275 | and served within 30 days after service of the Notice of Intent
 276 | to Relocate. The objection must include the specific factual
 277 | basis supporting the reasons for seeking a prohibition of the
 278 | relocation, including a statement of the amount of participation
 279 | or involvement the objecting party currently has or has had in
 280 | the life of the child.

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281 (6) TEMPORARY ORDER.--

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

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

288 2. The child already has been relocated without notice or
289 written agreement of the parties or without court approval; or

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

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

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

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

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

307 (d) If temporary relocation of a child is permitted, the
308 court may require the person relocating the child to provide

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309 reasonable security, financial or otherwise, and guarantee that
310 the court-ordered contact with the child will not be interrupted
311 or interfered with by the relocating party.

312 (7) NO PRESUMPTION; FACTORS TO DETERMINE CONTESTED
313 RELOCATION.--A presumption does not arise in favor of or against
314 a request to relocate with the child when a parent seeks to move
315 the child and the move will materially affect the current
316 schedule of contact, access, and time-sharing with the
317 nonrelocating parent or other person. In reaching its decision
318 regarding a proposed temporary or permanent relocation, the
319 court shall evaluate all of the following factors:

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

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

330 (c) The feasibility of preserving the relationship between
331 the nonrelocating parent or other person and the child through
332 substitute arrangements that take into consideration the
333 logistics of contact, access, and time-sharing, as well as the
334 financial circumstances of the parties; whether those factors
335 are sufficient to foster a continuing meaningful relationship
336 between the child and the nonrelocating parent or other person;

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337 and the likelihood of compliance with the substitute
338 arrangements by the relocating parent once he or she is out of
339 the jurisdiction of the court.

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

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

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

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

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

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

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

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

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

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

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

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

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

397 (11) APPLICABILITY.--

398 (a) This section applies:

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

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

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

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

417 Reviser's note.--Section 9, ch. 2008-61, Laws of
 418 Florida, amended s. 61.13001 without publishing
 419 existing subsection (8). Absent affirmative evidence
 420 of legislative intent to repeal existing subsection

421 (8), s. 61.13001 is reenacted to confirm that the
 422 omission was not intended.

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

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

433 (5) AUTHORIZED INVESTMENTS.--

434 (a) The investment policy shall list investments
 435 authorized by the board. Investments not listed in the
 436 investment policy are prohibited. Unless otherwise authorized by
 437 law or ordinance, the investment of the assets of any local
 438 retirement system or plan covered by this part shall be subject
 439 to the limitations and conditions set forth in s. 215.47(1)-(6),
 440 (8), (9), (11), and (17) ~~215.47(1)-(8), (10), and (16)~~.

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

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

446 121.051 Participation in the system.--

447 (1) COMPULSORY PARTICIPATION.--

448 (a) The provisions of this law shall be compulsory as to

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

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

477 retirement program for the State University System
 478 notwithstanding the provisions of s. 121.35(2) (a).

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

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

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

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

499 (2) (a) Notwithstanding any other provision of law, and
 500 consistent with the investment policy set forth in ss. 215.44(2)
 501 and 215.47(10) ~~215.47(9)~~, the moneys or assets of the System
 502 Trust Fund invested or deposited in any financial institution,
 503 as defined in s. 655.005, which, directly or through a
 504 subsidiary, on or after October 1, 1988, makes any loan, extends

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505 credit of any kind or character, or advances funds in any manner
 506 to Northern Ireland or national corporations of Northern Ireland
 507 or agencies or instrumentalities thereof shall reflect the
 508 extent to which such entities have endeavored to eliminate
 509 ethnic or religious discrimination as determined pursuant to
 510 paragraph (1) (b).

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

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

516 161.085 Rigid coastal armoring structures.--

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

522 (a) A permit may be granted by the department under this
 523 subsection for dune restoration incorporating geotextile
 524 containers or similar structures provided that such projects:

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

532 2. Are constructed using native or beach-quality sand and

533 native salt-tolerant vegetation suitable for dune stabilization
 534 as approved by the department.

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

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

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

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

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

550 8. Are designed to minimize adverse effects to nesting
 551 marine turtles and turtle hatchlings, consistent with s.
 552 379.2431 ~~370.12~~.

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

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

560 Reviser's note.--Amended to conform to the transfer of

561 s. 370.12 to s. 379.2431 by s. 73, ch. 2008-247, Laws
 562 of Florida.

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

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

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

570 (c) A general sanitary sewer, solid waste, drainage,
 571 potable water, and natural groundwater aquifer recharge element
 572 correlated to principles and guidelines for future land use,
 573 indicating ways to provide for future potable water, drainage,
 574 sanitary sewer, solid waste, and aquifer recharge protection
 575 requirements for the area. The element may be a detailed
 576 engineering plan including a topographic map depicting areas of
 577 prime groundwater recharge. The element shall describe the
 578 problems and needs and the general facilities that will be
 579 required for solution of the problems and needs. The element
 580 shall also include a topographic map depicting any areas adopted
 581 by a regional water management district as prime groundwater
 582 recharge areas for the Floridan or Biscayne aquifers. These
 583 areas shall be given special consideration when the local
 584 government is engaged in zoning or considering future land use
 585 for said designated areas. For areas served by septic tanks,
 586 soil surveys shall be provided which indicate the suitability of
 587 soils for septic tanks. Within 18 months after the governing
 588 board approves an updated regional water supply plan, the

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589 | element must incorporate the alternative water supply project or
590 | projects selected by the local government from those identified
591 | in the regional water supply plan pursuant to s. 373.0361(2)(a)
592 | or proposed by the local government under s. 373.0361(8)(b)
593 | ~~373.0361(7)(b)~~. If a local government is located within two
594 | water management districts, the local government shall adopt its
595 | comprehensive plan amendment within 18 months after the later
596 | updated regional water supply plan. The element must identify
597 | such alternative water supply projects and traditional water
598 | supply projects and conservation and reuse necessary to meet the
599 | water needs identified in s. 373.0361(2)(a) within the local
600 | government's jurisdiction and include a work plan, covering at
601 | least a 10 year planning period, for building public, private,
602 | and regional water supply facilities, including development of
603 | alternative water supplies, which are identified in the element
604 | as necessary to serve existing and new development. The work
605 | plan shall be updated, at a minimum, every 5 years within 18
606 | months after the governing board of a water management district
607 | approves an updated regional water supply plan. Amendments to
608 | incorporate the work plan do not count toward the limitation on
609 | the frequency of adoption of amendments to the comprehensive
610 | plan. Local governments, public and private utilities, regional
611 | water supply authorities, special districts, and water
612 | management districts are encouraged to cooperatively plan for
613 | the development of multijurisdictional water supply facilities
614 | that are sufficient to meet projected demands for established
615 | planning periods, including the development of alternative water
616 | sources to supplement traditional sources of groundwater and

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617 surface water supplies.

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

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

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

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

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

638 193.1554 Assessment of nonhomestead residential
 639 property.--

640 (6)

641 (b) Changes, additions, or improvements that replace all
 642 or a portion of nonhomestead residential property damaged or
 643 destroyed by misfortune or calamity shall not increase the
 644 property's assessed value when the square footage of the

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

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

669 Section 13. Paragraph (b) of subsection (6) of section
670 193.1555, Florida Statutes, is amended to read:

671 193.1555 Assessment of certain residential and
672 nonresidential real property.--

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673 (6)

674 (b) Changes, additions, or improvements that replace all
675 or a portion of nonresidential real property damaged or
676 destroyed by misfortune or calamity shall not increase the
677 property's assessed value when the square footage of the
678 property as changed or improved does not exceed 110 percent of
679 the square footage of the property before the damage or
680 destruction and do not change the property's character or use.
681 Changes, additions, or improvements that do not cause the total
682 to exceed 110 percent of the total square footage of the
683 property before the damage or destruction and do not change the
684 property's character or use shall be reassessed as provided
685 under subsection (3). The property's assessed value shall be
686 increased by the just value of that portion of the changed or
687 improved property which is in excess of 110 percent of the
688 square footage of the property before the damage or destruction.
689 Property damaged or destroyed by misfortune or calamity which,
690 after being changed or improved, has a square footage of less
691 than 100 percent of the property's total square footage before
692 the damage or destruction shall be assessed pursuant to
693 subsection (8) ~~(7)~~. This paragraph applies to changes,
694 additions, or improvements commenced within 3 years after the
695 January 1 following the damage or destruction of the property.
696 Reviser's note.--Amended to conform to the
697 redesignation of subsection (7) as subsection (8) by
698 s. 5, ch. 2008-173, Laws of Florida.
699 Section 14. Paragraph (c) of subsection (1) and subsection
700 (5) of section 201.15, Florida Statutes, are amended to read:

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

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

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

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

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

726 b. For the purposes of the Small County Outreach Program
727 specified in s. 339.2818, 5 percent of these funds;

728 c. For the purposes of the Strategic Intermodal System

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

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

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

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

749 4. The Ecosystem Management and Restoration Trust Fund in
 750 the amount of the lesser of 2.12 percent of the remainder or \$30
 751 million in each fiscal year, to be used for the preservation and
 752 repair of the state's beaches as provided in ss. 161.091-
 753 161.212.

754 5. The Marine Resources Conservation Trust Fund in the
 755 amount of the lesser of .14 percent of the remainder or \$2
 756 million in each fiscal year, to be used for marine mammal care

757 as provided in s. 379.208(3) ~~370.0603(3)~~.

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

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

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

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

782 Reviser's note.--Paragraph (1)(c) is amended to
783 conform to the redesignation of s. 370.0603(3) as s.
784 379.208(3) by s. 18, ch. 2008-247, Laws of Florida,

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785 and the redesignation of s. 370.07(3) as s. 379.362(3)
 786 by s. 147, ch. 2008-247. Subsection (5) is amended to
 787 delete obsolete language applicable only to the 2007-
 788 2008 fiscal year.

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

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

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

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

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

801 215.50 Custody of securities purchased; income.--

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

807 Reviser's note.--Amended to conform to the
 808 redesignation of subunits of s. 215.47 by s. 3, ch.
 809 2008-31, Laws of Florida.

810 Section 17. Paragraph (a) of subsection (7) of section
 811 215.555, Florida Statutes, is amended to read:

812 215.555 Florida Hurricane Catastrophe Fund.--

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813 (7) ADDITIONAL POWERS AND DUTIES.--

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

822 Reviser's note.--Amended to conform to the
823 redesignation of subunits of s. 215.47 by s. 3, ch.
824 2008-31, Laws of Florida.

825 Section 18. Paragraph (b) of subsection (1) of section
826 215.5595, Florida Statutes, is amended to read:

827 215.5595 Insurance Capital Build-Up Incentive Program.--

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

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

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841 policies out of the corporation.

842 Reviser's note.--Amended to confirm the substitution
843 by the editors of the word "insurance" for the word
844 "insurer" to conform to context.

845 Section 19. Paragraph (a) of subsection (2) of section
846 218.409, Florida Statutes, is amended to read:

847 218.409 Administration of the trust fund; creation of
848 advisory council.--

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

866 Reviser's note.--Amended to conform to the
867 redesignation of subunits of s. 215.47 by s. 3, ch.
868 2008-31, Laws of Florida.

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

871 253.03 Board of trustees to administer state lands; lands
 872 enumerated.--

873 (16) The Board of Trustees of the Internal Improvement
 874 Trust Fund, and the state through its agencies, may not control,
 875 regulate, permit, or charge for any severed materials which are
 876 removed from the area adjacent to an intake or discharge
 877 structure pursuant to an exemption authorized in s.
 878 403.813(1)(f) and (r) ~~403.813(2)(f) and (r)~~.

879 Reviser's note.--Amended to conform to the
 880 redesignation of s. 403.813(2) as s. 403.813(1) by s.
 881 4, ch. 2008-40, Laws of Florida.

882 Section 21. Paragraph (c) of subsection (11) of section
 883 259.032, Florida Statutes, is amended to read:

884 259.032 Conservation and Recreation Lands Trust Fund;
 885 purpose.--

886 (11)

887 (c) The Land Management Uniform Accounting Council shall
 888 prepare and deliver a report on the methodology and formula for
 889 allocating land management funds to the Acquisition and
 890 Restoration Council. The Acquisition and Restoration Council
 891 shall review, modify as appropriate, and submit the report to
 892 the Board of Trustees of the Internal Improvement Trust Fund.
 893 The board of trustees shall review, modify as appropriate, and
 894 submit the report to the President of the Senate and the Speaker
 895 of the House of Representatives no later than December 31, 2008,
 896 which provides an interim management formula and a long-term

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897 management formula, and the methodologies used to develop the
898 formulas, which shall be used to allocate land management funds
899 provided for in paragraph (b) for interim and long-term
900 management of all lands managed pursuant to this chapter and for
901 associated contractual services. The methodology and formula for
902 interim management shall be based on the estimated land
903 acquisitions for the fiscal year in which the interim funds will
904 be expended. The methodology and formula for long-term
905 management shall recognize, but not be limited to, the
906 following:

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

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

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

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

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

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

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

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

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925 public use.

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

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

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

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

934

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

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

948 Section 22. Paragraph (a) of subsection (2) of section
949 259.105, Florida Statutes, is amended to read:

950 259.105 The Florida Forever Act.--

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

952 1. Land acquisition programs have provided tremendous

953 financial resources for purchasing environmentally significant
954 lands to protect those lands from imminent development or
955 alteration, thereby ensuring present and future generations'
956 access to important waterways, open spaces, and recreation and
957 conservation lands.

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

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

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

976 5. Florida's groundwater, surface waters, and springs are
977 under tremendous pressure due to population growth and economic
978 expansion and require special protection and restoration
979 efforts, including the protection of uplands and springsheds
980 that provide vital recharge to aquifer systems and are critical

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981 to the protection of water quality and water quantity of the
982 aquifers and springs. To ensure that sufficient quantities of
983 water are available to meet the current and future needs of the
984 natural systems and citizens of the state, and assist in
985 achieving the planning goals of the department and the water
986 management districts, water resource development projects on
987 public lands, where compatible with the resource values of and
988 management objectives for the lands, are appropriate.

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

1000 7. Many of Florida's unique ecosystems, such as the
1001 Florida Everglades, are facing ecological collapse due to
1002 Florida's burgeoning population growth and other economic
1003 activities. To preserve these valuable ecosystems for future
1004 generations, essential parcels of land must be acquired to
1005 facilitate ecosystem restoration.

1006 8. Access to public lands to support a broad range of
1007 outdoor recreational opportunities and the development of
1008 necessary infrastructure, where compatible with the resource

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1009 values of and management objectives for such lands, promotes an
1010 appreciation for Florida's natural assets and improves the
1011 quality of life.

1012 9. Acquisition of lands, in fee simple, less-than-fee
1013 interest, or other techniques shall be based on a comprehensive
1014 science-based assessment of Florida's natural resources which
1015 targets essential conservation lands by prioritizing all current
1016 and future acquisitions based on a uniform set of data and
1017 planned so as to protect the integrity and function of
1018 ecological systems and working landscapes, and provide multiple
1019 benefits, including preservation of fish and wildlife habitat,
1020 recreation space for urban and rural areas, and the restoration
1021 of natural water storage, flow, and recharge.

1022 10. The state has embraced performance-based program
1023 budgeting as a tool to evaluate the achievements of publicly
1024 funded agencies, build in accountability, and reward those
1025 agencies which are able to consistently achieve quantifiable
1026 goals. While previous and existing state environmental programs
1027 have achieved varying degrees of success, few of these programs
1028 can be evaluated as to the extent of their achievements,
1029 primarily because performance measures, standards, outcomes, and
1030 goals were not established at the outset. Therefore, the Florida
1031 Forever program shall be developed and implemented in the
1032 context of measurable state goals and objectives.

1033 11. The state must play a major role in the recovery and
1034 management of its imperiled species through the acquisition,
1035 restoration, enhancement, and management of ecosystems that can
1036 support the major life functions of such species. It is the

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1037 | intent of the Legislature to support local, state, and federal
1038 | programs that result in net benefit to imperiled species habitat
1039 | by providing public and private land owners meaningful
1040 | incentives for acquiring, restoring, managing, and repopulating
1041 | habitats for imperiled species. It is the further intent of the
1042 | Legislature that public lands, both existing and to be acquired,
1043 | identified by the lead land managing agency, in consultation
1044 | with the Florida Fish and Wildlife Conservation Commission for
1045 | animals or the Department of Agriculture and Consumer Services
1046 | for plants, as habitat or potentially restorable habitat for
1047 | imperiled species, be restored, enhanced, managed, and
1048 | repopulated as habitat for such species to advance the goals and
1049 | objectives of imperiled species management consistent with the
1050 | purposes for which such lands are acquired without restricting
1051 | other uses identified in the management plan. It is also the
1052 | intent of the Legislature that of the proceeds distributed
1053 | pursuant to subsection (3), additional consideration be given to
1054 | acquisitions that achieve a combination of conservation goals,
1055 | including the restoration, enhancement, management, or
1056 | repopulation of habitat for imperiled species. The Acquisition
1057 | and Restoration Council, in addition to the criteria in
1058 | subsection (9), shall give weight to projects that include
1059 | acquisition, restoration, management, or repopulation of habitat
1060 | for imperiled species. The term "imperiled species" as used in
1061 | this chapter and chapter 253, means plants and animals that are
1062 | federally listed under the Endangered Species Act, or state-
1063 | listed by the Fish and Wildlife Conservation Commission or the
1064 | Department of Agriculture and Consumer Services.

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1065 a. As part of the state's role, all state lands that have
1066 imperiled species habitat shall include as a consideration in
1067 management plan development the restoration, enhancement,
1068 management, and repopulation of such habitats. In addition, the
1069 lead land managing agency of such state lands may use fees
1070 received from public or private entities for projects to offset
1071 adverse impacts to imperiled species or their habitat in order
1072 to restore, enhance, manage, repopulate, or acquire land and to
1073 implement land management plans developed under s. 253.034 or a
1074 land management prospectus developed and implemented under this
1075 chapter. Such fees shall be deposited into a foundation or fund
1076 created by each land management agency under s. 379.223
1077 ~~372.0215~~, s. 589.012, or s. 259.032(11)(d), to be used solely to
1078 restore, manage, enhance, repopulate, or acquire imperiled
1079 species habitat.

1080 b. Where habitat or potentially restorable habitat for
1081 imperiled species is located on state lands, the Fish and
1082 Wildlife Conservation Commission and the Department of
1083 Agriculture and Consumer Services shall be included on any
1084 advisory group required under chapter 253, and the short-term
1085 and long-term management goals required under chapter 253 must
1086 advance the goals and objectives of imperiled species management
1087 consistent with the purposes for which the land was acquired
1088 without restricting other uses identified in the management
1089 plan.

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

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1093 | enjoy the natural resources of this state.
 1094 | Reviser's note.--Amended to conform to the
 1095 | redesignation of s. 372.0215 as s. 379.223 by s. 32,
 1096 | ch. 2008-247, Laws of Florida.
 1097 | Section 23. Paragraph (d) of subsection (9) of section
 1098 | 259.1053, Florida Statutes, is amended to read:
 1099 | 259.1053 Babcock Ranch Preserve; Babcock Ranch, Inc.;
 1100 | creation; membership; organization; meetings.--
 1101 | (9) POWERS AND DUTIES.--
 1102 | (d) The members may, with the written approval of the
 1103 | commission and in consultation with the department, designate
 1104 | hunting, fishing, and trapping zones and may establish
 1105 | additional periods when no hunting, fishing, or trapping shall
 1106 | be permitted for reasons of public safety, administration, and
 1107 | the protection and enhancement of nongame habitat and nongame
 1108 | species, as defined under s. 379.101 ~~372.001~~.
 1109 | Reviser's note.--Amended to conform to the repeal of
 1110 | s. 372.001 by s. 208, ch. 2008-247, Laws of Florida.
 1111 | The word "nongame" is now defined at s. 379.101.
 1112 | Section 24. Subsection (1), paragraph (e) of subsection
 1113 | (2), and paragraph (b) of subsection (3) of section 282.201,
 1114 | Florida Statutes, are amended to read:
 1115 | 282.201 State data center system; agency duties and
 1116 | limitations.--A state data center system that includes all
 1117 | primary data centers, other nonprimary data centers, and
 1118 | computing facilities, and that provides an enterprise
 1119 | information technology service as defined in s. 282.0041, is
 1120 | established.

1121 (1) INTENT.--The Legislature finds that the most efficient
 1122 and effective means of providing quality utility data processing
 1123 services to state agencies requires that computing resources be
 1124 concentrated in quality facilities that provide the proper
 1125 security, infrastructure, and staff resources to ensure that the
 1126 state's data is maintained reliably and~~7~~ safely, and is
 1127 recoverable in the event of a disaster. Efficiencies resulting
 1128 from such consolidation include the increased ability to
 1129 leverage technological expertise and~~7~~ hardware and software
 1130 capabilities; increased savings through consolidated purchasing
 1131 decisions; and the enhanced ability to deploy technology
 1132 improvements and implement new policies consistently throughout
 1133 the consolidated organization. Therefore it is the intent of the
 1134 Legislature that agency data centers and computing facilities be
 1135 consolidated into primary data centers to the maximum extent
 1136 possible by 2019.

1137 (2) AGENCY FOR ENTERPRISE INFORMATION TECHNOLOGY
 1138 DUTIES.--The Agency for Enterprise Information Technology shall:

1139 (e) Develop and establish policies by rule relating to the
 1140 operation of the state data center system which must comply with
 1141 applicable federal regulations, including 2 C.F.R. part 225 and
 1142 45 C.F.R. The policies may address:

1143 1. Ensuring that financial information is captured and
 1144 reported consistently and accurately.

1145 2. Requiring the establishment of service-level agreements
 1146 executed between a data center and its customer entities for
 1147 services provided.

1148 3. Requiring annual full cost recovery on an equitable

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1149 rational basis. The cost-recovery methodology must ensure that
1150 no service is subsidizing another service and may include
1151 adjusting the subsequent year's rates as a means to recover
1152 deficits or refund surpluses from a prior year.

1153 4. Requiring that any special assessment imposed to fund
1154 expansion is based on a methodology that apportions the
1155 assessment according to the proportional benefit to each
1156 customer entity.

1157 5. Requiring that rebates be given when revenues have
1158 exceeded costs, that rebates be applied to offset charges to
1159 those customer entities that have subsidized the costs of other
1160 customer entities, and that such rebates may be in the form of
1161 credits against future billings.

1162 6. Requiring that all service-level agreements have a
1163 contract term of up to 3 years, but may include an option to
1164 renew for up to 3 additional years contingent on approval by the
1165 board, and require at least a 180-day notice of termination.

1166 7. Designating any nonstate data centers as primary data
1167 centers if the center:

1168 a. Has an established governance structure that represents
1169 customer entities proportionally.

1170 b. Maintains an appropriate cost-allocation methodology
1171 that accurately bills a customer entity based on the actual
1172 direct and indirect costs to the customer entity and prohibits
1173 the subsidization of one customer entity's costs by another
1174 entity.

1175 c. Has sufficient raised floor space, cooling, and
1176 redundant power capacity, including uninterruptible power supply

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1177 and backup power generation, to accommodate the computer
1178 processing platforms and support necessary to host the computing
1179 requirements of additional customer entities.

1180 (3) STATE AGENCY DUTIES.--

1181 (b) Each state agency shall submit to the Agency for
1182 Enterprise Information Technology information relating to its
1183 data centers and computing facilities as required in
1184 instructions issued by July 1 of each year by the Agency for
1185 Enterprise Information Technology. The information required may
1186 include:

- 1187 1. ~~The~~ Amount of floor space used and available.
- 1188 2. ~~The~~ Numbers and capacities of mainframes and servers.
- 1189 3. Storage and network capacity.
- 1190 4. Amount of power used and the available capacity.
- 1191 5. Estimated expenditures by service area, including
1192 hardware and software, numbers of full-time equivalent
1193 positions, personnel turnover, and position reclassifications.
- 1194 6. A list of contracts in effect for the fiscal year,
1195 including, but not limited to, contracts for hardware, software
1196 and maintenance, including the expiration date, the contract
1197 parties, and the cost of the contract.
- 1198 7. Service-level agreements by customer entity.

1199 Reviser's note.--Amended to improve sentence
1200 construction.

1201 Section 25. Paragraph (d) of subsection (4) of section
1202 288.1089, Florida Statutes, is amended to read:

1203 288.1089 Innovation Incentive Program.--

1204 (4) To qualify for review by the office, the applicant

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1205 | must, at a minimum, establish the following to the satisfaction
 1206 | of Enterprise Florida, Inc., and the office:

1207 | (d) For an alternative and renewable energy project in
 1208 | this state, the project must:

1209 | 1. Demonstrate a plan for significant collaboration with
 1210 | an institution of higher education;

1211 | 2. Provide the state, at a minimum, a break-even return on
 1212 | investment within a 20-year period;

1213 | 3. Include matching funds provided by the applicant or
 1214 | other available sources. This requirement may be waived if the
 1215 | office and the department determine that the merits of the
 1216 | individual project or the specific circumstances warrant such
 1217 | action;

1218 | 4. Be located in this state;

1219 | 5. Provide jobs that pay an estimated annual average wage
 1220 | that equals at least 130 percent of the average private sector
 1221 | wage. The average wage requirement may be waived if the office
 1222 | and the commission determine that the merits of the individual
 1223 | project or the specific circumstances warrant such action; and

1224 | 6. Meet one of the following criteria:

1225 | a. Result in the creation of at least 35 direct, new jobs
 1226 | at the business.

1227 | b. Have an activity or product that uses feedstock or
 1228 | other raw materials grown or produced in this state.

1229 | c. Have a cumulative investment of at least \$50 million
 1230 | within a 5-year period.

1231 | d. Address the technical feasibility of the technology,
 1232 | and the extent to which the proposed project has been

1233 demonstrated to be technically feasible based on pilot project
 1234 demonstrations, laboratory testing, scientific modeling, or
 1235 engineering or chemical theory that supports the proposal.

1236 e. Include innovative technology and the degree to which
 1237 the project or business incorporates an innovative new
 1238 technology or an innovative application of an existing
 1239 technology.

1240 f. Include production potential and the degree to which a
 1241 project or business generates thermal, mechanical, or electrical
 1242 energy by means of a renewable energy resource that has
 1243 substantial long-term production potential. The project must, to
 1244 the extent possible, quantify annual production potential in
 1245 megawatts or kilowatts.

1246 g. Include and address energy efficiency and the degree to
 1247 which a project demonstrates efficient use of energy, water, and
 1248 material resources.

1249 h. Include project management and the ability of
 1250 management to administer and ~~a~~ complete the business project.

1251 Reviser's note.--Amended to confirm the substitution
 1252 by the editors of the word "and" for the word "a" to
 1253 improve clarity.

1254 Section 26. Paragraphs (c), (d), (f), (h), and (k) of
 1255 subsection (5) of section 288.8175, Florida Statutes, are
 1256 amended to read:

1257 288.8175 Linkage institutes between postsecondary
 1258 institutions in this state and foreign countries.--

1259 (5) The institutes are:

1260 (c) Florida Caribbean Institute (Florida International

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1261 University and Daytona Beach ~~Community~~ College).

1262 (d) Florida-Canada Institute (University of Central

1263 Florida and Palm Beach Community ~~Junior~~ College).

1264 (f) Florida-Japan Institute (University of South Florida,

1265 University of West Florida, and St. Petersburg ~~Community~~

1266 College).

1267 (h) Florida-Israel Institute (Florida Atlantic University

1268 and Broward ~~Community~~ College).

1269 (k) Florida-Mexico Institute (Florida International

1270 University and Polk ~~Community~~ College).

1271 Reviser's note.--Paragraph (5) (c) is amended to

1272 confirm the deletion of the word "Community" by the

1273 editors to conform to the renaming of Daytona Beach

1274 Community College as Daytona Beach College by s. 1,

1275 ch. 2008-52, Laws of Florida, and s. 5, ch. 2008-163,

1276 Laws of Florida. Paragraph (5) (d) is amended to

1277 substitute the word "Community" for the word "Junior"

1278 to conform to the renaming of Palm Beach Junior

1279 College as Palm Beach Community College by s. 64, ch.

1280 89-381, Laws of Florida. Paragraph (5) (f) is amended

1281 to conform to the present name of St. Petersburg

1282 College, as listed in s. 1000.21, created by s. 10,

1283 ch. 2002-387, Laws of Florida. Paragraphs (5) (h) and

1284 (k) are amended to delete the word "Community" from

1285 the names of Broward College and Polk College,

1286 respectively, pursuant to the name changes in s. 1,

1287 ch. 2008-52.

1288 Section 27. Subsection (2) of section 316.2128, Florida

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1289 Statutes, is amended to read:

1290 316.2128 Operation of motorized scooters and miniature
1291 motorcycles; requirements for sales.--

1292 (2) Any person selling or offering a motorized scooter or
1293 a miniature motorcycle for sale in violation of this section
1294 ~~subsection~~ commits an unfair and deceptive trade practice as
1295 defined in part II of chapter 501.

1296 Reviser's note.--Amended to conform to context; the
1297 actions, violation of which constitute an unfair and
1298 deceptive trade practice, are described in subsection
1299 (1), and the section only has two subsections.

1300 Section 28. Subsection (4) of section 316.650, Florida
1301 Statutes, is amended to read:

1302 316.650 Traffic citations.--

1303 (4) The chief administrative officer of every traffic
1304 enforcement agency shall require the return to him or her of the
1305 officer-agency copy of every traffic citation issued by an
1306 officer under the chief administrative officer's supervision to
1307 an alleged violator of any traffic law or ordinance and all
1308 copies of every traffic citation that has been spoiled or upon
1309 which any entry has been made and not issued to an alleged
1310 violator. In the case of a traffic enforcement agency that has
1311 an automated citation issuance system, the chief administrative
1312 officer shall require the return of all electronic traffic
1313 citation records.

1314 Reviser's note.--Amended to improve clarity.

1315 Section 29. Subsection (12) of section 319.001, Florida
1316 Statutes, is amended to read:

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1317 319.001 Definitions.--As used in this chapter, the term:
 1318 (12) "Used motor vehicle" means any motor vehicle that is
 1319 not a "new motor vehicle" as defined in subsection (9) ~~(8)~~.
 1320 Reviser's note.--Amended to conform to the
 1321 redesignation of subsection (8) as subsection (9) by
 1322 s. 15, ch. 2008-176, Laws of Florida.
 1323 Section 30. Paragraph (b) of subsection (62) and paragraph
 1324 (b) of subsection (65) of section 320.08058, Florida Statutes,
 1325 are amended to read:
 1326 320.08058 Specialty license plates.--
 1327 (62) PROTECT FLORIDA SPRINGS LICENSE PLATES.--
 1328 (b) The annual use fees shall be distributed to the
 1329 Wildlife Foundation of Florida, Inc., a citizen support
 1330 organization created pursuant to s. 379.223 ~~372.0215~~, which
 1331 shall administer the fees as follows:
 1332 1. Wildlife Foundation of Florida, Inc., shall retain the
 1333 first \$60,000 of the annual use fees as direct reimbursement for
 1334 administrative costs, startup costs, and costs incurred in the
 1335 development and approval process.
 1336 2. Thereafter, a maximum of 10 percent of the fees may be
 1337 used for administrative costs directly associated with education
 1338 programs, conservation, springs research, and grant
 1339 administration of the foundation. A maximum of 15 percent of the
 1340 fees may be used for continuing promotion and marketing of the
 1341 license plate.
 1342 3. At least 55 percent of the fees shall be available for
 1343 competitive grants for targeted community-based springs research
 1344 not currently available for state funding. The remaining 20

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1345 percent shall be directed toward community outreach programs
1346 aimed at implementing such research findings. The competitive
1347 grants shall be administered and approved by the board of
1348 directors of the Wildlife Foundation of Florida. The granting
1349 advisory committee shall be composed of nine members, including
1350 one representative from the Fish and Wildlife Conservation
1351 Commission, one representative from the Department of
1352 Environmental Protection, one representative from the Department
1353 of Health, one representative from the Department of Community
1354 Affairs, three citizen representatives, and two representatives
1355 from nonprofit stakeholder groups.

1356 4. The remaining funds shall be distributed with the
1357 approval of and accountability to the board of directors of the
1358 Wildlife Foundation of Florida, and shall be used to support
1359 activities contributing to education, outreach, and springs
1360 conservation.

1361 (65) FLORIDA TENNIS LICENSE PLATES.--

1362 (b) The department shall distribute the annual use fees to
1363 the Florida Sports Foundation, a direct-support organization of
1364 the Office of Tourism, Trade, and Economic Development. The
1365 license plate annual use fees shall be annually allocated as
1366 follows:

1367 1. Up to 5 percent of the proceeds from the annual use
1368 fees may be used by the Florida Sports Foundation to administer
1369 the license plate program.

1370 2. The United States Tennis Association Florida Section
1371 Foundation shall receive the first \$60,000 in proceeds from the
1372 annual use fees to reimburse it for startup costs,

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1373 administrative costs, and other costs it incurs in the
 1374 development and approval process.

1375 3. Up to 5 percent of the proceeds from the annual use
 1376 fees may be used for promoting and marketing the license plates.
 1377 The remaining proceeds shall be available for grants by the
 1378 United States Tennis Association Florida Section Foundation to
 1379 nonprofit organizations to operate youth tennis programs and
 1380 adaptive tennis programs for special populations of all ages,
 1381 and for building, renovating, and maintaining public tennis
 1382 courts.

1383 Reviser's note.--Paragraph (62)(b) is amended to
 1384 conform to the redesignation of s. 372.0215 as s.
 1385 379.223 by s. 32, ch. 2008-247, Laws of Florida.

1386 Paragraph (65)(b) is amended to conform to the
 1387 complete name of the United State Tennis Association
 1388 Florida Section Foundation as used elsewhere in
 1389 subsection (65).

1390 Section 31. Paragraph (b) of subsection (4) of section
 1391 323.001, Florida Statutes, is amended to read:

1392 323.001 Wrecker operator storage facilities; vehicle
 1393 holds.--

1394 (4) The requirements for a written hold apply when the
 1395 following conditions are present:

1396 (b) The officer has probable cause to believe the vehicle
 1397 should be seized and forfeited under chapter 379 ~~370~~ or chapter
 1398 ~~372~~;

1399 Reviser's note.--Amended to conform to the transfer of
 1400 the material in chapters 370 and 372 to new chapter

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1401 379 by ch. 2008-247, Laws of Florida.

1402 Section 32. Subsection (1) of section 336.41, Florida
 1403 Statutes, is amended to read:

1404 336.41 Counties; employing labor and providing road
 1405 equipment; accounting; when competitive bidding required.--

1406 (1) The commissioners may employ labor and provide
 1407 equipment as may be necessary, except as provided in subsection
 1408 (4) ~~(3)~~, for constructing and opening of new roads or bridges
 1409 and repair and maintenance of any existing roads and bridges.

1410 Reviser's note.--Amended to conform to the
 1411 redesignation of subsection (3) as subsection (4) by
 1412 s. 25, ch. 2008-191, Laws of Florida.

1413 Section 33. Subsection (1) of section 336.44, Florida
 1414 Statutes, is amended to read:

1415 336.44 Counties; contracts for construction of roads;
 1416 procedure; contractor's bond.--

1417 (1) The commissioners shall let the work on roads out on
 1418 contract, in accordance with s. 336.41(4) ~~336.41(3)~~.

1419 Reviser's note.--Amended to conform to the
 1420 redesignation of s. 336.41(3) as s. 336.41(4) by s.
 1421 25, ch. 2008-191, Laws of Florida.

1422 Section 34. Subsection (2) of section 364.051, Florida
 1423 Statutes, is amended to read:

1424 364.051 Price regulation.--

1425 (2) BASIC LOCAL TELECOMMUNICATIONS SERVICE.--~~Price~~
 1426 ~~regulation of basic local telecommunications service shall~~
 1427 ~~consist of the following:~~

1428 ~~(a) Effective January 1, 1996, the rates for basic local~~

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1429 ~~telecommunications service of each company subject to this~~
1430 ~~section shall be capped at the rates in effect on July 1, 1995,~~
1431 ~~and such rates shall not be increased prior to January 1, 2000.~~
1432 ~~However, the basic local telecommunications service rates of a~~
1433 ~~local exchange telecommunications company with more than 3~~
1434 ~~million basic local telecommunications service access lines in~~
1435 ~~service on July 1, 1995, shall not be increased prior to January~~
1436 ~~1, 2001.~~

1437 ~~(b) Upon the date of filing its election with the~~
1438 ~~commission, the rates for basic local telecommunications service~~
1439 ~~of a company that elects to become subject to this section shall~~
1440 ~~be capped at the rates in effect on that date and shall remain~~
1441 ~~capped as stated in paragraph (a).~~

1442 ~~(c) There shall be a flat-rate pricing option for basic~~
1443 ~~local telecommunications services, and mandatory measured~~
1444 ~~service for basic local telecommunications services shall not be~~
1445 ~~imposed.~~

1446 Reviser's note.--Amended to delete obsolete language
1447 establishing a rate cap effective prior to January 1,
1448 2000, or January 1, 2001, the end date for the cap
1449 depending on a company's number of basic local
1450 telecommunications service access lines as of July 1,
1451 1995.

1452 Section 35. Subsection (5) of section 373.118, Florida
1453 Statutes, is amended to read:

1454 373.118 General permits; delegation.--

1455 (5) The department shall adopt by rule one or more general
1456 permits for local governments to construct, operate, and

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1457 maintain public marina facilities, public mooring fields, public
1458 boat ramps, including associated courtesy docks, and associated
1459 parking facilities located in uplands. Such general permits
1460 adopted by rule shall include provisions to ensure compliance
1461 with part IV of this chapter, subsection (1), and the criteria
1462 necessary to include the general permits in a state programmatic
1463 general permit issued by the United States Army Corps of
1464 Engineers under s. 404 of the Clean Water Act, Pub. L. No. 92-
1465 500, as amended, 33 U.S.C. ss. 1251 et seq. A facility
1466 authorized under such general permits is exempt from review as a
1467 development of regional impact if the facility complies with the
1468 comprehensive plan of the applicable local government. Such
1469 facilities shall be consistent with the local government manatee
1470 protection plan required pursuant to chapter 379 ~~370~~ and shall
1471 obtain Clean Marina Program status prior to opening for
1472 operation and maintain that status for the life of the facility.
1473 Marinas and mooring fields authorized under any such general
1474 permit shall not exceed an area of 50,000 square feet over
1475 wetlands and other surface waters. All facilities permitted
1476 under this section shall be constructed, maintained, and
1477 operated in perpetuity for the exclusive use of the general
1478 public. The department shall initiate the rulemaking process
1479 within 60 days after the effective date of this act.

1480 Reviser's note.--Amended to conform to the transfer of
1481 material in former chapter 370 to chapter 379 by ch.
1482 2008-247, Laws of Florida.

1483 Section 36. Paragraphs (a) and (e) of subsection (3) of
1484 section 373.4145, Florida Statutes, are amended to read:

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1485 373.4145 Part IV permitting program within the
 1486 geographical jurisdiction of the Northwest Florida Water
 1487 Management District.--

1488 (3) The rules adopted under subsection (1), as applicable,
 1489 shall:

1490 (a) Incorporate the exemptions in ss. 373.406 and
 1491 403.813(1) ~~403.813(2)~~.

1492 (e) Provide an exemption for the repair, stabilization, or
 1493 paving of county-maintained roads existing on or before January
 1494 1, 2002, and the repair or replacement of bridges that are part
 1495 of the roadway consistent with the provisions of s.

1496 403.813(1)(t) ~~403.813(2)(t)~~, notwithstanding the provisions of
 1497 s. 403.813(1)(t)7. ~~403.813(2)(t)7.~~ requiring adoption of a
 1498 general permit applicable within the Northwest Florida Water
 1499 Management District and the repeal of such exemption upon the
 1500 adoption of a general permit.

1501 Reviser's note.--Amended to conform to the
 1502 redesignation of s. 403.813(2) as s. 403.813(1) by s.
 1503 4, ch. 2008-40, Laws of Florida.

1504 Section 37. Section 374.977, Florida Statutes, is amended
 1505 to read:

1506 374.977 Inland navigation districts; manatee protection
 1507 speed zones, responsibility for sign posting.--The Fish and
 1508 Wildlife Conservation Commission shall assume the responsibility
 1509 for posting and maintaining regulatory markers for manatee
 1510 protection speed zones as posted by the inland navigation
 1511 districts pursuant to a rule adopted by the commission under s.
 1512 379.2431(2) ~~370.12(2)~~. The Fish and Wildlife Conservation

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1513 Commission may apply to inland navigation districts for funding
 1514 under s. 374.976 to assist with implementing its responsibility
 1515 under this section for maintaining regulatory markers for
 1516 manatee protection speed zones.

1517 Reviser's note.--Amended to conform to the
 1518 redesignation of s. 370.12 as s. 379.2431 by s. 73,
 1519 ch. 2008-247, Laws of Florida.

1520 Section 38. Subsection (1) of section 378.021, Florida
 1521 Statutes, is amended to read:

1522 378.021 Master reclamation plan.--

1523 (1) The Department of Environmental Protection shall amend
 1524 the master reclamation plan that provides guidelines for the
 1525 reclamation of lands mined or disturbed by the severance of
 1526 phosphate rock prior to July 1, 1975, which lands are not
 1527 subject to mandatory reclamation under part II of chapter 211.
 1528 In amending the master reclamation plan, the Department of
 1529 Environmental Protection shall continue to conduct an onsite
 1530 evaluation of all lands mined or disturbed by the severance of
 1531 phosphate rock prior to July 1, 1975, which lands are not
 1532 subject to mandatory reclamation under part II of chapter 211,
 1533 ~~and shall consider the report and plan prepared by the Land Use~~
 1534 ~~Advisory Committee under s. 378.011 and submitted to the former~~
 1535 ~~Department of Natural Resources for adoption by rule on or~~
 1536 ~~before July 1, 1979.~~ The master reclamation plan when amended by
 1537 the Department of Environmental Protection shall be consistent
 1538 with local government plans prepared pursuant to the Local
 1539 Government Comprehensive Planning and Land Development
 1540 Regulation Act.

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1541 Reviser's note.--Amended to conform to the repeal of
 1542 s. 378.011, which created the Land Use Advisory
 1543 Committee, by s. 24, ch. 2008-150, Laws of Florida.
 1544 Section 39. Subsection (19) of section 378.403, Florida
 1545 Statutes, is amended to read:

1546 378.403 Definitions.--As used in this part, the term:
 1547 (19) "Wetlands" means any area as defined in s. 373.019,
 1548 as delineated using the methodology adopted by rule and ratified
 1549 pursuant to s. 373.421(1). For areas included in an approved
 1550 conceptual reclamation plan or modification application
 1551 submitted prior to July 1, 1994, wetlands means any area having
 1552 dominant vegetation as defined and listed in rule 62-301.200 ~~67-~~
 1553 ~~301.200~~, Florida Administrative Code, regardless of whether the
 1554 area is within the department's jurisdiction or whether the
 1555 water bodies are connected.

1556 Reviser's note.--Amended to correct an apparent error
 1557 and facilitate correct interpretation. Rule 67-301.200
 1558 does not exist; rule 62-301.200 relates to dominant
 1559 vegetation.

1560 Section 40. Subsection (1) of section 379.2495, Florida
 1561 Statutes, is amended to read:

1562 379.2495 Florida Ships-2-Reefs Program; matching grant
 1563 requirements.--

1564 (1) The commission is authorized to establish the Florida
 1565 Ships-2-Reefs Program, a matching grant program, for the
 1566 securing and placement of United States Maritime Administration
 1567 (MARAD) and United States Navy decommissioned vessels in state
 1568 or federal waters seaward of the state to serve as artificial

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1569 reefs and, pursuant thereto, to make expenditures and enter into
 1570 contracts with local governments and nonprofit corporations for
 1571 the purpose of securing and placing MARAD and United States Navy
 1572 decommissioned vessels as artificial reefs in state or federal
 1573 waters seaward of the state pursuant to s. 379.249(8) ~~370.25(8)~~
 1574 and performing the environmental preparation and cleaning
 1575 requisite to the placement of a vessel as an artificial reef,
 1576 which preparation and cleaning must meet the standards
 1577 established in the 2006 publication, "National Guidance: Best
 1578 Management Practices for Preparing Vessels Intended to Create
 1579 Artificial Reefs," published jointly by the United States
 1580 Environmental Protection Agency and the United States Maritime
 1581 Administration. The commission shall have final approval of
 1582 grants awarded through the program.

1583 Reviser's note.--Amended to conform to the
 1584 redesignation of s. 370.25 as s. 379.249 by s. 81, ch.
 1585 2008-247, Laws of Florida.

1586 Section 41. Paragraph (q) of subsection (2) of section
 1587 379.353, Florida Statutes, is amended to read:

1588 379.353 Recreational licenses and permits; exemptions from
 1589 fees and requirements.--

1590 (2) A hunting, freshwater fishing, or saltwater fishing
 1591 license or permit is not required for:

1592 (q) Any resident recreationally freshwater fishing who
 1593 holds a valid commercial fishing license issued under s.
 1594 379.363(1)(a) ~~379.3625(1)(a)~~.

1595 Reviser's note.--Amended to correct an apparent error
 1596 and facilitate correct interpretation. Prior to the

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1597 amendment to paragraph (2)(q) by s. 138, ch. 2008-247,
 1598 Laws of Florida, the cross-reference was to s.
 1599 372.65(1)(a), relating to resident commercial fishing
 1600 licenses. Section 372.65 was redesignated as s.
 1601 379.363 by s. 148, ch. 2008-247.

1602 Section 42. Subsection (8) of section 379.407, Florida
 1603 Statutes, is amended to read:

1604 379.407 Administration; rules, publications, records;
 1605 penalties; injunctions.--

1606 (8) LICENSES AND ENTITIES SUBJECT TO PENALTIES.--For
 1607 purposes of imposing license or permit suspensions or
 1608 revocations authorized by this chapter, the license or permit
 1609 under which the violation was committed is subject to suspension
 1610 or revocation by the commission. For purposes of assessing
 1611 monetary civil or administrative penalties authorized by this
 1612 chapter, the commercial harvester cited and subsequently
 1613 receiving a judicial disposition of other than dismissal or
 1614 acquittal in a court of law is subject to the monetary penalty
 1615 assessment by the commission. However, if the licensee ~~license~~
 1616 or permitholder of record is not the commercial harvester
 1617 receiving the citation and judicial disposition, the license or
 1618 permit may be suspended or revoked only after the licensee
 1619 ~~license~~ or permitholder has been notified by the commission that
 1620 the license or permit has been cited in a major violation and is
 1621 now subject to suspension or revocation should the license or
 1622 permit be cited for subsequent major violations.

1623 Reviser's note.--Amended to improve clarity and
 1624 facilitate correct interpretation.

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1625 Section 43. Paragraph (a) of subsection (3) of section
 1626 380.061, Florida Statutes, is amended to read:

1627 380.061 The Florida Quality Developments program.--

1628 (3) (a) To be eligible for designation under this program,
 1629 the developer shall comply with each of the following
 1630 requirements which is applicable to the site of a qualified
 1631 development:

1632 1. Have donated or entered into a binding commitment to
 1633 donate the fee or a lesser interest sufficient to protect, in
 1634 perpetuity, the natural attributes of the types of land listed
 1635 below. In lieu of the above requirement, the developer may enter
 1636 into a binding commitment which runs with the land to set aside
 1637 such areas on the property, in perpetuity, as open space to be
 1638 retained in a natural condition or as otherwise permitted under
 1639 this subparagraph. Under the requirements of this subparagraph,
 1640 the developer may reserve the right to use such areas for the
 1641 purpose of passive recreation that is consistent with the
 1642 purposes for which the land was preserved.

1643 a. Those wetlands and water bodies throughout the state as
 1644 would be delineated if the provisions of s. 373.4145(1) (b) were
 1645 applied. The developer may use such areas for the purpose of
 1646 site access, provided other routes of access are unavailable or
 1647 impracticable; may use such areas for the purpose of stormwater
 1648 or domestic sewage management and other necessary utilities to
 1649 the extent that such uses are permitted pursuant to chapter 403;
 1650 or may redesign or alter wetlands and water bodies within the
 1651 jurisdiction of the Department of Environmental Protection which
 1652 have been artificially created, if the redesign or alteration is

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1653 done so as to produce a more naturally functioning system.

1654 b. Active beach or primary and, where appropriate,
1655 secondary dunes, to maintain the integrity of the dune system
1656 and adequate public accessways to the beach. However, the
1657 developer may retain the right to construct and maintain
1658 elevated walkways over the dunes to provide access to the beach.

1659 c. Known archaeological sites determined to be of
1660 significance by the Division of Historical Resources of the
1661 Department of State.

1662 d. Areas known to be important to animal species
1663 designated as endangered or threatened animal species by the
1664 United States Fish and Wildlife Service or by the Fish and
1665 Wildlife Conservation Commission, for reproduction, feeding, or
1666 nesting; for traveling between such areas used for reproduction,
1667 feeding, or nesting; or for escape from predation.

1668 e. Areas known to contain plant species designated as
1669 endangered plant species by the Department of Agriculture and
1670 Consumer Services.

1671 2. Produce, or dispose of, no substances designated as
1672 hazardous or toxic substances by the United States Environmental
1673 Protection Agency or by the Department of Environmental
1674 Protection or the Department of Agriculture and Consumer
1675 Services. This subparagraph is not intended to apply to the
1676 production of these substances in nonsignificant amounts as
1677 would occur through household use or incidental use by
1678 businesses.

1679 3. Participate in a downtown reuse or redevelopment
1680 program to improve and rehabilitate a declining downtown area.

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1681 4. Incorporate no dredge and fill activities in, and no
1682 stormwater discharge into, waters designated as Class II,
1683 aquatic preserves, or Outstanding Florida Waters, except as
1684 activities in those waters are permitted pursuant to s.
1685 403.813(1) ~~403.813(2)~~ and the developer demonstrates that those
1686 activities meet the standards under Class II waters, Outstanding
1687 Florida Waters, or aquatic preserves, as applicable.

1688 5. Include open space, recreation areas, Xeriscape as
1689 defined in s. 373.185, and energy conservation and minimize
1690 impermeable surfaces as appropriate to the location and type of
1691 project.

1692 6. Provide for construction and maintenance of all onsite
1693 infrastructure necessary to support the project and enter into a
1694 binding commitment with local government to provide an
1695 appropriate fair-share contribution toward the offsite impacts
1696 which the development will impose on publicly funded facilities
1697 and services, except offsite transportation, and condition or
1698 phase the commencement of development to ensure that public
1699 facilities and services, except offsite transportation, will be
1700 available concurrent with the impacts of the development. For
1701 the purposes of offsite transportation impacts, the developer
1702 shall comply, at a minimum, with the standards of the state land
1703 planning agency's development-of-regional-impact transportation
1704 rule, the approved strategic regional policy plan, any
1705 applicable regional planning council transportation rule, and
1706 the approved local government comprehensive plan and land
1707 development regulations adopted pursuant to part II of chapter
1708 163.

1709 7. Design and construct the development in a manner that
 1710 is consistent with the adopted state plan, the applicable
 1711 strategic regional policy plan, and the applicable adopted local
 1712 government comprehensive plan.

1713 Reviser's note.--Amended to conform to the
 1714 redesignation of s. 403.813(2) as s. 403.813(1) by s.
 1715 4, ch. 2008-40, Laws of Florida.

1716 Section 44. Paragraph (d) of subsection (3) of section
 1717 380.510, Florida Statutes, is amended to read:

1718 380.510 Conditions of grants and loans.--

1719 (3) In the case of a grant or loan for land acquisition,
 1720 agreements shall provide all of the following:

1721 (d) If any essential term or condition of a grant or loan
 1722 is violated, title to all interest in real property acquired
 1723 with state funds shall be conveyed or revert to the Board of
 1724 Trustees of the Internal Improvement Trust Fund. The trust shall
 1725 treat such property in accordance with s. 380.508(4)(f)

1726 ~~380.508(4)(e)~~.

1727
 1728 Any deed or other instrument of conveyance whereby a nonprofit
 1729 organization or local government acquires real property under
 1730 this section shall set forth the interest of the state. The
 1731 trust shall keep at least one copy of any such instrument and
 1732 shall provide at least one copy to the Board of Trustees of the
 1733 Internal Improvement Trust Fund.

1734 Reviser's note.--Amended to conform to the
 1735 redesignation of s. 380.508(4)(e) as s. 380.508(4)(f)
 1736 by s. 23, ch. 2008-229, Laws of Florida.

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1737 Section 45. Section 381.0063, Florida Statutes, is amended
 1738 to read:

1739 381.0063 Drinking water funds.--All fees and penalties
 1740 received from suppliers of water pursuant to ss. 403.860(5) and
 1741 403.861(7)(a) ~~403.861(8)~~ shall be deposited in the appropriate
 1742 County Health Department Trust Fund to be used by the department
 1743 to pay the costs of expenditures required pursuant to ss.
 1744 381.0062 and 403.862(1)(c).

1745 Reviser's note.--Amended to conform to the amendment
 1746 of s. 403.861(7) and (8) by s. 20, ch. 2008-150, Laws
 1747 of Florida, which moved language that comprised former
 1748 subsection (8) to paragraph (7)(a).

1749 Section 46. Paragraph (a) of subsection (6) of section
 1750 403.087, Florida Statutes, is amended to read:

1751 403.087 Permits; general issuance; denial; revocation;
 1752 prohibition; penalty.--

1753 (6)(a) The department shall require a processing fee in an
 1754 amount sufficient, to the greatest extent possible, to cover the
 1755 costs of reviewing and acting upon any application for a permit
 1756 or request for site-specific alternative criteria or for an
 1757 exemption from water quality criteria and to cover the costs of
 1758 surveillance and other field services and related support
 1759 activities associated with any permit or plan approval issued
 1760 pursuant to this chapter. The department shall review the fees
 1761 authorized under this chapter at least once every 5 years and
 1762 shall adjust the fees upward, as necessary, within the fee caps
 1763 established in this paragraph to reflect changes in the Consumer
 1764 Price Index or similar inflation indicator. The department shall

1765 establish by rule the inflation index to be used for this
 1766 purpose. In the event of deflation, the department shall consult
 1767 with the Executive Office of the Governor and the Legislature to
 1768 determine whether downward fee adjustments are appropriate based
 1769 on the current budget and appropriation considerations. However,
 1770 when an application is received without the required fee, the
 1771 department shall acknowledge receipt of the application and
 1772 shall immediately return the unprocessed application to the
 1773 applicant and shall take no further action until the application
 1774 is received with the appropriate fee. The department shall adopt
 1775 a schedule of fees by rule, subject to the following
 1776 limitations:

- 1777 1. The fee for any of the following may not exceed
 1778 \$32,500:
 - 1779 a. Hazardous waste, construction permit.
 - 1780 b. Hazardous waste, operation permit.
 - 1781 c. Hazardous waste, postclosure permit, or clean closure
 1782 plan approval.
 - 1783 d. Hazardous waste, corrective action permit.
- 1784 2. The permit fee for a drinking water construction or
 1785 operation permit, not including the operation license fee
 1786 required under s. 403.861(7), shall be at least \$500 and may not
 1787 exceed \$15,000.
- 1788 3. The permit fee for a Class I injection well
 1789 construction permit may not exceed \$12,500.
- 1790 4. The permit fee for any of the following permits may not
 1791 exceed \$10,000:
 - 1792 a. Solid waste, construction permit.

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- 1793 | b. Solid waste, operation permit.
- 1794 | c. Class I injection well, operation permit.
- 1795 | 5. The permit fee for any of the following permits may not
- 1796 | exceed \$7,500:
- 1797 | a. Air pollution, construction permit.
- 1798 | b. Solid waste, closure permit.
- 1799 | c. Domestic waste residuals, construction or operation
- 1800 | permit.
- 1801 | d. Industrial waste, operation permit.
- 1802 | e. Industrial waste, construction permit.
- 1803 | 6. The permit fee for any of the following permits may not
- 1804 | exceed \$5,000:
- 1805 | a. Domestic waste, operation permit.
- 1806 | b. Domestic waste, construction permit.
- 1807 | 7. The permit fee for any of the following permits may not
- 1808 | exceed \$4,000:
- 1809 | a. Wetlands resource management--(dredge and fill and
- 1810 | mangrove alteration).
- 1811 | b. Hazardous waste, research and development permit.
- 1812 | c. Air pollution, operation permit, for sources not
- 1813 | subject to s. 403.0872.
- 1814 | d. Class III injection well, construction, operation, or
- 1815 | abandonment permits.
- 1816 | 8. The permit fee for a drinking water distribution system
- 1817 | permit, including a general permit, shall be at least \$500 and
- 1818 | may not exceed \$1,000.
- 1819 | 9. The permit fee for Class V injection wells,
- 1820 | construction, operation, and abandonment permits may not exceed

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1821 | \$750.

1822 | 10. The permit fee for domestic waste collection system

1823 | permits may not exceed \$500.

1824 | 11. The permit fee for stormwater operation permits may

1825 | not exceed \$100.

1826 | 12. Except as provided in subparagraph 8., the general

1827 | permit fees for permits that require certification by a

1828 | registered professional engineer or professional geologist may

1829 | not exceed \$500, and the general permit fee for other permit

1830 | types may not exceed \$100.

1831 | 13. The fee for a permit issued pursuant to s. 403.816 is

1832 | \$5,000, and the fee for any modification of such permit

1833 | requested by the applicant is \$1,000.

1834 | 14. The regulatory program and surveillance fees for

1835 | facilities permitted pursuant to s. 403.088 or s. 403.0885, or

1836 | for facilities permitted pursuant to s. 402 of the Clean Water

1837 | Act, as amended, 33 U.S.C. ss. 1251 et seq., and for which the

1838 | department has been granted administrative authority, shall be

1839 | limited as follows:

1840 | a. The fees for domestic wastewater facilities shall not

1841 | exceed \$7,500 annually. The department shall establish a sliding

1842 | scale of fees based on the permitted capacity and shall ensure

1843 | smaller domestic waste dischargers do not bear an inordinate

1844 | share of costs of the program.

1845 | b. The annual fees for industrial waste facilities shall

1846 | not exceed \$11,500. The department shall establish a sliding

1847 | scale of fees based upon the volume, concentration, or nature of

1848 | the industrial waste discharge and shall ensure smaller

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1849 industrial waste dischargers do not bear an inordinate share of
 1850 costs of the program.

1851 c. The department may establish a fee, not to exceed the
 1852 amounts in subparagraphs 5. and 6. ~~4. and 5.~~, to cover
 1853 additional costs of review required for permit modification or
 1854 construction engineering plans.

1855 Reviser's note.--Amended to conform to the
 1856 redesignation of subparagraphs (6)(a)4. and 5. as
 1857 subparagraphs 5. and 6. by s. 19, ch. 2008-150, Laws
 1858 of Florida.

1859 Section 47. Section 403.0871, Florida Statutes, is amended
 1860 to read:

1861 403.0871 Florida Permit Fee Trust Fund.--There is
 1862 established within the department a nonlapsing trust fund to be
 1863 known as the "Florida Permit Fee Trust Fund." All funds received
 1864 from applicants for permits pursuant to ss. 161.041, 161.053,
 1865 161.0535, 403.087(6), and 403.861(7)(a) ~~403.861(8)~~ shall be
 1866 deposited in the Florida Permit Fee Trust Fund and shall be used
 1867 by the department with the advice and consent of the Legislature
 1868 to supplement appropriations and other funds received by the
 1869 department for the administration of its responsibilities under
 1870 this chapter and chapter 161. In no case shall funds from the
 1871 Florida Permit Fee Trust Fund be used for salary increases
 1872 without the approval of the Legislature.

1873 Reviser's note.--Amended to conform to the amendment
 1874 of s. 403.861(7) and (8) by s. 20, ch. 2008-150, Laws
 1875 of Florida, which moved language that comprised former
 1876 subsection (8) to paragraph (7)(a).

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1877 Section 48. Subsection (3) of section 403.511, Florida
 1878 Statutes, is amended to read:

1879 403.511 Effect of certification.--

1880 (3) The certification and any order on land use and zoning
 1881 issued under this act shall be in lieu of any license, permit,
 1882 certificate, or similar document required by any state,
 1883 regional, or local agency pursuant to, but not limited to,
 1884 chapter 125, chapter 161, chapter 163, chapter 166, chapter 186,
 1885 chapter 253, chapter 298, ~~chapter 370~~, chapter 373, chapter 376,
 1886 chapter 379, chapter 380, chapter 381, chapter 387, chapter 403,
 1887 except for permits issued pursuant to any federally delegated or
 1888 approved permit program and except as provided in chapter 404 or
 1889 the Florida Transportation Code, or 33 U.S.C. s. 1341.

1890 Reviser's note.--Amended to conform to the transfer of
 1891 material in former chapter 370 to chapter 379 by ch.
 1892 2008-247, Laws of Florida.

1893 Section 49. Paragraph (a) of subsection (7) of section
 1894 403.5115, Florida Statutes, is amended to read:

1895 403.5115 Public notice.--

1896 (7) (a) A good faith effort shall be made by the proponent
 1897 of an alternate corridor that includes a transmission line, as
 1898 defined by s. 403.522(22), to provide direct written notice of
 1899 the filing of an alternate corridor for certification by United
 1900 States mail or hand delivery ~~of~~ of the filing no later than 30
 1901 days after filing of the alternate corridor to all local
 1902 landowners whose property, as noted in the most recent local
 1903 government tax records, and residences, are located within one-
 1904 quarter mile of the proposed boundaries of a transmission line

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1905 | corridor that includes a transmission line as defined by s.
 1906 | 403.522(22).

1907 | Reviser's note.--Amended to delete repetitious
 1908 | language and facilitate correct interpretation.

1909 | Section 50. Paragraph (a) of subsection (3) of section
 1910 | 403.531, Florida Statutes, is amended to read:

1911 | 403.531 Effect of certification.--

1912 | (3) (a) The certification shall be in lieu of any license,
 1913 | permit, certificate, or similar document required by any state,
 1914 | regional, or local agency under, but not limited to, chapter
 1915 | 125, chapter 161, chapter 163, chapter 166, chapter 186, chapter
 1916 | 253, chapter 258, chapter 298, ~~chapter 370, chapter 372,~~ chapter
 1917 | 373, chapter 376, chapter 379, chapter 380, chapter 381, chapter
 1918 | 403, chapter 404, the Florida Transportation Code, or 33 U.S.C.
 1919 | s. 1341.

1920 | Reviser's note.--Amended to conform to the transfer of
 1921 | material in former chapters 370 and 372 to chapter 379
 1922 | by ch. 2008-247, Laws of Florida.

1923 | Section 51. Paragraph (b) of subsection (1) of section
 1924 | 403.7264, Florida Statutes, is amended to read:

1925 | 403.7264 Amnesty days for purging small quantities of
 1926 | hazardous wastes.--Amnesty days are authorized by the state for
 1927 | the purpose of purging small quantities of hazardous waste, free
 1928 | of charge, from the possession of homeowners, farmers, schools,
 1929 | state agencies, and small businesses. These entities have no
 1930 | appropriate economically feasible mechanism for disposing of
 1931 | their hazardous wastes at the present time. In order to raise
 1932 | public awareness on this issue, provide an educational process,

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1933 accommodate those entities which have a need to dispose of small
 1934 quantities of hazardous waste, and preserve the waters of the
 1935 state, amnesty days shall be carried out in the following
 1936 manner:

1937 (1)

1938 (b) If a local government has established a local or
 1939 regional hazardous waste collection center pursuant to s.
 1940 403.7265(2) ~~403.7265(3)~~ and such center is in operation, the
 1941 department and the local government may enter into a contract
 1942 whereby the local government shall administer and supervise
 1943 amnesty days. If a contract is entered into, the department
 1944 shall provide to the local government, from funds appropriated
 1945 to the department for amnesty days, an amount of money as
 1946 determined by the department that is equal to the amount of
 1947 money that would have been spent by the department to administer
 1948 and supervise amnesty days in the local government's area. A
 1949 local government that wishes to administer and supervise amnesty
 1950 days shall notify the department at least 30 days prior to the
 1951 beginning of the state fiscal year during which the amnesty days
 1952 are scheduled to be held in the local government's area.

1953 Reviser's note.--Amended to conform to the
 1954 redesignation of s. 403.7265(3) as s. 403.7265(2) by
 1955 s. 26, ch. 2007-184, Laws of Florida.

1956 Section 52. Paragraph (t) of subsection (1) and subsection
 1957 (2) of section 403.813, Florida Statutes, are amended to read:

1958 403.813 Permits issued at district centers; exceptions.--

1959 (1) A permit is not required under this chapter, chapter
 1960 373, chapter 61-691, Laws of Florida, or chapter 25214 or

1961 chapter 25270, 1949, Laws of Florida, for activities associated
 1962 with the following types of projects; however, except as
 1963 otherwise provided in this subsection, nothing in this
 1964 subsection relieves an applicant from any requirement to obtain
 1965 permission to use or occupy lands owned by the Board of Trustees
 1966 of the Internal Improvement Trust Fund or any water management
 1967 district in its governmental or proprietary capacity or from
 1968 complying with applicable local pollution control programs
 1969 authorized under this chapter or other requirements of county
 1970 and municipal governments:

1971 (t) The repair, stabilization, or paving of existing
 1972 county maintained roads and the repair or replacement of bridges
 1973 that are part of the roadway, within the Northwest Florida Water
 1974 Management District and the Suwannee River Water Management
 1975 District, provided:

1976 1. The road and associated bridge were in existence and in
 1977 use as a public road or bridge, and were maintained by the
 1978 county as a public road or bridge on or before January 1, 2002;

1979 2. The construction activity does not realign the road or
 1980 expand the number of existing traffic lanes of the existing
 1981 road; however, the work may include the provision of safety
 1982 shoulders, clearance of vegetation, and other work reasonably
 1983 necessary to repair, stabilize, pave, or repave the road,
 1984 provided that the work is constructed by generally accepted
 1985 engineering standards;

1986 3. The construction activity does not expand the existing
 1987 width of an existing vehicular bridge in excess of that
 1988 reasonably necessary to properly connect the bridge with the

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1989 road being repaired, stabilized, paved, or repaved to safely
 1990 accommodate the traffic expected on the road, which may include
 1991 expanding the width of the bridge to match the existing
 1992 connected road. However, no debris from the original bridge
 1993 shall be allowed to remain in waters of the state, including
 1994 wetlands;

1995 4. Best management practices for erosion control shall be
 1996 employed as necessary to prevent water quality violations;

1997 5. Roadside swales or other effective means of stormwater
 1998 treatment must be incorporated as part of the project;

1999 6. No more dredging or filling of wetlands or water of the
 2000 state is performed than that which is reasonably necessary to
 2001 repair, stabilize, pave, or repave the road or to repair or
 2002 replace the bridge, in accordance with generally accepted
 2003 engineering standards; and

2004 7. Notice of intent to use the exemption is provided to
 2005 the department, if the work is to be performed within the
 2006 Northwest Florida Water Management District, or to the Suwannee
 2007 River Water Management District, if the work is to be performed
 2008 within the Suwannee River Water Management District, 30 days
 2009 prior to performing any work under the exemption.

2010
 2011 Within 30 days after this act becomes a law, the department
 2012 shall initiate rulemaking to adopt a no fee general permit for
 2013 the repair, stabilization, or paving of existing roads that are
 2014 maintained by the county and the repair or replacement of
 2015 bridges that are part of the roadway where such activities do
 2016 not cause significant adverse impacts to occur individually or

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2017 | cumulatively. The general permit shall apply statewide and, with
 2018 | no additional rulemaking required, apply to qualified projects
 2019 | reviewed by the Suwannee River Water Management District, the
 2020 | St. Johns River Water Management District, the Southwest Florida
 2021 | Water Management District, and the South Florida Water
 2022 | Management District under the division of responsibilities
 2023 | contained in the operating agreements applicable to part IV of
 2024 | chapter 373. Upon adoption, this general permit shall, pursuant
 2025 | to the provisions of subsection (2) ~~(3)~~, supersede and replace
 2026 | the exemption in this paragraph.

2027 | (2) The provisions of subsection (1) ~~(2)~~ are superseded by
 2028 | general permits established pursuant to ss. 373.118 and 403.814
 2029 | which include the same activities. Until such time as general
 2030 | permits are established, or should general permits be suspended
 2031 | or repealed, the exemptions under subsection (1) ~~(2)~~ shall
 2032 | remain or shall be reestablished in full force and effect.

2033 | Reviser's note.--Amended to conform to the repeal of
 2034 | former subsection (1) by s. 4, ch. 2008-40, Laws of
 2035 | Florida.

2036 | Section 53. Subsection (7) of section 403.862, Florida
 2037 | Statutes, is amended to read:

2038 | 403.862 Department of Health; public water supply duties
 2039 | and responsibilities; coordinated budget requests with
 2040 | department.--

2041 | (7) Fees and penalties received from suppliers of water
 2042 | pursuant to ss. 403.860(3), (4), and (5) and 403.861(7)(a)
 2043 | ~~403.861(8)~~ in counties where county health departments have been
 2044 | approved by the department pursuant to paragraph (1)(c) shall be

2045 deposited in the appropriate County Health Department Trust Fund
 2046 to be used for the purposes stated in paragraph (1)(c).

2047 Reviser's note.--Amended to conform to the amendment
 2048 of s. 403.861(7) and (8) by s. 20, ch. 2008-150, Laws
 2049 of Florida, which moved language that comprised former
 2050 subsection (8) to paragraph (7)(a).

2051 Section 54. Subsection (2) of section 403.890, Florida
 2052 Statutes, is amended to read:

2053 403.890 Water Protection and Sustainability Program;
 2054 intent; goals; purposes.--

2055 (2) Applicable beginning in the 2007-2008 fiscal year,
 2056 revenues transferred from the Department of Revenue pursuant to
 2057 s. 201.15(1)(c)2. ~~201.15(1)(d)2.~~ shall be deposited into the
 2058 Water Protection and Sustainability Program Trust Fund in the
 2059 Department of Environmental Protection. These revenues and any
 2060 other additional revenues deposited into or appropriated to the
 2061 Water Protection and Sustainability Program Trust Fund shall be
 2062 distributed by the Department of Environmental Protection in the
 2063 following manner:

2064 (a) Sixty-five percent to the Department of Environmental
 2065 Protection for the implementation of an alternative water supply
 2066 program as provided in s. 373.1961.

2067 (b) Twenty-two and five-tenths percent for the
 2068 implementation of best management practices and capital project
 2069 expenditures necessary for the implementation of the goals of
 2070 the total maximum daily load program established in s. 403.067.
 2071 Of these funds, 83.33 percent shall be transferred to the credit
 2072 of the Department of Environmental Protection Water Quality

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2073 Assurance Trust Fund to address water quality impacts associated
 2074 with nonagricultural nonpoint sources. Sixteen and sixty-seven
 2075 hundredths percent of these funds shall be transferred to the
 2076 Department of Agriculture and Consumer Services General
 2077 Inspection Trust Fund to address water quality impacts
 2078 associated with agricultural nonpoint sources. These funds shall
 2079 be used for research, development, demonstration, and
 2080 implementation of the total maximum daily load program under s.
 2081 403.067, suitable best management practices or other measures
 2082 used to achieve water quality standards in surface waters and
 2083 water segments identified pursuant to s. 303(d) of the Clean
 2084 Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.
 2085 Implementation of best management practices and other measures
 2086 may include cost-share grants, technical assistance,
 2087 implementation tracking, and conservation leases or other
 2088 agreements for water quality improvement. The Department of
 2089 Environmental Protection and the Department of Agriculture and
 2090 Consumer Services may adopt rules governing the distribution of
 2091 funds for implementation of capital projects, best management
 2092 practices, and other measures. These funds shall not be used to
 2093 abrogate the financial responsibility of those point and
 2094 nonpoint sources that have contributed to the degradation of
 2095 water or land areas. Increased priority shall be given by the
 2096 department and the water management district governing boards to
 2097 those projects that have secured a cost-sharing agreement
 2098 allocating responsibility for the cleanup of point and nonpoint
 2099 sources.

2100 (c) Twelve and five-tenths percent to the Department of

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2101 Environmental Protection for the Disadvantaged Small Community
 2102 Wastewater Grant Program as provided in s. 403.1838.

2103 (d) On June 30, 2009, and every 24 months thereafter, the
 2104 Department of Environmental Protection shall request the return
 2105 of all unencumbered funds distributed pursuant to this section.
 2106 These funds shall be deposited into the Water Protection and
 2107 Sustainability Program Trust Fund and redistributed pursuant to
 2108 the provisions of this section.

2109 Reviser's note.--Amended to conform to the
 2110 redesignation of s. 201.15(1)(d)2. as s.

2111 201.15(1)(c)2. by s. 3, ch 2008-114, Laws of Florida.

2112 Section 55. Subsection (3) of section 403.9416, Florida
 2113 Statutes, is amended to read:

2114 403.9416 Effect of certification.--

2115 (3) The certification shall be in lieu of any license,
 2116 permit, certificate, or similar document required by any agency
 2117 pursuant to, but not limited to, chapter 125, chapter 161,
 2118 chapter 163, chapter 166, chapter 186, chapter 253, chapter 258,
 2119 chapter 298, ~~chapter 370, chapter 372,~~ chapter 373, chapter 376,
 2120 chapter 377, chapter 379, chapter 380, chapter 381, chapter 387,
 2121 chapter 403, the Florida Transportation Code, or 33 U.S.C. s.
 2122 1341. On certification, any license, easement, or other interest
 2123 in state lands, except those the title to which is vested in the
 2124 Board of Trustees of the Internal Improvement Trust Fund or a
 2125 water management district created pursuant to chapter 373, shall
 2126 be issued by the appropriate agency as a ministerial act. The
 2127 applicant shall be required to seek any necessary interest in
 2128 state lands the title to which is vested in the Board of

2129 Trustees of the Internal Improvement Trust Fund from the board
 2130 of trustees or from the governing board of the water management
 2131 district before, during, or after the certification proceeding,
 2132 and certification may be made contingent upon issuance of the
 2133 appropriate interest in realty. However, neither the applicant
 2134 nor any party to the certification proceeding may directly or
 2135 indirectly raise or relitigate any matter which was or could
 2136 have been an issue in the certification proceeding in any
 2137 proceeding before the Board of Trustees of the Internal
 2138 Improvement Trust Fund wherein the applicant is seeking a
 2139 necessary interest in state lands, but the information presented
 2140 in the certification proceeding shall be available for review by
 2141 the board of trustees and its staff.

2142 Reviser's note.--Amended to conform to the transfer of
 2143 material in former chapters 370 and 372 to chapter 379
 2144 by ch. 2008-247, Laws of Florida.

2145 Section 56. Subsection (1) of section 409.2563, Florida
 2146 Statutes, is reenacted, and paragraph (b) of subsection (2) of
 2147 that section is amended to read:

2148 409.2563 Administrative establishment of child support
 2149 obligations.--

2150 (1) DEFINITIONS.--As used in this section, the term:

2151 (a) "Administrative support order" means a final order
 2152 rendered by or on behalf of the department pursuant to this
 2153 section establishing or modifying the obligation of a parent to
 2154 contribute to the support and maintenance of his or her child or
 2155 children, which may include provisions for monetary support,
 2156 retroactive support, health care, and other elements of support

2157 pursuant to chapter 61.

2158 (b) "Caretaker relative" has the same meaning ascribed in
 2159 s. 414.0252(11).

2160 (c) "Filed" means a document has been received and
 2161 accepted for filing at the offices of the department by the
 2162 clerk or any authorized deputy clerk of the department. The date
 2163 of filing must be indicated on the face of the document by the
 2164 clerk or deputy clerk.

2165 (d) "Financial affidavit" means an affidavit or written
 2166 declaration as provided by s. 92.525(2) which shows an
 2167 individual's income, allowable deductions, net income, and other
 2168 information needed to calculate the child support guideline
 2169 amount under s. 61.30.

2170 (e) "Rendered" means that a signed written order is filed
 2171 with the clerk or any deputy clerk of the department and served
 2172 on the respondent. The date of filing must be indicated on the
 2173 face of the order at the time of rendition.

2174 (f) "Title IV-D case" means a case or proceeding in which
 2175 the department is providing child support services within the
 2176 scope of Title IV-D of the Social Security Act, 42 U.S.C. ss.
 2177 651 et seq.

2178 (g) "Retroactive support" means a child support obligation
 2179 established pursuant to s. 61.30(17).

2180
 2181 Other terms used in this section have the meanings ascribed in
 2182 ss. 61.046 and 409.2554.

2183 (2) PURPOSE AND SCOPE.--

2184 (b) The administrative procedure set forth in this section

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2185 concerns only the establishment of child support obligations.
 2186 This section does not grant jurisdiction to the department or
 2187 the Division of Administrative Hearings to hear or determine
 2188 issues of dissolution of marriage, separation, alimony or
 2189 spousal support, termination of parental rights, dependency,
 2190 disputed paternity, except for a determination of paternity as
 2191 provided in s. 409.256, or award of or change of time-sharing.
 2192 This paragraph notwithstanding, the department and the Division
 2193 of Administrative Hearings may make findings of fact that are
 2194 necessary for a proper determination of a parent's support
 2195 obligation as authorized by this section.

2196 Reviser's note.--Section 21, ch. 2008-61, Laws of
 2197 Florida, amended paragraph (1)(a) without publishing
 2198 the flush left language at the end of the subsection.
 2199 Absent affirmative evidence of legislative intent to
 2200 repeal it, subsection (1) is reenacted to confirm that
 2201 the omission was not intended. Paragraph (2)(b) is
 2202 amended to confirm the editorial insertion of the word
 2203 "or" to improve clarity and correct sentence
 2204 construction.

2205 Section 57. Paragraph (e) of subsection (4) of section
 2206 409.2598, Florida Statutes, is amended to read:

2207 409.2598 License suspension proceeding to enforce support
 2208 order.--

2209 (4) COMPLIANCE; REINSTATEMENT.--

2210 (e) Notwithstanding any other statutory provision, a
 2211 notice from the court or the department shall reinstate to the
 2212 obligor all licenses established in chapter 379 ~~chapters 370 and~~

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2213 | ~~372~~ that were valid at the time of suspension.

2214 | Reviser's note.--Amended to conform to the transfer of
2215 | material in former chapters 370 and 372 to chapter 379
2216 | by ch. 2008-247, Laws of Florida.

2217 | Section 58. Paragraph (b) of subsection (2) of section
2218 | 468.432, Florida Statutes, is amended to read:

2219 | 468.432 Licensure of community association managers and
2220 | community association management firms; exceptions.--

2221 | (2) As of January 1, 2009, a community association
2222 | management firm or other similar organization responsible for
2223 | the management of more than 10 units or a budget of \$100,000 or
2224 | greater shall not engage or hold itself out to the public as
2225 | being able to engage in the business of community association
2226 | management in this state unless it is licensed by the department
2227 | as a community association management firm in accordance with
2228 | the provisions of this part.

2229 | (b) Each applicant shall designate on its application a
2230 | licensed community association manager who shall be required to
2231 | respond to all inquiries ~~inquires~~ from and investigations by the
2232 | department or division.

2233 | Reviser's note.--Amended to confirm the editorial
2234 | substitution of the word "inquiries" for the word
2235 | "inquires" to correct an apparent error.

2236 | Section 59. Paragraph (a) of subsection (6) of section
2237 | 489.145, Florida Statutes, is amended to read:

2238 | 489.145 Guaranteed energy, water, and wastewater
2239 | performance savings contracting.--

2240 | (6) PROGRAM ADMINISTRATION AND CONTRACT REVIEW.--The

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2241 Department of Management Services, with the assistance of the
 2242 Office of the Chief Financial Officer, shall, within available
 2243 resources, provide technical content assistance to state
 2244 agencies contracting for energy, water, and wastewater
 2245 efficiency and conservation measures and engage in other
 2246 activities considered appropriate by the department for
 2247 promoting and facilitating guaranteed energy, water, and
 2248 wastewater performance contracting by state agencies. The
 2249 Department of Management Services shall review the investment-
 2250 grade audit for each proposed project and certify that the cost
 2251 savings are appropriate and sufficient for the term of the
 2252 contract. The Office of the Chief Financial Officer, with the
 2253 assistance of the Department of Management Services, shall,
 2254 within available resources, develop model contractual and
 2255 related documents for use by state agencies. Prior to entering
 2256 into a guaranteed energy, water, and wastewater performance
 2257 savings contract, any contract or lease for third-party
 2258 financing, or any combination of such contracts, a state agency
 2259 shall submit such proposed contract or lease to the Office of
 2260 the Chief Financial Officer for review and approval. A proposed
 2261 contract or lease shall include:

2262 (a) Supporting information required by s. 216.023(4)(a)9.
 2263 in ss. 287.063(5) and 287.064(11). For contracts approved under
 2264 this section, the criteria may, at ~~add~~ a minimum, include the
 2265 specification of a benchmark cost of capital and minimum real
 2266 rate of return on energy, water, or wastewater savings against
 2267 which proposals shall be evaluated.

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2269 The Office of the Chief Financial Officer shall not approve any
 2270 contract submitted under this section from a state agency that
 2271 does not meet the requirements of this section.

2272 Reviser's note.--Amended to confirm the editorial
 2273 substitution of the word "at" for the word "add" to
 2274 correct an apparent error.

2275 Section 60. Subsection (42) of section 499.003, Florida
 2276 Statutes, is amended to read:

2277 499.003 Definitions of terms used in this part.--As used
 2278 in this part, the term:

2279 (42) "Prescription drug" means a prescription, medicinal,
 2280 or legend drug, including, but not limited to, finished dosage
 2281 forms or active ingredients subject to, defined by, or described
 2282 by s. 503(b) of the Federal Food, Drug, and Cosmetic Act or s.
 2283 465.003(8), s. 499.007(13), or subsection (11), subsection (45)
 2284 ~~(47)~~, or subsection (52) ~~(54)~~.

2285 Reviser's note.--Amended to confirm the editorial
 2286 substitution of references to subsections (45) and
 2287 (52) for references to subsections (47) and (54).

2288 Section 2, ch. 2008-207, Laws of Florida, amended s.
 2289 499.003, but the amendment contained coding errors
 2290 relating to subunit numbering.

2291 Section 61. Paragraph (n) of subsection (10) of section
 2292 499.012, Florida Statutes, is amended to read:

2293 499.012 Permit application requirements.--

2294 (10) The department may deny an application for a permit
 2295 or refuse to renew a permit for a prescription drug wholesale
 2296 distributor or an out-of-state prescription drug wholesale

2297 distributor if:
 2298 (n) The applicant or any affiliated party receives,
 2299 directly or indirectly, financial support and assistance from a
 2300 person who has been found guilty of any violation of this part
 2301 or chapter 465, chapter 501, or chapter 893, any rules adopted
 2302 under ~~any of~~ this part or those chapters, any federal or state
 2303 drug law, or any felony where the underlying facts related to
 2304 drugs, regardless of whether the person has been pardoned, had
 2305 her or his civil rights restored, or had adjudication withheld,
 2306 other than through the ownership of stock in a publicly traded
 2307 company or a mutual fund.

2308 Reviser's note.--Amended to confirm the editorial
 2309 deletion of the words "any of" following the word
 2310 "under" to facilitate correct interpretation.

2311 Section 62. Paragraph (d) of subsection (4) of section
 2312 499.0121, Florida Statutes, is amended to read:

2313 499.0121 Storage and handling of prescription drugs;
 2314 recordkeeping.--The department shall adopt rules to implement
 2315 this section as necessary to protect the public health, safety,
 2316 and welfare. Such rules shall include, but not be limited to,
 2317 requirements for the storage and handling of prescription drugs
 2318 and for the establishment and maintenance of prescription drug
 2319 distribution records.

2320 (4) EXAMINATION OF MATERIALS AND RECORDS.--

2321 (d) Upon receipt, a wholesale distributor must review
 2322 records required under this section for the acquisition of
 2323 prescription drugs for accuracy and completeness, considering
 2324 the total facts and circumstances surrounding the transactions

2325 and the wholesale distributors involved. This includes
 2326 authenticating each transaction listed on a pedigree paper, as
 2327 defined in s. 499.003(36) ~~499.003(35)~~.

2328 Reviser's note.--Amended to correct an apparent error
 2329 and conform to context. Section 2, ch. 2008-207, Laws
 2330 of Florida, redesignated subunits of s. 499.003.

2331 Section 13, ch. 2008-207, amended s. 499.0121(4)(d) to
 2332 change the reference to s. 499.003(31), which defined
 2333 "pedigree paper", to s. 499.003(35). The term
 2334 "pedigree paper" is now defined in s. 499.003(36).

2335 Section 63. Paragraph (a) of subsection (1) of section
 2336 499.015, Florida Statutes, is amended to read:

2337 499.015 Registration of drugs, devices, and cosmetics;
 2338 issuance of certificates of free sale.--

2339 (1)(a) Except for those persons exempted from the
 2340 definition of manufacturer in s. 499.003(31) ~~499.003(32)~~, any
 2341 person who manufactures, packages, repackages, labels, or
 2342 relabels a drug, device, or cosmetic in this state must register
 2343 such drug, device, or cosmetic biennially with the department;
 2344 pay a fee in accordance with the fee schedule provided by s.
 2345 499.041; and comply with this section. The registrant must list
 2346 each separate and distinct drug, device, or cosmetic at the time
 2347 of registration.

2348 Reviser's note.--Amended to correct an apparent error
 2349 and conform to context. Section 2, ch. 2008-207, Laws
 2350 of Florida, redesignated subunits of s. 499.003.

2351 Section 18, ch. 2008-207, amended s. 499.015(1)(a) to
 2352 change a reference to s. 499.003(28), which defined

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2353 "manufacturer," to a reference to s. 499.003(32). The
 2354 term "manufacturer" is now defined in s. 499.003(31).
 2355 Section 64. Subsection (5) of section 500.12, Florida
 2356 Statutes, is amended to read:

2357 500.12 Food permits; building permits.--

2358 (5) It is the intent of the Legislature to eliminate
 2359 duplication of regulatory inspections of food. Regulatory and
 2360 permitting authority over any food establishment is preempted to
 2361 the department, except as provided in chapter 379 ~~chapters 370~~
 2362 ~~and 372~~.

2363 (a) Food establishments or retail food stores that have
 2364 ancillary food service activities shall be permitted and
 2365 inspected by the department.

2366 (b) Food service establishments, as defined in s.
 2367 381.0072, that have ancillary, prepackaged retail food sales
 2368 shall be regulated by the Department of Health.

2369 (c) Public food service establishments, as defined in s.
 2370 509.013, which have ancillary, prepackaged retail food sales
 2371 shall be licensed and inspected by the Department of Business
 2372 and Professional Regulation.

2373 (d) The department and the Department of Business and
 2374 Professional Regulation shall cooperate to assure equivalency of
 2375 inspection and enforcement and to share information on those
 2376 establishments identified in paragraphs (a) and (c) and to
 2377 address any other areas of potential duplication. The department
 2378 and the Department of Business and Professional Regulation are
 2379 authorized to adopt rules to enforce statutory requirements
 2380 under their purview regarding foods.

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2381 Reviser's note.--Amended to conform to the transfer of
 2382 chapters 370 and 372 to chapter 379 by ch. 2008-247,
 2383 Laws of Florida.

2384 Section 65. Subsection (1) of section 553.885, Florida
 2385 Statutes, is amended to read:

2386 553.885 Carbon monoxide alarm required.--

2387 (1) Every building, other than a hospital, an inpatient
 2388 hospice facility, or a nursing home facility licensed by the
 2389 Agency for Health Care Administration, for which a building
 2390 permit is issued for new construction on or after July 1, 2008,
 2391 and having a fossil-fuel-burning heater or appliance, a
 2392 fireplace, or an attached garage shall have an approved
 2393 operational carbon monoxide alarm installed within 10 feet of
 2394 each room used for sleeping purposes. For a new hospital, an
 2395 inpatient hospice facility, or a nursing home facility licensed
 2396 by the Agency for Health Care Administration, an approved
 2397 operational carbon monoxide detector shall be installed inside
 2398 or directly outside of each room or area within the hospital or
 2399 facility where ~~were~~ a fossil-fuel-burning heater, engine, or
 2400 appliance is located. This detector shall be connected to the
 2401 fire alarm system of the hospital or facility as a supervisory
 2402 signal.

2403 Reviser's note.--Amended to confirm the editorial
 2404 substitution of the word "where" for the word "were"
 2405 to conform to context.

2406 Section 66. Section 553.975, Florida Statutes, is amended
 2407 to read:

2408 553.975 Report to the Governor and Legislature.--The

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2409 Public Service Commission shall submit a biennial report to the
 2410 Governor, the President of the Senate, and the Speaker of the
 2411 House of Representatives, concurrent with the report required by
 2412 s. 366.82(10) ~~366.82(4)~~, beginning in 1990. Such report shall
 2413 include an evaluation of the effectiveness of these standards on
 2414 energy conservation in this state.

2415 Reviser's note.--Amended to conform to the
 2416 redesignation of s. 366.82(4) as s. 366.82(10) by s.
 2417 39, ch. 2008-227, Laws of Florida.

2418 Section 67. Subsection (4) of section 560.111, Florida
 2419 Statutes, is amended to read:

2420 560.111 Prohibited acts.--

2421 (4) Any person who willfully violates any provision of s.
 2422 560.403, s. 560.404, or s. 560.405, ~~or s. 560.407~~ commits a
 2423 felony of the third degree, punishable as provided in s.
 2424 775.082, s. 775.083, or s. 775.084.

2425 Reviser's note.--Amended to conform to the repeal of
 2426 s. 560.407 by s. 55, ch. 2008-177, Laws of Florida.

2427 Section 68. Section 560.124, Florida Statutes, is amended
 2428 to read:

2429 560.124 Sharing of information.--Any person may provide to
 2430 a money services business, authorized vendor, law enforcement
 2431 agency, prosecutorial agency, or appropriate regulator, or any
 2432 money services business, authorized vendor, law enforcement
 2433 agency, prosecutorial agency, or appropriate regulator may
 2434 provide to any person, information about any person's known or
 2435 suspected involvement in a violation of any state, federal, or
 2436 foreign law, rule, or regulation relating to the business of a

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2437 money services business or deferred presentment ~~present~~ provider
 2438 which has been reported to state, federal, or foreign
 2439 authorities, and is not liable in any civil action for providing
 2440 such information.

2441 Reviser's note.--Amended to confirm the editorial
 2442 substitution of the word "presentment" for the word
 2443 "present" to conform to context.

2444 Section 69. Paragraph (a) of subsection (1) of section
 2445 560.141, Florida Statutes, is amended to read:

2446 560.141 License application.--

2447 (1) To apply for a license as a money services business
 2448 under this chapter the applicant must:

2449 (a) Submit an application to the office on forms
 2450 prescribed by rule which includes the following information:

2451 1. The legal name and address of the applicant, including
 2452 any fictitious or trade names used by the applicant in the
 2453 conduct of its business.

2454 2. The date of the applicant's formation and the state in
 2455 which the applicant was formed, if applicable.

2456 3. The name, social security number, alien identification
 2457 or taxpayer identification number, business and residence
 2458 addresses, and employment history for the past 5 years for each
 2459 officer, director, responsible person, the compliance officer,
 2460 each controlling shareholder, and any other person who has a
 2461 controlling interest in the money services business as provided
 2462 in s. 560.127.

2463 4. A description of the organizational structure of the
 2464 applicant, including the identity of any parent or subsidiary of

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2465 the applicant, and the disclosure of whether any parent or
2466 subsidiary is publicly traded.

2467 5. The applicant's history of operations in other states
2468 if applicable and a description of the money services business
2469 or deferred presentment provider activities proposed to be
2470 conducted by the applicant in this state.

2471 6. If the applicant or its parent is a publicly traded
2472 company, copies of all filings made by the applicant with the
2473 United States Securities and Exchange Commission, or with a
2474 similar regulator in a country other than the United States,
2475 within the preceding year.

2476 7. The location at which the applicant proposes to
2477 establish its principal place of business and any other
2478 location, including branch offices and authorized vendors
2479 operating in this state. For each branch office identified and
2480 each authorized vendor appointed, the applicant shall include
2481 the nonrefundable fee required by s. 560.143.

2482 8. The name and address of the clearing financial
2483 institution or financial institutions through which the
2484 applicant's payment instruments are drawn or through which the
2485 payment instruments are payable.

2486 9. The history of the applicant's material litigation,
2487 criminal convictions, pleas of nolo contendere, and cases of
2488 adjudication withheld.

2489 10. The history of material litigation, arrests, criminal
2490 convictions, pleas of nolo contendere, and cases of adjudication
2491 withheld for each executive officer, director, controlling
2492 shareholder, and responsible person.

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2493 11. The name of the registered agent in this state for
 2494 service of process unless the applicant is a sole proprietor.

2495 12. Any other information specified in this chapter or by
 2496 rule.

2497 Reviser's note.--Amended to confirm the editorial
 2498 insertion of the word "and" after the word
 2499 "shareholder" to improve clarity and facilitate
 2500 correct interpretation.

2501 Section 70. Subsection (4) of section 560.142, Florida
 2502 Statutes, is amended to read:

2503 560.142 License renewal.--

2504 (4) If a license or declaration of intent to engage in
 2505 deferred presentment transactions expires, the license or
 2506 declaration of intent may be reinstated only if a renewal
 2507 application or declaration of intent, all required renewal fees,
 2508 and any applicable late fees are received by the office within
 2509 60 days after expiration. If not submitted within 60 days, the
 2510 license or declaration of ~~on~~ intent expires and a new license
 2511 application or declaration of intent must be filed with the
 2512 office pursuant to this chapter.

2513 Reviser's note.--Amended to confirm the editorial
 2514 substitution of the word "of" for the word "on" to
 2515 improve clarity and facilitate correct interpretation.

2516 Section 71. Paragraph (a) of subsection (1) of section
 2517 560.143, Florida Statutes, is amended to read:

2518 560.143 Fees.--

2519 (1) LICENSE APPLICATION FEES.--The applicable non-
 2520 refundable fees must accompany an application for licensure:

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(a) ~~Under~~ Part II....\$375.
 Reviser's note.--Amended to confirm the editorial deletion of the word "under" to conform to context.
 Section 72. Subsection (2) of section 560.209, Florida Statutes, is amended to read:
 560.209 Net worth; corporate surety bond; collateral deposit in lieu of bond.--
 (2) A licensee must obtain an annual financial audit report, which must be submitted to the office within 120 days after the end of the licensee's fiscal year ~~end~~, as disclosed to the office. If the applicant is a wholly owned subsidiary of another corporation, the financial audit report on the parent corporation's financial statements shall satisfy this requirement.
 Reviser's note.--Amended to confirm the editorial deletion of the word "end" following the word "year" to improve clarity and facilitate correct interpretation.
 Section 73. Subsection (6) of section 560.404, Florida Statutes, is amended to read:
 560.404 Requirements for deferred presentment transactions.--
 (6) A deferred presentment provider or its affiliate may not charge fees that exceed 10 percent of the currency or payment instrument provided. However, a verification fee may be charged as provided in s. 560.309(8) ~~560.309(7)~~. The 10-percent fee may not be applied to the verification fee. A deferred

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2549 presentment provider may charge only those fees specifically
2550 authorized in this section.

2551 Reviser's note.--Amended to correct an apparent error
2552 and conform to context. Section 41, ch. 2008-177, Laws
2553 of Florida, redesignated subunits in s. 560.309.

2554 Section 45, ch. 2008-177, amended s. 560.404(6) to
2555 change a reference to s. 560.309(4), which referenced
2556 verification fees, to s. 560.309(7). Verification fees
2557 are now referenced in s. 560.309(8).

2558 Section 74. Subsection (2) of section 560.406, Florida
2559 Statutes, is amended to read:

2560 560.406 Worthless checks.--

2561 (2) If a check is returned to a deferred presentment
2562 provider from a payor financial institution due to insufficient
2563 funds, a closed account, or a stop-payment order, the deferred
2564 presentment provider may pursue all legally available civil
2565 remedies to collect the check, including, but not limited to,
2566 the imposition of all charges imposed on the deferred
2567 presentment provider by the financial institution. In its
2568 collection practices, a deferred presentment provider must
2569 comply with the prohibitions against harassment or abuse, false
2570 or misleading representations, and unfair practices that are
2571 contained in the Fair Debt Collections Practices Act, 15 U.S.C.
2572 ss. 1692d, 1692e, and 1692f. A violation of this act is a
2573 deceptive and unfair trade practice and constitutes a violation
2574 of the Deceptive and Unfair Trade Practices Act under part II of
2575 chapter 501. In addition, a deferred presentment provider must
2576 comply with the applicable provisions of the Consumer Collection

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2577 Practices Act under part VI of chapter 559, including s. 559.77.

2578 Reviser's note.--Amended to confirm the editorial
 2579 insertion of the word "and" to improve clarity and
 2580 facilitate correct interpretation.

2581 Section 75. Subsection (41) of section 570.07, Florida
 2582 Statutes, is amended to read:

2583 570.07 Department of Agriculture and Consumer Services;
 2584 functions, powers, and duties.--The department shall have and
 2585 exercise the following functions, powers, and duties:

2586 (41) Notwithstanding the provisions of s. 287.057(23)
 2587 ~~287.057(23)(a)~~ that require all agencies to use the online
 2588 procurement system developed by the Department of Management
 2589 Services, the department may continue to use its own online
 2590 system. However, vendors utilizing such system shall be
 2591 prequalified as meeting mandatory requirements and
 2592 qualifications and shall remit fees pursuant to s. 287.057(23),
 2593 and any rules implementing s. 287.057.

2594 Reviser's note.--Amended to correct a cross-reference.

2595 Section 287.057(23)(a) was split by s. 13, ch. 2008-
 2596 116, Laws of Florida, to form s. 287.057(23)
 2597 introductory paragraph and (23)(a).

2598 Section 76. Paragraph (g) of subsection (2) of section
 2599 597.004, Florida Statutes, is amended to read:

2600 597.004 Aquaculture certificate of registration.--

2601 (2) RULES.--

2602 (g) Any alligator producer with an alligator farming
 2603 license and permit to establish and operate an alligator farm
 2604 shall be issued an aquaculture certificate of registration

2605 | pursuant to this section. This chapter does not supersede the
 2606 | authority under chapter 379 ~~372~~ to regulate alligator farms and
 2607 | alligator farmers.

2608 | Reviser's note.--Amended to conform to the transfer of
 2609 | chapter 372 to chapter 379 by ch. 2008-247, Laws of
 2610 | Florida.

2611 | Section 77. Subsection (7), paragraph (a) of subsection
 2612 | (8), and subsections (9) and (12) of section 597.010, Florida
 2613 | Statutes, are amended to read:

2614 | 597.010 Shellfish regulation; leases.--

2615 | (7) SURCHARGE FOR IMPROVEMENT OR REHABILITATION.--A
 2616 | surcharge of \$10 per acre, or any fraction of an acre, per annum
 2617 | shall be levied upon each lease, other than a perpetual lease
 2618 | granted pursuant to former chapter 370 prior to 1985, and
 2619 | deposited into the General Inspection Trust Fund. The purpose of
 2620 | the surcharge is to provide a mechanism to have financial
 2621 | resources immediately available for improvement of lease areas
 2622 | and for cleanup and rehabilitation of abandoned or vacated lease
 2623 | sites. The department is authorized to adopt rules necessary to
 2624 | carry out the provisions of this subsection.

2625 | (a) Moneys in the fund that are not needed currently for
 2626 | cleanup and rehabilitation of abandoned or vacated lease sites
 2627 | shall be deposited with the Chief Financial Officer to the
 2628 | credit of the fund and may be invested in such manner as is
 2629 | provided for by statute. Interest received on such investment
 2630 | shall be credited to the fund.

2631 | (b) Funds within the General Inspection Trust Fund from
 2632 | receipts from the surcharge established in this section shall be

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2633 | disbursed for the following purposes and no others:

2634 | 1. Administrative expenses, personnel expenses, and
 2635 | equipment costs of the department related to the improvement of
 2636 | lease areas, the cleanup and rehabilitation of abandoned or
 2637 | vacated aquaculture lease sites, and the enforcement of
 2638 | provisions of this section.

2639 | 2. All costs involved in the improvement of lease areas
 2640 | and the cleanup and rehabilitation of abandoned or vacated lease
 2641 | sites.

2642 | 3. All costs and damages which are the proximate results
 2643 | of lease abandonment or vacation.

2644 | 4. Reward payments made pursuant to s. 597.0045.

2645 |

2646 | The department shall recover to the use of the fund from the
 2647 | person or persons abandoning or vacating the lease, jointly and
 2648 | severally, all sums owed or expended from the fund.

2649 | (8) CULTIVATION REQUIREMENTS.--

2650 | (a) Effective cultivation shall consist of the growing of
 2651 | the oysters or clams in a density suitable for commercial
 2652 | harvesting over the amount of bottom prescribed by law. This
 2653 | commercial density shall be accomplished by the planting of seed
 2654 | oysters, shell, and cultch of various descriptions. The
 2655 | department may stipulate in each individual lease contract the
 2656 | types, shape, depth, size, and height of cultch materials on
 2657 | lease bottoms according to the individual shape, depth,
 2658 | location, and type of bottom of the proposed lease. Each lessee
 2659 | leasing lands under the provisions of this section or s. 253.71
 2660 | shall begin, within 1 year after the date of such lease, bona

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2661 fide cultivation of the same, and shall, by the end of the
 2662 second year after the commencement of such lease, have placed
 2663 under cultivation at least one-half of the leased area and shall
 2664 each year thereafter place in cultivation at least one-fourth of
 2665 the leased area until the whole, suitable for bedding of oysters
 2666 or clams, shall have been put in cultivation. The cultivation
 2667 requirements for perpetuity leases granted pursuant to former
 2668 chapter 370 prior to 1985 under previously existing law shall
 2669 comply with the conditions stated in the lease agreement, and
 2670 the lessee or grantee is authorized to plant the leased or
 2671 granted submerged land in both oysters and clams.

2672 (9) LEASES TRANSFERABLE, ETC.--The leases in chapter 253
 2673 and former chapter 370 shall be inheritable and transferable, in
 2674 whole or in part, and shall also be subject to mortgage, pledge,
 2675 or hypothecation and shall be subject to seizure and sale for
 2676 debts as any other property, rights, and credits in this state,
 2677 and this provision shall also apply to all buildings,
 2678 betterments, and improvements thereon. Leases granted under this
 2679 section cannot be transferred, by sale or barter, in whole or in
 2680 part, without the written, express approval of the department,
 2681 and such a transferee shall pay a \$50 transfer fee before
 2682 department approval may be given. Leases inherited or
 2683 transferred will be valid only upon receipt of the transfer fee
 2684 and approval by the department. The department shall keep proper
 2685 indexes so that all original leases and all subsequent changes
 2686 and transfers can be easily and accurately ascertained.

2687 (12) FRANKLIN COUNTY LEASES.--On and after the effective
 2688 date of this section, the only leases available in Franklin

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2689 County shall be those issued pursuant to ss. 253.67-253.75;
 2690 former chapter 370 leases shall no longer be available. The
 2691 department shall require in the lease agreement such
 2692 restrictions as it deems necessary to protect the environment,
 2693 the existing leaseholders, and public fishery.

2694 Reviser's note.--Amended to confirm the editorial
 2695 addition of the word "former" to provide a historical
 2696 reference; chapter 370 was transferred to chapter 379
 2697 by ch. 2008-247, Laws of Florida.

2698 Section 78. Paragraph (c) of subsection (1) of section
 2699 624.4213, Florida Statutes, is amended to read:

2700 624.4213 Trade secret documents.--

2701 (1) If any person who is required to submit documents or
 2702 other information to the office or department pursuant to the
 2703 insurance code or by rule or order of the office, department, or
 2704 commission claims that such submission contains a trade secret,
 2705 such person may file with the office or department a notice of
 2706 trade secret as provided in this section. Failure to do so
 2707 constitutes a waiver of any claim by such person that the
 2708 document or information is a trade secret.

2709 (c) In submitting a notice of trade secret to the office
 2710 or department, the submitting party must include an affidavit
 2711 certifying under oath to the truth of the following statements
 2712 concerning all documents or information that are claimed to be
 2713 trade secrets:

2714 1. [I consider/My company considers] this information a
 2715 trade secret that has value and provides an advantage or an
 2716 opportunity to obtain an advantage over those who do not know or

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2717 use it.

2718 2. [I have/My company has] taken measures to prevent the
2719 disclosure of the information to anyone other than ~~that~~ those
2720 who have been selected to have access for limited purposes, and
2721 [I intend/my company intends] to continue to take such measures.

2722 3. The information is not, and has not been, reasonably
2723 obtainable without [my/our] consent by other persons by use of
2724 legitimate means.

2725 4. The information is not publicly available elsewhere.
2726 Reviser's note.--Amended to confirm the editorial
2727 substitution of the word "than" for the word "that" to
2728 correct a typographical error.

2729 Section 79. Subsection (2) of section 626.8541, Florida
2730 Statutes, is amended to read:

2731 626.8541 Public adjuster apprentice.--

2732 (2) A public adjuster apprentice must work with a licensed
2733 and appointed public adjuster for a period of 12 months as set
2734 forth in this section, and must otherwise be ~~who otherwise is~~ in
2735 full compliance with this chapter, prior to being eligible for
2736 appointment as a licensed public adjuster.

2737 Reviser's note.--Amended to confirm the editorial
2738 substitution of the words "must otherwise be" for the
2739 words "who otherwise is" to improve clarity and
2740 facilitate correct interpretation.

2741 Section 80. Section 626.8796, Florida Statutes, is amended
2742 to read:

2743 626.8796 Public adjuster contracts; fraud statement.--All
2744 contracts for public adjuster services must be in writing and

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2745 must prominently display the following statement on the
 2746 contract: "Pursuant to s. 817.234, Florida Statutes, any person
 2747 who, with the intent to injure, defraud, or deceive any insurer
 2748 or insured, prepares, presents, or causes to be presented a
 2749 proof of loss or estimate of cost or repair of damaged property
 2750 in support of a claim under an insurance policy knowing that the
 2751 proof of loss or estimate of claim or repairs contains any
 2752 false, incomplete, or misleading information concerning any fact
 2753 or thing material to the claim commits a felony of the third
 2754 degree, punishable as provided in s. 775.082, s. 775.083
 2755 ~~775.803~~, or s. 775.084, Florida Statutes."

2756 Reviser's note.--Amended to confirm the editorial
 2757 substitution of a reference to s. 775.083 for a
 2758 reference to s. 775.803 to correct an apparent error.
 2759 Section 775.803 does not exist; s. 775.083 provides
 2760 for punishment for a third degree felony.

2761 Section 81. Section 626.8797, Florida Statutes, is amended
 2762 to read:

2763 626.8797 Proof of loss; fraud statement.--All proof of
 2764 loss statements must prominently display the following
 2765 statement: "Pursuant to s. 817.234, Florida Statutes, any person
 2766 who, with the intent to injure, defraud, or deceive any insurer
 2767 or insured, prepares, presents, or causes to be presented a
 2768 proof of loss or estimate of cost or repair of damaged property
 2769 in support of a claim under an insurance policy knowing that the
 2770 proof of loss or estimate of claim or repairs contains any
 2771 false, incomplete, or misleading information concerning any fact
 2772 or thing material to the claim commits a felony of the third

2773 degree, punishable as provided in s. 775.082, s. 775.083
 2774 ~~775.803~~, or s. 775.084, Florida Statutes."

2775 Reviser's note.--Amended to confirm the editorial
 2776 substitution of a reference to s. 775.083 for a
 2777 reference to s. 775.803 to correct an apparent error.

2778 Section 775.803 does not exist; s. 775.083 provides
 2779 for punishment for a third degree felony.

2780 Section 82. Subsection (2) of section 627.0621, Florida
 2781 Statutes, is amended to read:

2782 627.0621 Transparency in rate regulation.--

2783 (2) WEBSITE FOR PUBLIC ACCESS TO RATE FILING

2784 INFORMATION.--With respect to any rate filing made on or after
 2785 July 1, 2008, the office shall provide the following information
 2786 on a publicly accessible Internet website:

2787 (a) The overall rate change requested by the insurer.

2788 (b) All assumptions made by the office's actuaries.

2789 (c) A statement describing any assumptions or methods that
 2790 deviate from the actuarial standards of practice of the Casualty
 2791 Actuarial Society or the American Academy of Actuaries,
 2792 including an explanation of the nature, rationale, and effect of
 2793 the deviation.

2794 (d) All recommendations made by any office actuary who
 2795 reviewed the rate filing.

2796 (e) Certification by the office's actuary that, based on
 2797 the actuary's knowledge, his or her recommendations are
 2798 consistent with accepted actuarial principles.

2799 (f) The overall rate change approved by the office.

2800 Reviser's note.--Amended to confirm the editorial

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2801 insertion of the word "or" to improve clarity and
 2802 facilitate correct interpretation.

2803 Section 83. Paragraph (c) of subsection (1) of section
 2804 627.0628, Florida Statutes, is amended to read:

2805 627.0628 Florida Commission on Hurricane Loss Projection
 2806 Methodology; public records exemption; public meetings
 2807 exemption.--

2808 (1) LEGISLATIVE FINDINGS AND INTENT.--

2809 (c) It is the intent of the Legislature to create the
 2810 Florida Commission on Hurricane Loss Projection Methodology as a
 2811 panel of experts to provide the most actuarially sophisticated
 2812 guidelines and standards for projection of hurricane losses
 2813 possible, given the current state of actuarial science. It is
 2814 the further intent of the Legislature that such standards and
 2815 guidelines must be used by the State Board of Administration in
 2816 developing reimbursement premium rates for the Florida Hurricane
 2817 Catastrophe Fund, and, subject to paragraph (3) (d) ~~(3) (e)~~, must
 2818 be used by insurers in rate filings under s. 627.062 unless the
 2819 way in which such standards and guidelines were applied by the
 2820 insurer was erroneous, as shown by a preponderance of the
 2821 evidence.

2822 Reviser's note.--Amended to conform to the
 2823 redesignation of paragraph (3) (c) as paragraph (3) (d)
 2824 by s. 11, ch. 2008-66, Laws of Florida.

2825 Section 84. Subsection (2) of section 627.351, Florida
 2826 Statutes, is reenacted to read:

2827 627.351 Insurance risk apportionment plans.--

2828 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--

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2829 (a) Agreements may be made among property insurers with
2830 respect to the equitable apportionment among them of insurance
2831 which may be afforded applicants who are in good faith entitled
2832 to, but are unable to procure, such insurance through ordinary
2833 methods; and such insurers may agree among themselves on the use
2834 of reasonable rate modifications for such insurance. Such
2835 agreements and rate modifications shall be subject to the
2836 applicable provisions of this chapter.

2837 (b) The department shall require all insurers holding a
2838 certificate of authority to transact property insurance on a
2839 direct basis in this state, other than joint underwriting
2840 associations and other entities formed pursuant to this section,
2841 to provide windstorm coverage to applicants from areas
2842 determined to be eligible pursuant to paragraph (c) who in good
2843 faith are entitled to, but are unable to procure, such coverage
2844 through ordinary means; or it shall adopt a reasonable plan or
2845 plans for the equitable apportionment or sharing among such
2846 insurers of windstorm coverage, which may include formation of
2847 an association for this purpose. As used in this subsection, the
2848 term "property insurance" means insurance on real or personal
2849 property, as defined in s. 624.604, including insurance for
2850 fire, industrial fire, allied lines, farmowners multiperil,
2851 homeowners' multiperil, commercial multiperil, and mobile homes,
2852 and including liability coverages on all such insurance, but
2853 excluding inland marine as defined in s. 624.607(3) and
2854 excluding vehicle insurance as defined in s. 624.605(1)(a) other
2855 than insurance on mobile homes used as permanent dwellings. The
2856 department shall adopt rules that provide a formula for the

2857 recovery and repayment of any deferred assessments.

2858 1. For the purpose of this section, properties eligible
 2859 for such windstorm coverage are defined as dwellings, buildings,
 2860 and other structures, including mobile homes which are used as
 2861 dwellings and which are tied down in compliance with mobile home
 2862 tie-down requirements prescribed by the Department of Highway
 2863 Safety and Motor Vehicles pursuant to s. 320.8325, and the
 2864 contents of all such properties. An applicant or policyholder is
 2865 eligible for coverage only if an offer of coverage cannot be
 2866 obtained by or for the applicant or policyholder from an
 2867 admitted insurer at approved rates.

2868 2.a.

2869 (I) All insurers required to be members of such
 2870 association shall participate in its writings, expenses, and
 2871 losses. Surplus of the association shall be retained for the
 2872 payment of claims and shall not be distributed to the member
 2873 insurers. Such participation by member insurers shall be in the
 2874 proportion that the net direct premiums of each member insurer
 2875 written for property insurance in this state during the
 2876 preceding calendar year bear to the aggregate net direct
 2877 premiums for property insurance of all member insurers, as
 2878 reduced by any credits for voluntary writings, in this state
 2879 during the preceding calendar year. For the purposes of this
 2880 subsection, the term "net direct premiums" means direct written
 2881 premiums for property insurance, reduced by premium for
 2882 liability coverage and for the following if included in allied
 2883 lines: rain and hail on growing crops; livestock; association
 2884 direct premiums booked; National Flood Insurance Program direct

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2885 premiums; and similar deductions specifically authorized by the
 2886 plan of operation and approved by the department. A member's
 2887 participation shall begin on the first day of the calendar year
 2888 following the year in which it is issued a certificate of
 2889 authority to transact property insurance in the state and shall
 2890 terminate 1 year after the end of the calendar year during which
 2891 it no longer holds a certificate of authority to transact
 2892 property insurance in the state. The commissioner, after review
 2893 of annual statements, other reports, and any other statistics
 2894 that the commissioner deems necessary, shall certify to the
 2895 association the aggregate direct premiums written for property
 2896 insurance in this state by all member insurers.

2897 (II) Effective July 1, 2002, the association shall operate
 2898 subject to the supervision and approval of a board of governors
 2899 who are the same individuals that have been appointed by the
 2900 Treasurer to serve on the board of governors of the Citizens
 2901 Property Insurance Corporation.

2902 (III) The plan of operation shall provide a formula
 2903 whereby a company voluntarily providing windstorm coverage in
 2904 affected areas will be relieved wholly or partially from
 2905 apportionment of a regular assessment pursuant to sub-sub-
 2906 subparagraph d.(I) or sub-sub-subparagraph d.(II).

2907 (IV) A company which is a member of a group of companies
 2908 under common management may elect to have its credits applied on
 2909 a group basis, and any company or group may elect to have its
 2910 credits applied to any other company or group.

2911 (V) There shall be no credits or relief from apportionment
 2912 to a company for emergency assessments collected from its

2913 | policyholders under sub-sub-subparagraph d.(III).
 2914 | (VI) The plan of operation may also provide for the award
 2915 | of credits, for a period not to exceed 3 years, from a regular
 2916 | assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-
 2917 | subparagraph d.(II) as an incentive for taking policies out of
 2918 | the Residential Property and Casualty Joint Underwriting
 2919 | Association. In order to qualify for the exemption under this
 2920 | sub-sub-subparagraph, the take-out plan must provide that at
 2921 | least 40 percent of the policies removed from the Residential
 2922 | Property and Casualty Joint Underwriting Association cover risks
 2923 | located in Miami-Dade, Broward, and Palm Beach Counties or at
 2924 | least 30 percent of the policies so removed cover risks located
 2925 | in Miami-Dade, Broward, and Palm Beach Counties and an
 2926 | additional 50 percent of the policies so removed cover risks
 2927 | located in other coastal counties, and must also provide that no
 2928 | more than 15 percent of the policies so removed may exclude
 2929 | windstorm coverage. With the approval of the department, the
 2930 | association may waive these geographic criteria for a take-out
 2931 | plan that removes at least the lesser of 100,000 Residential
 2932 | Property and Casualty Joint Underwriting Association policies or
 2933 | 15 percent of the total number of Residential Property and
 2934 | Casualty Joint Underwriting Association policies, provided the
 2935 | governing board of the Residential Property and Casualty Joint
 2936 | Underwriting Association certifies that the take-out plan will
 2937 | materially reduce the Residential Property and Casualty Joint
 2938 | Underwriting Association's 100-year probable maximum loss from
 2939 | hurricanes. With the approval of the department, the board may
 2940 | extend such credits for an additional year if the insurer

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2941 guarantees an additional year of renewability for all policies
 2942 removed from the Residential Property and Casualty Joint
 2943 Underwriting Association, or for 2 additional years if the
 2944 insurer guarantees 2 additional years of renewability for all
 2945 policies removed from the Residential Property and Casualty
 2946 Joint Underwriting Association.

2947 b. Assessments to pay deficits in the association under
 2948 this subparagraph shall be included as an appropriate factor in
 2949 the making of rates as provided in s. 627.3512.

2950 c. The Legislature finds that the potential for unlimited
 2951 deficit assessments under this subparagraph may induce insurers
 2952 to attempt to reduce their writings in the voluntary market, and
 2953 that such actions would worsen the availability problems that
 2954 the association was created to remedy. It is the intent of the
 2955 Legislature that insurers remain fully responsible for paying
 2956 regular assessments and collecting emergency assessments for any
 2957 deficits of the association; however, it is also the intent of
 2958 the Legislature to provide a means by which assessment
 2959 liabilities may be amortized over a period of years.

2960 d.

2961 (I) When the deficit incurred in a particular calendar
 2962 year is 10 percent or less of the aggregate statewide direct
 2963 written premium for property insurance for the prior calendar
 2964 year for all member insurers, the association shall levy an
 2965 assessment on member insurers in an amount equal to the deficit.

2966 (II) When the deficit incurred in a particular calendar
 2967 year exceeds 10 percent of the aggregate statewide direct
 2968 written premium for property insurance for the prior calendar

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2969 | year for all member insurers, the association shall levy an
2970 | assessment on member insurers in an amount equal to the greater
2971 | of 10 percent of the deficit or 10 percent of the aggregate
2972 | statewide direct written premium for property insurance for the
2973 | prior calendar year for member insurers. Any remaining deficit
2974 | shall be recovered through emergency assessments under sub-sub-
2975 | subparagraph (III).

2976 | (III) Upon a determination by the board of directors that
2977 | a deficit exceeds the amount that will be recovered through
2978 | regular assessments on member insurers, pursuant to sub-sub-
2979 | subparagraph (I) or sub-sub-subparagraph (II), the board shall
2980 | levy, after verification by the department, emergency
2981 | assessments to be collected by member insurers and by
2982 | underwriting associations created pursuant to this section which
2983 | write property insurance, upon issuance or renewal of property
2984 | insurance policies other than National Flood Insurance policies
2985 | in the year or years following levy of the regular assessments.
2986 | The amount of the emergency assessment collected in a particular
2987 | year shall be a uniform percentage of that year's direct written
2988 | premium for property insurance for all member insurers and
2989 | underwriting associations, excluding National Flood Insurance
2990 | policy premiums, as annually determined by the board and
2991 | verified by the department. The department shall verify the
2992 | arithmetic calculations involved in the board's determination
2993 | within 30 days after receipt of the information on which the
2994 | determination was based. Notwithstanding any other provision of
2995 | law, each member insurer and each underwriting association
2996 | created pursuant to this section shall collect emergency

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2997 assessments from its policyholders without such obligation being
2998 affected by any credit, limitation, exemption, or deferment. The
2999 emergency assessments so collected shall be transferred directly
3000 to the association on a periodic basis as determined by the
3001 association. The aggregate amount of emergency assessments
3002 levied under this sub-sub-subparagraph in any calendar year may
3003 not exceed the greater of 10 percent of the amount needed to
3004 cover the original deficit, plus interest, fees, commissions,
3005 required reserves, and other costs associated with financing of
3006 the original deficit, or 10 percent of the aggregate statewide
3007 direct written premium for property insurance written by member
3008 insurers and underwriting associations for the prior year, plus
3009 interest, fees, commissions, required reserves, and other costs
3010 associated with financing the original deficit. The board may
3011 pledge the proceeds of the emergency assessments under this sub-
3012 sub-subparagraph as the source of revenue for bonds, to retire
3013 any other debt incurred as a result of the deficit or events
3014 giving rise to the deficit, or in any other way that the board
3015 determines will efficiently recover the deficit. The emergency
3016 assessments under this sub-sub-subparagraph shall continue as
3017 long as any bonds issued or other indebtedness incurred with
3018 respect to a deficit for which the assessment was imposed remain
3019 outstanding, unless adequate provision has been made for the
3020 payment of such bonds or other indebtedness pursuant to the
3021 document governing such bonds or other indebtedness. Emergency
3022 assessments collected under this sub-sub-subparagraph are not
3023 part of an insurer's rates, are not premium, and are not subject
3024 to premium tax, fees, or commissions; however, failure to pay

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3025 | the emergency assessment shall be treated as failure to pay
 3026 | premium.

3027 | (IV) Each member insurer's share of the total regular
 3028 | assessments under sub-sub-subparagraph (I) or sub-sub-
 3029 | subparagraph (II) shall be in the proportion that the insurer's
 3030 | net direct premium for property insurance in this state, for the
 3031 | year preceding the assessment bears to the aggregate statewide
 3032 | net direct premium for property insurance of all member
 3033 | insurers, as reduced by any credits for voluntary writings for
 3034 | that year.

3035 | (V) If regular deficit assessments are made under sub-sub-
 3036 | subparagraph (I) or sub-sub-subparagraph (II), or by the
 3037 | Residential Property and Casualty Joint Underwriting Association
 3038 | under sub-subparagraph (6) (b)3.a. or sub-subparagraph
 3039 | (6) (b)3.b., the association shall levy upon the association's
 3040 | policyholders, as part of its next rate filing, or by a separate
 3041 | rate filing solely for this purpose, a market equalization
 3042 | surcharge in a percentage equal to the total amount of such
 3043 | regular assessments divided by the aggregate statewide direct
 3044 | written premium for property insurance for member insurers for
 3045 | the prior calendar year. Market equalization surcharges under
 3046 | this sub-sub-subparagraph are not considered premium and are not
 3047 | subject to commissions, fees, or premium taxes; however, failure
 3048 | to pay a market equalization surcharge shall be treated as
 3049 | failure to pay premium.

3050 | e. The governing body of any unit of local government, any
 3051 | residents of which are insured under the plan, may issue bonds
 3052 | as defined in s. 125.013 or s. 166.101 to fund an assistance

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3053 program, in conjunction with the association, for the purpose of
3054 defraying deficits of the association. In order to avoid
3055 needless and indiscriminate proliferation, duplication, and
3056 fragmentation of such assistance programs, any unit of local
3057 government, any residents of which are insured by the
3058 association, may provide for the payment of losses, regardless
3059 of whether or not the losses occurred within or outside of the
3060 territorial jurisdiction of the local government. Revenue bonds
3061 may not be issued until validated pursuant to chapter 75, unless
3062 a state of emergency is declared by executive order or
3063 proclamation of the Governor pursuant to s. 252.36 making such
3064 findings as are necessary to determine that it is in the best
3065 interests of, and necessary for, the protection of the public
3066 health, safety, and general welfare of residents of this state
3067 and the protection and preservation of the economic stability of
3068 insurers operating in this state, and declaring it an essential
3069 public purpose to permit certain municipalities or counties to
3070 issue bonds as will provide relief to claimants and
3071 policyholders of the association and insurers responsible for
3072 apportionment of plan losses. Any such unit of local government
3073 may enter into such contracts with the association and with any
3074 other entity created pursuant to this subsection as are
3075 necessary to carry out this paragraph. Any bonds issued under
3076 this sub-subparagraph shall be payable from and secured by
3077 moneys received by the association from assessments under this
3078 subparagraph, and assigned and pledged to or on behalf of the
3079 unit of local government for the benefit of the holders of such
3080 bonds. The funds, credit, property, and taxing power of the

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3081 state or of the unit of local government shall not be pledged
3082 for the payment of such bonds. If any of the bonds remain unsold
3083 60 days after issuance, the department shall require all
3084 insurers subject to assessment to purchase the bonds, which
3085 shall be treated as admitted assets; each insurer shall be
3086 required to purchase that percentage of the unsold portion of
3087 the bond issue that equals the insurer's relative share of
3088 assessment liability under this subsection. An insurer shall not
3089 be required to purchase the bonds to the extent that the
3090 department determines that the purchase would endanger or impair
3091 the solvency of the insurer. The authority granted by this sub-
3092 subparagraph is additional to any bonding authority granted by
3093 subparagraph 6.

3094 3. The plan shall also provide that any member with a
3095 surplus as to policyholders of \$20 million or less writing 25
3096 percent or more of its total countrywide property insurance
3097 premiums in this state may petition the department, within the
3098 first 90 days of each calendar year, to qualify as a limited
3099 apportionment company. The apportionment of such a member
3100 company in any calendar year for which it is qualified shall not
3101 exceed its gross participation, which shall not be affected by
3102 the formula for voluntary writings. In no event shall a limited
3103 apportionment company be required to participate in any
3104 apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)
3105 or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds
3106 \$50 million after payment of available plan funds in any
3107 calendar year. However, a limited apportionment company shall
3108 collect from its policyholders any emergency assessment imposed

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3109 | under sub-sub-subparagraph 2.d.(III). The plan shall provide
3110 | that, if the department determines that any regular assessment
3111 | will result in an impairment of the surplus of a limited
3112 | apportionment company, the department may direct that all or
3113 | part of such assessment be deferred. However, there shall be no
3114 | limitation or deferment of an emergency assessment to be
3115 | collected from policyholders under sub-sub-subparagraph
3116 | 2.d.(III).

3117 | 4. The plan shall provide for the deferment, in whole or
3118 | in part, of a regular assessment of a member insurer under sub-
3119 | sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but
3120 | not for an emergency assessment collected from policyholders
3121 | under sub-sub-subparagraph 2.d.(III), if, in the opinion of the
3122 | commissioner, payment of such regular assessment would endanger
3123 | or impair the solvency of the member insurer. In the event a
3124 | regular assessment against a member insurer is deferred in whole
3125 | or in part, the amount by which such assessment is deferred may
3126 | be assessed against the other member insurers in a manner
3127 | consistent with the basis for assessments set forth in sub-sub-
3128 | subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

3129 | 5.a. The plan of operation may include deductibles and
3130 | rules for classification of risks and rate modifications
3131 | consistent with the objective of providing and maintaining funds
3132 | sufficient to pay catastrophe losses.

3133 | b. It is the intent of the Legislature that the rates for
3134 | coverage provided by the association be actuarially sound and
3135 | not competitive with approved rates charged in the admitted
3136 | voluntary market such that the association functions as a

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3137 residual market mechanism to provide insurance only when the
3138 insurance cannot be procured in the voluntary market. The plan
3139 of operation shall provide a mechanism to assure that, beginning
3140 no later than January 1, 1999, the rates charged by the
3141 association for each line of business are reflective of approved
3142 rates in the voluntary market for hurricane coverage for each
3143 line of business in the various areas eligible for association
3144 coverage.

3145 c. The association shall provide for windstorm coverage on
3146 residential properties in limits up to \$10 million for
3147 commercial lines residential risks and up to \$1 million for
3148 personal lines residential risks. If coverage with the
3149 association is sought for a residential risk valued in excess of
3150 these limits, coverage shall be available to the risk up to the
3151 replacement cost or actual cash value of the property, at the
3152 option of the insured, if coverage for the risk cannot be
3153 located in the authorized market. The association must accept a
3154 commercial lines residential risk with limits above \$10 million
3155 or a personal lines residential risk with limits above \$1
3156 million if coverage is not available in the authorized market.
3157 The association may write coverage above the limits specified in
3158 this subparagraph with or without facultative or other
3159 reinsurance coverage, as the association determines appropriate.

3160 d. The plan of operation must provide objective criteria
3161 and procedures, approved by the department, to be uniformly
3162 applied for all applicants in determining whether an individual
3163 risk is so hazardous as to be uninsurable. In making this
3164 determination and in establishing the criteria and procedures,

3165 | the following shall be considered:

3166 | (I) Whether the likelihood of a loss for the individual
3167 | risk is substantially higher than for other risks of the same
3168 | class; and

3169 | (II) Whether the uncertainty associated with the
3170 | individual risk is such that an appropriate premium cannot be
3171 | determined.

3172 |

3173 | The acceptance or rejection of a risk by the association
3174 | pursuant to such criteria and procedures must be construed as
3175 | the private placement of insurance, and the provisions of
3176 | chapter 120 do not apply.

3177 | e. If the risk accepts an offer of coverage through the
3178 | market assistance program or through a mechanism established by
3179 | the association, either before the policy is issued by the
3180 | association or during the first 30 days of coverage by the
3181 | association, and the producing agent who submitted the
3182 | application to the association is not currently appointed by the
3183 | insurer, the insurer shall:

3184 | (I) Pay to the producing agent of record of the policy,
3185 | for the first year, an amount that is the greater of the
3186 | insurer's usual and customary commission for the type of policy
3187 | written or a fee equal to the usual and customary commission of
3188 | the association; or

3189 | (II) Offer to allow the producing agent of record of the
3190 | policy to continue servicing the policy for a period of not less
3191 | than 1 year and offer to pay the agent the greater of the
3192 | insurer's or the association's usual and customary commission

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3193 | for the type of policy written.

3194 |

3195 | If the producing agent is unwilling or unable to accept
3196 | appointment, the new insurer shall pay the agent in accordance
3197 | with sub-sub-subparagraph (I). Subject to the provisions of s.
3198 | 627.3517, the policies issued by the association must provide
3199 | that if the association obtains an offer from an authorized
3200 | insurer to cover the risk at its approved rates under either a
3201 | standard policy including wind coverage or, if consistent with
3202 | the insurer's underwriting rules as filed with the department, a
3203 | basic policy including wind coverage, the risk is no longer
3204 | eligible for coverage through the association. Upon termination
3205 | of eligibility, the association shall provide written notice to
3206 | the policyholder and agent of record stating that the
3207 | association policy must be canceled as of 60 days after the date
3208 | of the notice because of the offer of coverage from an
3209 | authorized insurer. Other provisions of the insurance code
3210 | relating to cancellation and notice of cancellation do not apply
3211 | to actions under this sub-subparagraph.

3212 | f. When the association enters into a contractual
3213 | agreement for a take-out plan, the producing agent of record of
3214 | the association policy is entitled to retain any unearned
3215 | commission on the policy, and the insurer shall:

3216 | (I) Pay to the producing agent of record of the
3217 | association policy, for the first year, an amount that is the
3218 | greater of the insurer's usual and customary commission for the
3219 | type of policy written or a fee equal to the usual and customary
3220 | commission of the association; or

3221 (II) Offer to allow the producing agent of record of the
 3222 association policy to continue servicing the policy for a period
 3223 of not less than 1 year and offer to pay the agent the greater
 3224 of the insurer's or the association's usual and customary
 3225 commission for the type of policy written.

3226
 3227 If the producing agent is unwilling or unable to accept
 3228 appointment, the new insurer shall pay the agent in accordance
 3229 with sub-sub-subparagraph (I).

3230 6.a. The plan of operation may authorize the formation of
 3231 a private nonprofit corporation, a private nonprofit
 3232 unincorporated association, a partnership, a trust, a limited
 3233 liability company, or a nonprofit mutual company which may be
 3234 empowered, among other things, to borrow money by issuing bonds
 3235 or by incurring other indebtedness and to accumulate reserves or
 3236 funds to be used for the payment of insured catastrophe losses.
 3237 The plan may authorize all actions necessary to facilitate the
 3238 issuance of bonds, including the pledging of assessments or
 3239 other revenues.

3240 b. Any entity created under this subsection, or any entity
 3241 formed for the purposes of this subsection, may sue and be sued,
 3242 may borrow money; issue bonds, notes, or debt instruments;
 3243 pledge or sell assessments, market equalization surcharges and
 3244 other surcharges, rights, premiums, contractual rights,
 3245 projected recoveries from the Florida Hurricane Catastrophe
 3246 Fund, other reinsurance recoverables, and other assets as
 3247 security for such bonds, notes, or debt instruments; enter into
 3248 any contracts or agreements necessary or proper to accomplish

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3249 such borrowings; and take other actions necessary to carry out
3250 the purposes of this subsection. The association may issue bonds
3251 or incur other indebtedness, or have bonds issued on its behalf
3252 by a unit of local government pursuant to subparagraph (6)(p)2.,
3253 in the absence of a hurricane or other weather-related event,
3254 upon a determination by the association subject to approval by
3255 the department that such action would enable it to efficiently
3256 meet the financial obligations of the association and that such
3257 financings are reasonably necessary to effectuate the
3258 requirements of this subsection. Any such entity may accumulate
3259 reserves and retain surpluses as of the end of any association
3260 year to provide for the payment of losses incurred by the
3261 association during that year or any future year. The association
3262 shall incorporate and continue the plan of operation and
3263 articles of agreement in effect on the effective date of chapter
3264 76-96, Laws of Florida, to the extent that it is not
3265 inconsistent with chapter 76-96, and as subsequently modified
3266 consistent with chapter 76-96. The board of directors and
3267 officers currently serving shall continue to serve until their
3268 successors are duly qualified as provided under the plan. The
3269 assets and obligations of the plan in effect immediately prior
3270 to the effective date of chapter 76-96 shall be construed to be
3271 the assets and obligations of the successor plan created herein.

3272 c. In recognition of s. 10, Art. I of the State
3273 Constitution, prohibiting the impairment of obligations of
3274 contracts, it is the intent of the Legislature that no action be
3275 taken whose purpose is to impair any bond indenture or financing
3276 agreement or any revenue source committed by contract to such

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3277 | bond or other indebtedness issued or incurred by the association
 3278 | or any other entity created under this subsection.

3279 | 7. On such coverage, an agent's remuneration shall be that
 3280 | amount of money payable to the agent by the terms of his or her
 3281 | contract with the company with which the business is placed.
 3282 | However, no commission will be paid on that portion of the
 3283 | premium which is in excess of the standard premium of that
 3284 | company.

3285 | 8. Subject to approval by the department, the association
 3286 | may establish different eligibility requirements and operational
 3287 | procedures for any line or type of coverage for any specified
 3288 | eligible area or portion of an eligible area if the board
 3289 | determines that such changes to the eligibility requirements and
 3290 | operational procedures are justified due to the voluntary market
 3291 | being sufficiently stable and competitive in such area or for
 3292 | such line or type of coverage and that consumers who, in good
 3293 | faith, are unable to obtain insurance through the voluntary
 3294 | market through ordinary methods would continue to have access to
 3295 | coverage from the association. When coverage is sought in
 3296 | connection with a real property transfer, such requirements and
 3297 | procedures shall not provide for an effective date of coverage
 3298 | later than the date of the closing of the transfer as
 3299 | established by the transferor, the transferee, and, if
 3300 | applicable, the lender.

3301 | 9. Notwithstanding any other provision of law:

3302 | a. The pledge or sale of, the lien upon, and the security
 3303 | interest in any rights, revenues, or other assets of the
 3304 | association created or purported to be created pursuant to any

3305 financing documents to secure any bonds or other indebtedness of
 3306 the association shall be and remain valid and enforceable,
 3307 notwithstanding the commencement of and during the continuation
 3308 of, and after, any rehabilitation, insolvency, liquidation,
 3309 bankruptcy, receivership, conservatorship, reorganization, or
 3310 similar proceeding against the association under the laws of
 3311 this state or any other applicable laws.

3312 b. No such proceeding shall relieve the association of its
 3313 obligation, or otherwise affect its ability to perform its
 3314 obligation, to continue to collect, or levy and collect,
 3315 assessments, market equalization or other surcharges, projected
 3316 recoveries from the Florida Hurricane Catastrophe Fund,
 3317 reinsurance recoverables, or any other rights, revenues, or
 3318 other assets of the association pledged.

3319 c. Each such pledge or sale of, lien upon, and security
 3320 interest in, including the priority of such pledge, lien, or
 3321 security interest, any such assessments, emergency assessments,
 3322 market equalization or renewal surcharges, projected recoveries
 3323 from the Florida Hurricane Catastrophe Fund, reinsurance
 3324 recoverables, or other rights, revenues, or other assets which
 3325 are collected, or levied and collected, after the commencement
 3326 of and during the pendency of or after any such proceeding shall
 3327 continue unaffected by such proceeding.

3328 d. As used in this subsection, the term "financing
 3329 documents" means any agreement, instrument, or other document
 3330 now existing or hereafter created evidencing any bonds or other
 3331 indebtedness of the association or pursuant to which any such
 3332 bonds or other indebtedness has been or may be issued and

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3333 pursuant to which any rights, revenues, or other assets of the
3334 association are pledged or sold to secure the repayment of such
3335 bonds or indebtedness, together with the payment of interest on
3336 such bonds or such indebtedness, or the payment of any other
3337 obligation of the association related to such bonds or
3338 indebtedness.

3339 e. Any such pledge or sale of assessments, revenues,
3340 contract rights or other rights or assets of the association
3341 shall constitute a lien and security interest, or sale, as the
3342 case may be, that is immediately effective and attaches to such
3343 assessments, revenues, contract, or other rights or assets,
3344 whether or not imposed or collected at the time the pledge or
3345 sale is made. Any such pledge or sale is effective, valid,
3346 binding, and enforceable against the association or other entity
3347 making such pledge or sale, and valid and binding against and
3348 superior to any competing claims or obligations owed to any
3349 other person or entity, including policyholders in this state,
3350 asserting rights in any such assessments, revenues, contract, or
3351 other rights or assets to the extent set forth in and in
3352 accordance with the terms of the pledge or sale contained in the
3353 applicable financing documents, whether or not any such person
3354 or entity has notice of such pledge or sale and without the need
3355 for any physical delivery, recordation, filing, or other action.

3356 f. There shall be no liability on the part of, and no
3357 cause of action of any nature shall arise against, any member
3358 insurer or its agents or employees, agents or employees of the
3359 association, members of the board of directors of the
3360 association, or the department or its representatives, for any

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3361 | action taken by them in the performance of their duties or
 3362 | responsibilities under this subsection. Such immunity does not
 3363 | apply to actions for breach of any contract or agreement
 3364 | pertaining to insurance, or any willful tort.

3365 | (c) The provisions of paragraph (b) are applicable only
 3366 | with respect to:

3367 | 1. Those areas that were eligible for coverage under this
 3368 | subsection on April 9, 1993; or

3369 | 2. Any county or area as to which the department, after
 3370 | public hearing, finds that the following criteria exist:

3371 | a. Due to the lack of windstorm insurance coverage in the
 3372 | county or area so affected, economic growth and development is
 3373 | being deterred or otherwise stifled in such county or area,
 3374 | mortgages are in default, and financial institutions are unable
 3375 | to make loans;

3376 | b. The county or area so affected is enforcing the
 3377 | structural requirements of the Florida Building Code, as defined
 3378 | in s. 553.73, for new construction and has included adequate
 3379 | minimum floor elevation requirements for structures in areas
 3380 | subject to inundation; and

3381 | c. Extending windstorm insurance coverage to such county
 3382 | or area is consistent with and will implement and further the
 3383 | policies and objectives set forth in applicable state laws,
 3384 | rules, and regulations governing coastal management, coastal
 3385 | construction, comprehensive planning, beach and shore
 3386 | preservation, barrier island preservation, coastal zone
 3387 | protection, and the Coastal Zone Protection Act of 1985.

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3389 The department shall consider reports of the Florida Building
3390 Commission when evaluating building code enforcement. Any time
3391 after the department has determined that the criteria referred
3392 to in this subparagraph do not exist with respect to any county
3393 or area of the state, it may, after a subsequent public hearing,
3394 declare that such county or area is no longer eligible for
3395 windstorm coverage through the plan.

3396 (d) For the purpose of evaluating whether the criteria of
3397 paragraph (c) are met, such criteria shall be applied as the
3398 situation would exist if policies had not been written by the
3399 Florida Residential Property and Casualty Joint Underwriting
3400 Association and property insurance for such policyholders was
3401 not available.

3402 (e)1. Notwithstanding the provisions of subparagraph (c)2.
3403 or paragraph (d), eligibility shall not be extended to any area
3404 that was not eligible on March 1, 1997, except that the
3405 department may act with respect to any petition on which a
3406 hearing was held prior to May 9, 1997.

3407 2. Notwithstanding the provisions of subparagraph 1., the
3408 following area is eligible for coverage under this subsection
3409 effective July 1, 2002: the area within Port Canaveral which is
3410 bordered on the south by the City of Cape Canaveral, bordered on
3411 the west by the Banana River, and bordered on the north by
3412 United States Government property.

3413 (f) As used in this subsection, the term "department"
3414 means the former Department of Insurance.

3415 Reviser's note.--Section 13, ch. 2008-66, Laws of
3416 Florida, amended subsection (2) without publishing

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3417 paragraphs (a) and (c)-(f). Absent affirmative
 3418 evidence of legislative intent to repeal the omitted
 3419 paragraphs, subsection (2) is reenacted to confirm the
 3420 omission was not intended.

3421 Section 85. Section 627.35193, Florida Statutes, is
 3422 amended to read:

3423 627.35193 Consumer reporting agency request for claims
 3424 data from Citizens Property Insurance Corporation.--Upon the
 3425 request of a consumer reporting agency, as defined by the
 3426 federal Fair Credit Reporting Act, 15 U.S.C. ss. 1681 et seq.,
 3427 which consumer reporting agency is in ~~on~~ compliance with the
 3428 confidentiality requirements of such act, the Citizens Property
 3429 Insurance Corporation shall electronically report claims data
 3430 and histories to such consumer reporting agency which maintains
 3431 a database of similar data for use in connection with the
 3432 underwriting of insurance involving a consumer.

3433 Reviser's note.--Amended to confirm the editorial
 3434 substitution of the word "in" for the word "on" to
 3435 correct a typographical error.

3436 Section 86. Paragraph (a) of subsection (5) of section
 3437 627.736, Florida Statutes, is amended to read:

3438 627.736 Required personal injury protection benefits;
 3439 exclusions; priority; claims.--

3440 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

3441 (a)1. Any physician, hospital, clinic, or other person or
 3442 institution lawfully rendering treatment to an injured person
 3443 for a bodily injury covered by personal injury protection
 3444 insurance may charge the insurer and injured party only a

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3445 reasonable amount pursuant to this section for the services and
3446 supplies rendered, and the insurer providing such coverage may
3447 pay for such charges directly to such person or institution
3448 lawfully rendering such treatment, if the insured receiving such
3449 treatment or his or her guardian has countersigned the properly
3450 completed invoice, bill, or claim form approved by the office
3451 upon which such charges are to be paid for as having actually
3452 been rendered, to the best knowledge of the insured or his or
3453 her guardian. In no event, however, may such a charge be in
3454 excess of the amount the person or institution customarily
3455 charges for like services or supplies. With respect to a
3456 determination of whether a charge for a particular service,
3457 treatment, or otherwise is reasonable, consideration may be
3458 given to evidence of usual and customary charges and payments
3459 accepted by the provider involved in the dispute, and
3460 reimbursement levels in the community and various federal and
3461 state medical fee schedules applicable to automobile and other
3462 insurance coverages, and other information relevant to the
3463 reasonableness of the reimbursement for the service, treatment,
3464 or supply.

3465 2. The insurer may limit reimbursement to 80 percent of
3466 the following schedule of maximum charges:

3467 a. For emergency transport and treatment by providers
3468 licensed under chapter 401, 200 percent of Medicare.

3469 b. For emergency services and care provided by a hospital
3470 licensed under chapter 395, 75 percent of the hospital's usual
3471 and customary charges.

3472 c. For emergency services and care as defined by s.

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3473 395.002(9) provided in a facility licensed under chapter 395
 3474 rendered by a physician or dentist, and related hospital
 3475 inpatient services rendered by a physician or dentist, the usual
 3476 and customary charges in the community.

3477 d. For hospital inpatient services, other than emergency
 3478 services and care, 200 percent of the Medicare Part A
 3479 prospective payment applicable to the specific hospital
 3480 providing the inpatient services.

3481 e. For hospital outpatient services, other than emergency
 3482 services and care, 200 percent of the Medicare Part A Ambulatory
 3483 Payment Classification for the specific hospital providing the
 3484 outpatient services.

3485 f. For all other medical services, supplies, and care, 200
 3486 percent of the allowable amount under the participating
 3487 physicians schedule of Medicare Part B. However, if such
 3488 services, supplies, or care is not reimbursable under Medicare
 3489 Part B, the insurer may limit reimbursement to 80 percent of the
 3490 maximum reimbursable allowance under workers' compensation, as
 3491 determined under s. 440.13 and rules adopted thereunder which
 3492 are in effect at the time such services, supplies, or care is
 3493 provided. Services, supplies, or care that is not reimbursable
 3494 under Medicare or workers' compensation is not required to be
 3495 reimbursed by the insurer.

3496 3. For purposes of subparagraph 2., the applicable fee
 3497 schedule or payment limitation under Medicare is the fee
 3498 schedule or payment limitation in effect at the time the
 3499 services, supplies, or care was rendered and for the area in
 3500 which such services were rendered, except that it may not be

3501 less than the allowable amount under the participating
 3502 physicians schedule of Medicare Part B for 2007 for medical
 3503 services, supplies, and care subject to Medicare Part B.

3504 4. Subparagraph 2. does not allow the insurer to apply any
 3505 limitation on the number of treatments or other utilization
 3506 limits that apply under Medicare or workers' compensation. An
 3507 insurer that applies the allowable payment limitations of
 3508 subparagraph 2. must reimburse a provider who lawfully provided
 3509 care or treatment under the scope of his or her license,
 3510 regardless of whether such provider would be entitled to
 3511 reimbursement under Medicare due to restrictions or limitations
 3512 on the types or discipline of health care providers who may be
 3513 reimbursed for particular procedures or procedure codes.

3514 5. If an insurer limits payment as authorized by
 3515 subparagraph 2., the person providing such services, supplies,
 3516 or care may not bill or attempt to collect from the insured any
 3517 amount in excess of such limits, except for amounts that are not
 3518 covered by the insured's personal injury protection coverage due
 3519 to the coinsurance amount or maximum policy limits.

3520 Reviser's note.--Amended to confirm the editorial
 3521 insertion of the word "of" to improve clarity and
 3522 facilitate correct interpretation.

3523 Section 87. Paragraph (j) of subsection (11) of section
 3524 718.111, Florida Statutes, is amended to read:

3525 718.111 The association.--

3526 (11) INSURANCE.--In order to protect the safety, health,
 3527 and welfare of the people of the State of Florida and to ensure
 3528 consistency in the provision of insurance coverage to

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3529 condominiums and their unit owners, this subsection applies to
3530 every residential condominium in the state, regardless of the
3531 date of its declaration of condominium. It is the intent of the
3532 Legislature to encourage lower or stable insurance premiums for
3533 associations described in this subsection.

3534 (j) Any portion of the condominium property required to be
3535 insured by the association against casualty loss pursuant to
3536 paragraph (f) which is damaged by casualty shall be
3537 reconstructed, repaired, or replaced as necessary by the
3538 association as a common expense. All hazard insurance
3539 deductibles, uninsured losses, and other damages in excess of
3540 hazard insurance coverage under the hazard insurance policies
3541 maintained by the association are a common expense of the
3542 condominium, except that:

3543 1. A unit owner is responsible for the costs of repair or
3544 replacement of any portion of the condominium property not paid
3545 by insurance proceeds, if such damage is caused by intentional
3546 conduct, negligence, or failure to comply with the terms of the
3547 declaration or the rules of the association by a unit owner, the
3548 members of his or her family, unit occupants, tenants, guests,
3549 or invitees, without compromise of the subrogation rights of any
3550 insurer as set forth in paragraph (g).

3551 2. The provisions of subparagraph 1. regarding the
3552 financial responsibility of a unit owner for the costs of
3553 repairing or replacing other portions of the condominium
3554 property also apply to the costs of repair or replacement of
3555 personal property of other unit owners or the association, as
3556 well as other property, whether real or personal, which the unit

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3557 owners are required to insure under paragraph (g).

3558 3. To the extent the cost of repair or reconstruction for
 3559 which the unit owner is responsible under this paragraph is
 3560 reimbursed to the association by insurance proceeds, and, to the
 3561 extent the association has collected the cost of such repair or
 3562 reconstruction from the unit owner, the association shall
 3563 reimburse the unit owner without the waiver of any rights of
 3564 subrogation.

3565 4. The association is not obligated to pay for ~~repair or~~
 3566 reconstruction or repairs of casualty losses as a common expense
 3567 if the casualty losses were known or should have been known to a
 3568 unit owner and were not reported to the association until after
 3569 the insurance claim of the association for that casualty was
 3570 settled or resolved with finality, or denied on the basis that
 3571 it was untimely filed.

3572 Reviser's note.--Amended to improve clarity and
 3573 correct sentence construction.

3574 Section 88. Paragraph (o) of subsection (2) of section
 3575 718.112, Florida Statutes, is amended to read:

3576 718.112 Bylaws.--

3577 (2) REQUIRED PROVISIONS.--The bylaws shall provide for the
 3578 following and, if they do not do so, shall be deemed to include
 3579 the following:

3580 (o) Director or officer offenses.--A director or officer
 3581 charged with a felony theft or embezzlement offense involving
 3582 the association's funds or property shall be removed from
 3583 office, creating a vacancy in the office to be filled according
 3584 to law. While such director or officer has such criminal charge

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3585 pending, he or she may not be appointed or elected to a position
 3586 as a director or officer. However, should the charges be
 3587 resolved without a finding of guilt, the director or ~~of~~ officer
 3588 shall be reinstated for the remainder of his or her term of
 3589 office, if any.

3590 Reviser's note.--Amended to confirm the substitution
 3591 of the word "or" for the word "of" by the editors.

3592 Section 89. Subsection (7) of section 718.113, Florida
 3593 Statutes, is amended to read:

3594 718.113 Maintenance; limitation upon improvement; display
 3595 of flag; hurricane shutters; display of religious decorations.--

3596 (7) An association may not refuse the request of a unit
 3597 owner for a reasonable accommodation for the attachment on the
 3598 mantel or frame of the door of the unit owner of a religious
 3599 object not to exceed 3 inches wide, 6 inches high, and 1.5
 3600 inches deep.

3601 Reviser's note.--Amended to confirm the insertion of
 3602 the word "of" by the editors.

3603 Section 90. Paragraph (d) of subsection (1) of section
 3604 718.501, Florida Statutes, is amended to read:

3605 718.501 Authority, responsibility, and duties of Division
 3606 of Florida Condominiums, Timeshares, and Mobile Homes.--

3607 (1) The Division of Florida Condominiums, Timeshares, and
 3608 Mobile Homes of the Department of Business and Professional
 3609 Regulation, referred to as the "division" in this part, has the
 3610 power to enforce and ensure compliance with the provisions of
 3611 this chapter and rules relating to the development,
 3612 construction, sale, lease, ownership, operation, and management

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3613 of residential condominium units. In performing its duties, the
3614 division has complete jurisdiction to investigate complaints and
3615 enforce compliance with the provisions of this chapter with
3616 respect to associations that are still under developer control
3617 and complaints against developers involving improper turnover or
3618 failure to turnover, pursuant to s. 718.301. However, after
3619 turnover has occurred, the division shall only have jurisdiction
3620 to investigate complaints related to financial issues,
3621 elections, and unit owner access to association records pursuant
3622 to s. 718.111(12).

3623 (d) Notwithstanding any remedies available to unit owners
3624 and associations, if the division has reasonable cause to
3625 believe that a violation of any provision of this chapter or
3626 related rule has occurred, the division may institute
3627 enforcement proceedings in its own name against any developer,
3628 association, officer, or member of the board of administration,
3629 or its assignees or agents, as follows:

3630 1. The division may permit a person whose conduct or
3631 actions may be under investigation to waive formal proceedings
3632 and enter into a consent proceeding whereby orders, rules, or
3633 letters of censure or warning, whether formal or informal, may
3634 be entered against the person.

3635 2. The division may issue an order requiring the
3636 developer, association, developer-designated officer, or
3637 developer-designated member of the board of administration,
3638 developer-designated assignees or agents, community association
3639 manager, or community association management firm to cease and
3640 desist from the unlawful practice and take such affirmative

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3641 action as in the judgment of the division will carry out the
3642 purposes of this chapter. If the division finds that a
3643 developer, association, officer, or member of the board of
3644 administration, or its assignees or agents, is violating or is
3645 about to violate any provision of this chapter, any rule adopted
3646 or order issued by the division, or any written agreement
3647 entered into with the division, and presents an immediate danger
3648 to the public requiring an immediate final order, it may issue
3649 an emergency cease and desist order reciting with particularity
3650 the facts underlying such findings. The emergency cease and
3651 desist order is effective for 90 days. If the division begins
3652 nonemergency cease and desist proceedings, the emergency cease
3653 and desist order remains effective until the conclusion of the
3654 proceedings under ss. 120.569 and 120.57.

3655 3. If a developer fails to pay any restitution determined
3656 by the division to be owed, plus any accrued interest at the
3657 highest rate permitted by law, within 30 days after expiration
3658 of any appellate time period of a final order requiring payment
3659 of restitution or the conclusion of any appeal thereof,
3660 whichever is later, the division shall bring an action in
3661 circuit or county court on behalf of any association, class of
3662 unit owners, lessees, or purchasers for restitution, declaratory
3663 relief, injunctive relief, or any other available remedy. The
3664 division may also temporarily revoke its acceptance of the
3665 filing for the developer to which the restitution relates until
3666 payment of restitution is made.

3667 4. The division may petition the court for the appointment
3668 of a receiver or conservator. If appointed, the receiver or

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3669 conservator may take action to implement the court order to
3670 ensure the performance of the order and to remedy any breach
3671 thereof. In addition to all other means provided by law for the
3672 enforcement of an injunction or temporary restraining order, the
3673 circuit court may impound or sequester the property of a party
3674 defendant, including books, papers, documents, and related
3675 records, and allow the examination and use of the property by
3676 the division and a court-appointed receiver or conservator.

3677 5. The division may apply to the circuit court for an
3678 order of restitution whereby the defendant in an action brought
3679 pursuant to subparagraph 4. shall be ordered to make restitution
3680 of those sums shown by the division to have been obtained by the
3681 defendant in violation of this chapter. Such restitution shall,
3682 at the option of the court, be payable to the conservator or
3683 receiver appointed pursuant to subparagraph 4. or directly to
3684 the persons whose funds or assets were obtained in violation of
3685 this chapter.

3686 6. The division may impose a civil penalty against a
3687 developer or association, or its assignee or agent, for any
3688 violation of this chapter or a rule adopted under this chapter.
3689 The division may impose a civil penalty individually against any
3690 officer or board member who willfully and knowingly violates a
3691 provision of this chapter, adopted rule, or a final order of the
3692 division; may order the removal of such individual as an officer
3693 or from the board of administration or as an officer of the
3694 association; and may prohibit such individual from serving as an
3695 officer or on the board of a community association for a period
3696 of time. The term "willfully and knowingly" means that the

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3697 | division informed the officer or board member that his or her
3698 | action or intended action violates this chapter, a rule adopted
3699 | under this chapter, or a final order of the division and that
3700 | the officer or board member refused to comply with the
3701 | requirements of this chapter, a rule adopted under this chapter,
3702 | or a final order of the division. The division, prior to
3703 | initiating formal agency action under chapter 120, shall afford
3704 | the officer or board member an opportunity to voluntarily comply
3705 | with this chapter, a rule adopted under this chapter, or a final
3706 | order of the division. An officer or board member who complies
3707 | within 10 days is not subject to a civil penalty. A penalty may
3708 | be imposed on the basis of each day of continuing violation, but
3709 | in no event shall the penalty for any offense exceed \$5,000. By
3710 | January 1, 1998, the division shall adopt, by rule, penalty
3711 | guidelines applicable to possible violations or to categories of
3712 | violations of this chapter or rules adopted by the division. The
3713 | guidelines must specify a meaningful range of civil penalties
3714 | for each such violation of the statute and rules and must be
3715 | based upon the harm caused by the violation, the repetition of
3716 | the violation, and upon such other factors deemed relevant by
3717 | the division. For example, the division may consider whether the
3718 | violations were committed by a developer or owner-controlled
3719 | association, the size of the association, and other factors. The
3720 | guidelines must designate the possible mitigating or aggravating
3721 | circumstances that justify a departure from the range of
3722 | penalties provided by the rules. It is the legislative intent
3723 | that minor violations be distinguished from those which endanger
3724 | the health, safety, or welfare of the condominium residents or

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3725 other persons and that such guidelines provide reasonable and
3726 meaningful notice to the public of likely penalties that may be
3727 imposed for proscribed conduct. This subsection does not limit
3728 the ability of the division to informally dispose of
3729 administrative actions or complaints by stipulation, agreed
3730 settlement, or consent order. All amounts collected shall be
3731 deposited with the Chief Financial Officer to the credit of the
3732 Division of Florida Condominiums, Timeshares, and Mobile Homes
3733 Trust Fund. If a developer fails to pay the civil penalty and
3734 the amount deemed to be owed to the association, the division
3735 shall issue an order directing that such developer cease and
3736 desist from further operation until such time as the civil
3737 penalty is paid or may pursue enforcement of the penalty in a
3738 court of competent jurisdiction. If an association fails to pay
3739 the civil penalty, the division shall pursue enforcement in a
3740 court of competent jurisdiction, and the order imposing the
3741 civil penalty or the cease and desist order will not become
3742 effective until 20 days after the date of such order. Any action
3743 commenced by the division shall be brought in the county in
3744 which the division has its executive offices or in the county
3745 where the violation occurred.

3746 7. If a unit owner presents the division with proof that
3747 the unit owner has requested access to official records in
3748 writing by certified mail, and that after 10 days the unit owner
3749 again made the same request for access to official records in
3750 writing by certified mail, and that more than 10 days has
3751 elapsed since the second request and the association has still
3752 failed or refused to provide access to official records as

3753 required by this chapter, the division shall issue a subpoena
 3754 requiring production of the requested records where the records
 3755 are kept pursuant to s. 718.112.

3756 8. In addition to subparagraph 6., the division may seek
 3757 the imposition of a civil penalty through the circuit court for
 3758 any violation for which the division may issue a notice to show
 3759 cause under paragraph (r) ~~(q)~~. The civil penalty shall be at
 3760 least \$500 but no more than \$5,000 for each violation. The court
 3761 may also award to the prevailing party court costs and
 3762 reasonable attorney's fees and, if the division prevails, may
 3763 also award reasonable costs of investigation.

3764 Reviser's note.--Amended to confirm the substitution
 3765 of a reference to "paragraph (r)" for a reference to
 3766 "paragraph (q)" by the editors to conform to the
 3767 compilation of the 2008 Florida Statutes.

3768 Section 91. Paragraph (a) of subsection (2) of section
 3769 718.503, Florida Statutes, is amended to read:

3770 718.503 Developer disclosure prior to sale; nondeveloper
 3771 unit owner disclosure prior to sale; voidability.--

3772 (2) NONDEVELOPER DISCLOSURE.--

3773 (a) Each unit owner who is not a developer as defined by
 3774 this chapter shall comply with the provisions of this subsection
 3775 prior to the sale of his or her unit. Each prospective purchaser
 3776 who has entered into a contract for the purchase of a
 3777 condominium unit is entitled, at the seller's expense, to a
 3778 current copy of the declaration of condominium, articles of
 3779 incorporation of the association, bylaws and rules of the
 3780 association, financial information required by s. 718.111, and

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3781 the document entitled "Frequently Asked Questions and Answers"
3782 required by s. 718.504. On and after January 1, 2009, the
3783 prospective purchaser shall also be entitled to receive from the
3784 seller a copy of a governance form. Such form shall be provided
3785 by the division summarizing governance of condominium
3786 associations. In addition to such other information as the
3787 division considers helpful to a prospective purchaser in
3788 understanding association governance, the governance form shall
3789 address the following subjects:

3790 1. The role of the board in conducting the day-to-day
3791 affairs of the association on behalf of, and in the best
3792 interests of, the owners.

3793 2. The board's responsibility to provide advance notice of
3794 board and membership meetings.

3795 3. The rights of owners to attend and speak at board and
3796 membership meetings.

3797 4. The responsibility of the board and of owners with
3798 respect to maintenance of the condominium property.

3799 5. The responsibility of the board and owners to abide by
3800 the condominium documents, this chapter, rules adopted by the
3801 division, and reasonable rules adopted by the board.

3802 6. Owners' rights to inspect and copy association records
3803 and the limitations on such rights.

3804 7. Remedies available to owners with respect to actions by
3805 the board which may be abusive or beyond the board's power and
3806 authority.

3807 8. The right of the board to hire a property management
3808 firm, subject to its own primary responsibility for such

3809 management.

3810 9. The responsibility of owners with regard to payment of
 3811 regular or special assessments necessary for the operation of
 3812 the property and the potential consequences of failure to pay
 3813 such assessments.

3814 10. The voting rights of owners.

3815 11. Rights and obligations of the board in enforcement of
 3816 rules in the condominium documents and rules adopted by the
 3817 board.

3818
 3819 The governance form shall also include the following statement
 3820 in conspicuous type: "This publication is intended as an
 3821 informal educational overview of condominium governance. In the
 3822 event of a conflict, the provisions of chapter 718, Florida
 3823 Statutes, rules adopted by the Division of Florida ~~Land Sales,~~
 3824 Condominiums, Timeshares, and Mobile Homes of the Department of
 3825 Business and Professional Regulation, the provisions of the
 3826 condominium documents, and reasonable rules adopted by the
 3827 condominium association's board of administration prevail over
 3828 the contents of this publication."

3829 Reviser's note.--Amended to confirm the redesignation
 3830 of the Division of Florida Land Sales, Condominiums,
 3831 and Mobile Homes as the Division of Florida
 3832 Condominiums, Timeshares, and Mobile Homes by s. 8,
 3833 ch. 2008-240, Laws of Florida.

3834 Section 92. Subsection (1) of section 828.25, Florida
 3835 Statutes, is amended to read:

3836 828.25 Administration; rules; inspection; fees.--

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3837 (1) The department shall administer the provisions of ss.
 3838 828.22-828.26. It shall adopt and may from time to time revise
 3839 rules, which rules must conform substantially to and must not be
 3840 less restrictive than the rules and regulations promulgated by
 3841 the Secretary of Agriculture of the United States pursuant to
 3842 the federal Humane Methods of Slaughter Act of 1958, Pub. L. No.
 3843 85-765, 72 Stat. 862, and any amendments thereto.

3844 Reviser's note.--Amended to conform to the correct
 3845 name of the federal Humane Methods of Slaughter Act of
 3846 1958.

3847 Section 93. Paragraph (c) of subsection (1) of section
 3848 937.021, Florida Statutes, is amended to read:

3849 937.021 Missing child and missing adult reports.--

3850 (1) Law enforcement agencies in this state shall adopt
 3851 written policies that specify the procedures to be used to
 3852 investigate reports of missing children and missing adults. The
 3853 policies must ensure that cases involving missing children and
 3854 adults are investigated promptly using appropriate resources.
 3855 The policies must include:

3856 (c) Standards for maintaining and clearing computer data
 3857 of information concerning a missing child or ~~and~~ missing adult
 3858 which is stored in the Florida Crime Information Center and the
 3859 National Crime Information Center. The standards must require,
 3860 at a minimum, a monthly review of each case and a determination
 3861 of whether the case should be maintained in the database.

3862 Reviser's note.--Amended to substitute the word "or"
 3863 for the word "and" to conform to usage in the
 3864 remainder of the section.

3865 Section 94. Section 1000.36, Florida Statutes, is amended
 3866 to read:

3867 1000.36 Interstate Compact on Educational Opportunity for
 3868 Military Children.--The Governor is authorized and directed to
 3869 execute the Interstate Compact on Educational Opportunity for
 3870 Military Children on behalf of this state with any other state
 3871 or states legally joining therein in the form substantially as
 3872 follows:

3873 Interstate Compact on Educational
 3874 Opportunity for Military Children

3875
 3876 ARTICLE I
 3877

3878 PURPOSE.--It is the purpose of this compact to remove
 3879 barriers to educational success imposed on children of military
 3880 families because of frequent moves and deployment of their
 3881 parents by:

3882 A. Facilitating the timely enrollment of children of
 3883 military families and ensuring that they are not placed at a
 3884 disadvantage due to difficulty in the transfer of education
 3885 records from the previous school district or variations in
 3886 entrance or age requirements.

3887 B. Facilitating the student placement process through
 3888 which children of military families are not disadvantaged by
 3889 variations in attendance requirements, scheduling, sequencing,
 3890 grading, course content, or assessment.

3891 C. Facilitating the qualification and eligibility for
 3892 enrollment, educational programs, and participation in

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3921 D. "Deployment" means the period 1 month before the
3922 service members' departure from their home station on military
3923 orders through 6 months after return to their home station.

3924 E. "Educational records" or "education records" means
3925 those official records, files, and data directly related to a
3926 student and maintained by the school or local education agency,
3927 including, but not limited to, records encompassing all the
3928 material kept in the student's cumulative folder such as general
3929 identifying data, records of attendance and of academic work
3930 completed, records of achievement and results of evaluative
3931 tests, health data, disciplinary status, test protocols, and
3932 individualized education programs.

3933 F. "Extracurricular activities" means a voluntary activity
3934 sponsored by the school or local education agency or an
3935 organization sanctioned by the local education agency.
3936 Extracurricular activities include, but are not limited to,
3937 preparation for and involvement in public performances,
3938 contests, athletic competitions, demonstrations, displays, and
3939 club activities.

3940 G. "Interstate Commission on Educational Opportunity for
3941 Military Children" means the commission that is created under
3942 Article IX of this compact, which is generally referred to as
3943 the Interstate Commission.

3944 H. "Local education agency" means a public authority
3945 legally constituted by the state as an administrative agency to
3946 provide control of, and direction for, kindergarten through 12th
3947 grade public educational institutions.

3948 I. "Member state" means a state that has enacted this

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3949 compact.

3950 J. "Military installation" means a base, camp, post,
 3951 station, yard, center, homeport facility for any ship, or other
 3952 activity under the jurisdiction of the Department of Defense,
 3953 including any leased facility, which is located within any of
 3954 the several states, the District of Columbia, the Commonwealth
 3955 of Puerto Rico, the United States Virgin Islands, Guam, American
 3956 Samoa, the Northern Marianas Islands, and any other United
 3957 States Territory. The term does not include any facility used
 3958 primarily for civil works, rivers and harbors projects, or flood
 3959 control projects.

3960 K. "Nonmember state" means a state that has not enacted
 3961 this compact.

3962 L. "Receiving state" means the state to which a child of a
 3963 military family is sent, brought, or caused to be sent or
 3964 brought.

3965 M. "Rule" means a written statement by the Interstate
 3966 Commission adopted under Article XII of this compact which is of
 3967 general applicability, implements, interprets, or prescribes a
 3968 policy or provision of the compact, or an organizational,
 3969 procedural, or practice requirement of the Interstate
 3970 Commission, and has the force and effect of statutory law in a
 3971 member state, and includes the amendment, repeal, or suspension
 3972 of an existing rule.

3973 N. "Sending state" means the state from which a child of a
 3974 military family is sent, brought, or caused to be sent or
 3975 brought.

3976 O. "State" means a state of the United States, the

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3977 District of Columbia, the Commonwealth of Puerto Rico, the
 3978 United States Virgin Islands, Guam, American Samoa, the Northern
 3979 Marianas Islands, and any other United States Territory.

3980 P. "Student" means the child of a military family for whom
 3981 the local education agency receives public funding and who is
 3982 formally enrolled in kindergarten through 12th grade.

3983 Q. "Transition" means:

3984 1. The formal and physical process of transferring from
 3985 school to school; or

3986 2. The period of time in which a student moves from one
 3987 school in the sending state to another school in the receiving
 3988 state.

3989 R. "Uniformed services" means the Army, Navy, Air Force,
 3990 Marine Corps, Coast Guard as well as the Commissioned Corps of
 3991 the National Oceanic and Atmospheric Administration, and Public
 3992 Health Services.

3993 S. "Veteran" means a person who served in the uniformed
 3994 services and who was discharged or released therefrom under
 3995 conditions other than dishonorable.

3996

3997 ARTICLE III

3998

3999 APPLICABILITY.--

4000 A. Except as otherwise provided in Section C, this compact
 4001 applies to the children of:

4002 1. Active duty members of the uniformed services,
 4003 including members of the National Guard and Reserve on active-
 4004 duty orders pursuant to 10 U.S.C. ss. 1209 and 1211;

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4033 records by a school in the receiving state, that school shall
4034 enroll and appropriately place the student based on the
4035 information provided in the unofficial records pending
4036 validation by the official records, as quickly as possible.

4037 B. Simultaneous with the enrollment and conditional
4038 placement of the student, the school in the receiving state
4039 shall request the student's official education record from the
4040 school in the sending state. Upon receipt of the request, the
4041 school in the sending state shall process and furnish the
4042 official education records to the school in the receiving state
4043 within 10 days or within such time as is reasonably determined
4044 under the rules adopted by the Interstate Commission.

4045 C. Compact states must give 30 days from the date of
4046 enrollment or within such time as is reasonably determined under
4047 the rules adopted by the Interstate Commission for students to
4048 obtain any immunization required by the receiving state. For a
4049 series of immunizations, initial vaccinations must be obtained
4050 within 30 days or within such time as is reasonably determined
4051 under the rules promulgated by the Interstate Commission.

4052 D. Students shall be allowed to continue their enrollment
4053 at grade level in the receiving state commensurate with their
4054 grade level, including kindergarten, from a local education
4055 agency in the sending state at the time of transition,
4056 regardless of age. A student who has satisfactorily completed
4057 the prerequisite grade level in the local education agency in
4058 the sending state is eligible for enrollment in the next highest
4059 grade level in the receiving state, regardless of age. A student
4060 transferring after the start of the school year in the receiving

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4061 state shall enter the school in the receiving state on their
4062 validated level from an accredited school in the sending state.

4063

4064 ARTICLE V

4065

4066 PLACEMENT AND ATTENDANCE.--

4067 A. If a student transfers before or during the school
4068 year, the receiving state school shall initially honor placement
4069 of the student in educational courses based on the student's
4070 enrollment in the sending state school or educational
4071 assessments conducted at the school in the sending state if the
4072 courses are offered. Course placement includes, but is not
4073 limited to, Honors, International Baccalaureate, Advanced
4074 Placement, vocational, technical, and career pathways courses.
4075 Continuing the student's academic program from the previous
4076 school and promoting placement in academically and career
4077 challenging courses should be paramount when considering
4078 placement. A school in the receiving state is not precluded from
4079 performing subsequent evaluations to ensure appropriate
4080 placement and continued enrollment of the student in the
4081 courses.

4082 B. The receiving state school must initially honor
4083 placement of the student in educational programs based on
4084 current educational assessments conducted at the school in the
4085 sending state or participation or placement in like programs in
4086 the sending state. Such programs include, but are not limited
4087 to:

4088 1. Gifted and talented programs; and

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4089 | 2. English as a second language (ESL).
4090 |

4091 | A school in the receiving state is not precluded from performing
4092 | subsequent evaluations to ensure appropriate placement and
4093 | continued enrollment of the student in the courses.

4094 | C. A receiving state must initially provide comparable
4095 | services to a student with disabilities based on his or her
4096 | current individualized education program (IEP) in compliance
4097 | with the requirements of the Individuals with Disabilities
4098 | Education Act (IDEA), 20 U.S.C. s. 1400, et seq. A receiving
4099 | state must make reasonable accommodations and modifications to
4100 | address the needs of incoming students with disabilities,
4101 | subject to an existing section 504 or title II plan, to provide
4102 | the student with equal access to education, in compliance with
4103 | the provisions of Section 504 of the Rehabilitation Act, 29
4104 | U.S.C.A. s. 794, and with title II of the Americans with
4105 | Disabilities Act, 42 U.S.C. ss. 12131-12165. A school in the
4106 | receiving state is not precluded from performing subsequent
4107 | evaluations to ensure appropriate placement and continued
4108 | enrollment of the student in the courses.

4109 | D. Local education agency administrative officials may
4110 | waive course or program prerequisites, or other preconditions
4111 | for placement in courses or programs offered under the
4112 | jurisdiction of the local education agency.

4113 | E. A student whose parent or legal guardian is an active-
4114 | duty member of the uniformed services and has been called to
4115 | duty for, is on leave from, or immediately returned from
4116 | deployment to, a combat zone or combat support posting shall be

4117 | granted additional excused absences at the discretion of the
 4118 | local education agency superintendent to visit with his or her
 4119 | parent or legal guardian relative to such leave or deployment of
 4120 | the parent or guardian.

4121 |

4122 | ARTICLE VI

4123 |

4124 | ELIGIBILITY.--

4125 | A. When considering the eligibility of a child for
 4126 | enrolling in a school:

4127 | 1. A special power of attorney relative to the
 4128 | guardianship of a child of a military family and executed under
 4129 | applicable law is sufficient for the purposes of enrolling the
 4130 | child in school and for all other actions requiring parental
 4131 | participation and consent.

4132 | 2. A local education agency is prohibited from charging
 4133 | local tuition to a transitioning military child placed in the
 4134 | care of a noncustodial parent or other person standing in loco
 4135 | parentis who lives in a school's jurisdiction different from
 4136 | that of the custodial parent.

4137 | 3. A transitioning military child, placed in the care of a
 4138 | noncustodial parent or other person standing in loco parentis
 4139 | who lives in a school's jurisdiction different from that of the
 4140 | custodial parent, may continue to attend the school in which he
 4141 | or she was enrolled while residing with the custodial parent.

4142 | B. State and local education agencies must facilitate the
 4143 | opportunity for transitioning military children's inclusion in
 4144 | extracurricular activities, regardless of application deadlines,

4145 | to the extent they are otherwise qualified.

4146 |

4147 | ARTICLE VII

4148 |

4149 | GRADUATION.--In order to facilitate the on-time graduation
 4150 | of children of military families, states and local education
 4151 | agencies shall incorporate the following procedures:

4152 | A. Local education agency administrative officials shall
 4153 | waive specific courses required for graduation if similar
 4154 | coursework has been satisfactorily completed in another local
 4155 | education agency or shall provide reasonable justification for
 4156 | denial. If a waiver is not granted to a student who would
 4157 | qualify to graduate from the sending school, the local education
 4158 | agency must provide an alternative means of acquiring required
 4159 | coursework so that graduation may occur on time.

4160 | B. States shall accept exit or end-of-course exams
 4161 | required for graduation from the sending state; national norm-
 4162 | referenced achievement tests; or alternative testing, in lieu of
 4163 | testing requirements for graduation in the receiving state. If
 4164 | these alternatives cannot be accommodated by the receiving state
 4165 | for a student transferring in his or her senior year, then the
 4166 | provisions of Article VII, Section C shall apply.

4167 | C. If a military student transfers at the beginning of or
 4168 | during his or her senior year and is not eligible to graduate
 4169 | from the receiving local education agency after all alternatives
 4170 | have been considered, the sending and receiving local education
 4171 | agencies must ensure the receipt of a diploma from the sending
 4172 | local education agency, if the student meets the graduation

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4173 requirements of the sending local education agency. If one of
4174 the states in question is not a member of this compact, the
4175 member state shall use its best efforts to facilitate the on-
4176 time graduation of the student in accordance with Sections A and
4177 B of this Article.

4178

4179 ARTICLE VIII

4180

4181 STATE COORDINATION.--Each member state shall, through the
4182 creation of a state council or use of an existing body or board,
4183 provide for the coordination among its agencies of government,
4184 local education agencies, and military installations concerning
4185 the state's participation in, and compliance with, this compact
4186 and Interstate Commission activities.

4187 A. Each member state may determine the membership of its
4188 own state council, but the membership must include at least: the
4189 state superintendent of education, the superintendent of a
4190 school district that has a high concentration of military
4191 children, a representative from a military installation, one
4192 representative each from the legislative and executive branches
4193 of government, and other offices and stakeholder groups the
4194 state council deems appropriate. A member state that does not
4195 have a school district deemed to contain a high concentration of
4196 military children may appoint a superintendent from another
4197 school district to represent local education agencies on the
4198 state council.

4199 B. The state council of each member state shall appoint or
4200 designate a military family education liaison to assist military

4201 families and the state in facilitating the implementation of
 4202 this compact.

4203 C. The compact commissioner responsible for the
 4204 administration and management of the state's participation in
 4205 the compact shall be appointed by the Governor or as otherwise
 4206 determined by each member state.

4207 D. The compact commissioner and the military family
 4208 education liaison shall be ex officio members of the state
 4209 council, unless either is already a full voting member of the
 4210 state council.

4211

4212 ARTICLE IX

4213

4214 INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR
 4215 MILITARY CHILDREN.--The member states hereby create the
 4216 "Interstate Commission on Educational Opportunity for Military
 4217 Children." The activities of the Interstate Commission are the
 4218 formation of public policy and are a discretionary state
 4219 function. The Interstate Commission shall:

4220 A. Be a body corporate and joint agency of the member
 4221 states and shall have all the responsibilities, powers, and
 4222 duties set forth herein, and such additional powers as may be
 4223 conferred upon it by a subsequent concurrent action of the
 4224 respective legislatures of the member states in accordance with
 4225 the terms of this compact.

4226 B. Consist of one Interstate Commission voting
 4227 representative from each member state who shall be that state's
 4228 compact commissioner.

4229 1. Each member state represented at a meeting of the
 4230 Interstate Commission is entitled to one vote.

4231 2. A majority of the total member states shall constitute
 4232 a quorum for the transaction of business, unless a larger quorum
 4233 is required by the bylaws of the Interstate Commission.

4234 3. A representative shall not delegate a vote to another
 4235 member state. In the event the compact commissioner is unable to
 4236 attend a meeting of the Interstate Commission, the Governor or
 4237 state council may delegate voting authority to another person
 4238 from their state for a specified meeting.

4239 4. The bylaws may provide for meetings of the Interstate
 4240 Commission to be conducted by telecommunication or electronic
 4241 communication.

4242 C. Consist of ex officio, nonvoting representatives who
 4243 are members of interested organizations. The ex officio members,
 4244 as defined in the bylaws, may include, but not be limited to,
 4245 members of the representative organizations of military family
 4246 advocates, local education agency officials, parent and teacher
 4247 groups, the United States Department of Defense, the Education
 4248 Commission of the States, the Interstate Agreement on the
 4249 Qualification of Educational Personnel, and other interstate
 4250 compacts affecting the education of children of military
 4251 members.

4252 D. Meet at least once each calendar year. The chairperson
 4253 may call additional meetings and, upon the request of a simple
 4254 majority of the member states, shall call additional meetings.

4255 E. Establish an executive committee, whose members shall
 4256 include the officers of the Interstate Commission and such other

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4257 members of the Interstate Commission as determined by the
4258 bylaws. Members of the executive committee shall serve a 1-year
4259 term. Members of the executive committee are entitled to one
4260 vote each. The executive committee shall have the power to act
4261 on behalf of the Interstate Commission, with the exception of
4262 rulemaking, during periods when the Interstate Commission is not
4263 in session. The executive committee shall oversee the day-to-day
4264 activities of the administration of the compact, including
4265 enforcement and compliance with the compact, its bylaws and
4266 rules, and other such duties as deemed necessary. The United
4267 States Department of Defense shall serve as an ex officio,
4268 nonvoting member of the executive committee.

4269 F. Establish bylaws and rules that provide for conditions
4270 and procedures under which the Interstate Commission shall make
4271 its information and official records available to the public for
4272 inspection or copying. The Interstate Commission may exempt from
4273 disclosure information or official records to the extent they
4274 would adversely affect personal privacy rights or proprietary
4275 interests.

4276 G. Give public notice of all meetings and all meetings
4277 shall be open to the public, except as set forth in the rules or
4278 as otherwise provided in the compact. The Interstate Commission
4279 and its committees may close a meeting, or portion thereof,
4280 where it determines by two-thirds vote that an open meeting
4281 would be likely to:

- 4282 1. Relate solely to the Interstate Commission's internal
4283 personnel practices and procedures;
- 4284 2. Disclose matters specifically exempted from disclosure

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4285 | by federal and state statute;

4286 | 3. Disclose trade secrets or commercial or financial
4287 | information which is privileged or confidential;

4288 | 4. Involve accusing a person of a crime, or formally
4289 | censuring a person;

4290 | 5. Disclose information of a personal nature where
4291 | disclosure would constitute a clearly unwarranted invasion of
4292 | personal privacy;

4293 | 6. Disclose investigative records compiled for law
4294 | enforcement purposes; or

4295 | 7. Specifically relate to the Interstate Commission's
4296 | participation in a civil action or other legal proceeding.

4297 | H. For a meeting, or portion of a meeting, closed pursuant
4298 | to this provision, the Interstate Commission's legal counsel or
4299 | designee shall certify that the meeting may be closed and shall
4300 | reference each relevant exemptible provision. The Interstate
4301 | Commission shall keep minutes which shall fully and clearly
4302 | describe all matters discussed in a meeting and shall provide a
4303 | full and accurate summary of actions taken, and the reasons
4304 | therefor, including a description of the views expressed and the
4305 | record of a roll call vote. All documents considered in
4306 | connection with an action shall be identified in such minutes.
4307 | All minutes and documents of a closed meeting shall remain under
4308 | seal, subject to release by a majority vote of the Interstate
4309 | Commission.

4310 | I. The Interstate Commission shall collect standardized
4311 | data concerning the educational transition of the children of
4312 | military families under this compact as directed through its

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4313 | rules which shall specify the data to be collected, the means of
4314 | collection and data exchange, and reporting requirements. The
4315 | methods of data collection, exchange, and reporting shall,
4316 | insofar as is reasonably possible, conform to current technology
4317 | and coordinate its information functions with the appropriate
4318 | custodian of records as identified in the bylaws and rules.

4319 | J. The Interstate Commission shall create a procedure that
4320 | permits military officials, education officials, and parents to
4321 | inform the Interstate Commission if and when there are alleged
4322 | violations of the compact or its rules or when issues subject to
4323 | the jurisdiction of the compact or its rules are not addressed
4324 | by the state or local education agency. This section does not
4325 | create a private right of action against the Interstate
4326 | Commission or any member state.

4327 |

4328 | ARTICLE X

4329 |

4330 | POWERS AND DUTIES OF THE INTERSTATE COMMISSION.--The
4331 | Interstate Commission has the power to:

4332 | A. Provide for dispute resolution among member states.

4333 | B. Adopt rules and take all necessary actions to effect
4334 | the goals, purposes, and obligations as enumerated in this
4335 | compact. The rules have the force and effect of statutory law
4336 | and are binding in the compact states to the extent and in the
4337 | manner provided in this compact.

4338 | C. Issue, upon request of a member state, advisory
4339 | opinions concerning the meaning or interpretation of the
4340 | interstate compact, its bylaws, rules, and actions.

4341 D. Enforce compliance with the compact provisions, the
 4342 rules adopted by the Interstate Commission, and the bylaws,
 4343 using all necessary and proper means, including, but not limited
 4344 to, the use of judicial process.

4345 E. Establish and maintain offices that shall be located
 4346 within one or more of the member states.

4347 F. Purchase and maintain insurance and bonds.

4348 G. Borrow, accept, hire, or contract for services of
 4349 personnel.

4350 H. Establish and appoint committees, including, but not
 4351 limited to, an executive committee as required by Article IX,
 4352 Section E, which shall have the power to act on behalf of the
 4353 Interstate Commission in carrying out its powers and duties
 4354 hereunder.

4355 I. Elect or appoint such officers, attorneys, employees,
 4356 agents, or consultants, and to fix their compensation, define
 4357 their duties, and determine their qualifications; and to
 4358 establish the Interstate Commission's personnel policies and
 4359 programs relating to conflicts of interest, rates of
 4360 compensation, and qualifications of personnel.

4361 J. Accept any and all donations and grants of money,
 4362 equipment, supplies, materials, and services, and to receive,
 4363 utilize, and dispose of it.

4364 K. Lease, purchase, accept contributions or donations of,
 4365 or otherwise to own, hold, improve, or use any property, real,
 4366 personal, or mixed.

4367 L. Sell, convey, mortgage, pledge, lease, exchange,
 4368 abandon, or otherwise dispose of any property, real, personal,

4369 | or mixed.

4370 | M. Establish a budget and make expenditures.

4371 | N. Adopt a seal and bylaws governing the management and
4372 | operation of the Interstate Commission.

4373 | O. Report annually to the legislatures, governors,
4374 | judiciary, and state councils of the member states concerning
4375 | the activities of the Interstate Commission during the preceding
4376 | year. Such reports shall also include any recommendations that
4377 | may have been adopted by the Interstate Commission.

4378 | P. Coordinate education, training, and public awareness
4379 | regarding the compact, its implementation, and operation for
4380 | officials and parents involved in such activity.

4381 | Q. Establish uniform standards for the reporting,
4382 | collecting, and exchanging of data.

4383 | R. Maintain corporate books and records in accordance with
4384 | the bylaws.

4385 | S. Perform such functions as may be necessary or
4386 | appropriate to achieve the purposes of this compact.

4387 | T. Provide for the uniform collection and sharing of
4388 | information between and among member states, schools, and
4389 | military families under this compact.

4390 |

4391 | ARTICLE XI

4392 |

4393 | ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION.--

4394 | A. The Interstate Commission shall, by a majority of the
4395 | members present and voting, within 12 months after the first
4396 | Interstate Commission meeting, adopt bylaws to govern its

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4397 | conduct as may be necessary or appropriate to carry out the
 4398 | purposes of the compact, including, but not limited to:
 4399 | 1. Establishing the fiscal year of the Interstate
 4400 | Commission;
 4401 | 2. Establishing an executive committee and such other
 4402 | committees as may be necessary;
 4403 | 3. Providing for the establishment of committees and for
 4404 | governing any general or specific delegation of authority or
 4405 | function of the Interstate Commission;
 4406 | 4. Providing reasonable procedures for calling and
 4407 | conducting meetings of the Interstate Commission and ensuring
 4408 | reasonable notice of each such meeting;
 4409 | 5. Establishing the titles and responsibilities of the
 4410 | officers and staff of the Interstate Commission;
 4411 | 6. Providing a mechanism for concluding the operations of
 4412 | the Interstate Commission and the return of surplus funds that
 4413 | may exist upon the termination of the compact after the payment
 4414 | and reserving of all of its debts and obligations.
 4415 | 7. Providing "start up" rules for initial administration
 4416 | of the compact.
 4417 | B. The Interstate Commission shall, by a majority of the
 4418 | members, elect annually from among its members a chairperson, a
 4419 | vice chairperson, and a treasurer, each of whom shall have such
 4420 | authority and duties as may be specified in the bylaws. The
 4421 | chairperson or, in the chairperson's absence or disability, the
 4422 | vice chairperson shall preside at all meetings of the Interstate
 4423 | Commission. The officers so elected shall serve without
 4424 | compensation or remuneration from the Interstate Commission;

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4425 provided that, subject to the availability of budgeted funds,
4426 the officers shall be reimbursed for ordinary and necessary
4427 costs and expenses incurred by them in the performance of their
4428 responsibilities as officers of the Interstate Commission.

4429 C. The executive committee has the authority and duties as
4430 may be set forth in the bylaws, including, but not limited to:

4431 1. Managing the affairs of the Interstate Commission in a
4432 manner consistent with the bylaws and purposes of the Interstate
4433 Commission;

4434 2. Overseeing an organizational structure within, and
4435 appropriate procedures for, the Interstate Commission to provide
4436 for the adoption of rules, operating procedures, and
4437 administrative and technical support functions; and

4438 3. Planning, implementing, and coordinating communications
4439 and activities with other state, federal, and local government
4440 organizations in order to advance the goals of the Interstate
4441 Commission.

4442 D. The executive committee may, subject to the approval of
4443 the Interstate Commission, appoint or retain an executive
4444 director for such period, upon such terms and conditions and for
4445 such compensation, as the Interstate Commission may deem
4446 appropriate. The executive director shall serve as secretary to
4447 the Interstate Commission but is not a member of the Interstate
4448 Commission. The executive director shall hire and supervise such
4449 other persons as may be authorized by the Interstate Commission.

4450 E. The Interstate Commission's executive director and its
4451 employees are immune from suit and liability, either personally
4452 or in their official capacity, for a claim for damage to or loss

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4453 of property or personal injury or other civil liability caused
4454 or arising out of, or relating to, an actual or alleged act,
4455 error, or omission that occurred, or that such person had a
4456 reasonable basis for believing occurred, within the scope of
4457 Interstate Commission employment, duties, or responsibilities,
4458 provided that the person is not protected from suit or liability
4459 for damage, loss, injury, or liability caused by the intentional
4460 or willful and wanton misconduct of the person.

4461 1. The liability of the Interstate Commission's executive
4462 director and employees or Interstate Commission representatives,
4463 acting within the scope of the person's employment or duties,
4464 for acts, errors, or omissions occurring within the person's
4465 state may not exceed the limits of liability set forth under the
4466 constitution and laws of that state for state officials,
4467 employees, and agents. The Interstate Commission is considered
4468 to be an instrumentality of the states for the purposes of any
4469 such action. This subsection does not protect the person from
4470 suit or liability for damage, loss, injury, or liability caused
4471 by the intentional or willful and wanton misconduct of the
4472 person.

4473 2. The Interstate Commission shall defend the executive
4474 director and its employees and, subject to the approval of the
4475 Attorney General or other appropriate legal counsel of the
4476 member state represented by an Interstate Commission
4477 representative, shall defend an Interstate Commission
4478 representative in any civil action seeking to impose liability
4479 arising out of an actual or alleged act, error, or omission that
4480 occurred within the scope of Interstate Commission employment,

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4481 duties, or responsibilities, or that the defendant had a
4482 reasonable basis for believing occurred within the scope of
4483 Interstate Commission employment, duties, or responsibilities,
4484 provided that the actual or alleged act, error, or omission did
4485 not result from intentional or willful and wanton misconduct on
4486 the part of the person.

4487 3. To the extent not covered by the state involved, a
4488 member state, the Interstate Commission, and the representatives
4489 or employees of the Interstate Commission shall be held harmless
4490 in the amount of a settlement or judgment, including attorney's
4491 fees and costs, obtained against a person arising out of an
4492 actual or alleged act, error, or omission that occurred within
4493 the scope of Interstate Commission employment, duties, or
4494 responsibilities, or that the person had a reasonable basis for
4495 believing occurred within the scope of Interstate Commission
4496 employment, duties, or responsibilities, provided that the
4497 actual or alleged act, error, or omission did not result from
4498 intentional or willful and wanton misconduct on the part of the
4499 person.

4500

4501 ARTICLE XII

4502

4503 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION.--The
4504 Interstate Commission shall adopt rules to effectively and
4505 efficiently implement this act to achieve the purposes of this
4506 compact.

4507 A. If the Interstate Commission exercises its rulemaking
4508 authority in a manner that is beyond the scope of the purposes

4509 of this act, or the powers granted hereunder, the action
 4510 undertaken by the Interstate Commission is invalid and has no
 4511 force or effect.

4512 B. Rules must be adopted pursuant to a rulemaking process
 4513 that substantially conforms to the "Model State Administrative
 4514 Procedure Act," of 1981 Act, Uniform Laws Annotated, Vol. 15, p.
 4515 1 (2000) as amended, as may be appropriate to the operations of
 4516 the Interstate Commission.

4517 C. No later than 30 days after a rule is adopted, a person
 4518 may file a petition for judicial review of the rule. The filing
 4519 of the petition does not stay or otherwise prevent the rule from
 4520 becoming effective unless a court finds that the petitioner has
 4521 a substantial likelihood of success on the merits of the
 4522 petition. The court shall give deference to the actions of the
 4523 Interstate Commission consistent with applicable law and shall
 4524 not find the rule to be unlawful if the rule represents a
 4525 reasonable exercise of the Interstate Commission's authority.

4526 D. If a majority of the legislatures of the compacting
 4527 states rejects a rule by enactment of a statute or resolution in
 4528 the same manner used to adopt the compact, then the rule is
 4529 invalid and has no further force and effect in any compacting
 4530 state.

4531

4532 ARTICLE XIII

4533

4534 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION.--

4535 A. The executive, legislative, and judicial branches of
 4536 state government in each member state shall enforce this compact

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4537 and shall take all actions necessary and appropriate to
4538 effectuate the compact's purposes and intent. The provisions of
4539 this compact and the rules adopted under it have the force and
4540 effect of statutory law.

4541 B. All courts shall take judicial notice of the compact
4542 and its adopted rules in any judicial or administrative
4543 proceeding in a member state pertaining to the subject matter of
4544 this compact which may affect the powers, responsibilities, or
4545 actions of the Interstate Commission.

4546 C. The Interstate Commission is entitled to receive all
4547 service of process in any such proceeding, and has standing to
4548 intervene in the proceeding for all purposes. Failure to provide
4549 service of process to the Interstate Commission renders a
4550 judgment or order void as to the Interstate Commission, this
4551 compact, or its adopted rules.

4552 D. If the Interstate Commission determines that a member
4553 state has defaulted in the performance of its obligations or
4554 responsibilities under this compact, or the bylaws or the
4555 adopted rules, the Interstate Commission shall:

4556 1. Provide written notice to the defaulting state and
4557 other member states of the nature of the default, the means of
4558 curing the default, and any action taken by the Interstate
4559 Commission. The Interstate Commission must specify the
4560 conditions by which the defaulting state must cure its default.

4561 2. Provide remedial training and specific technical
4562 assistance regarding the default.

4563 3. If the defaulting state fails to cure the default,
4564 terminate the defaulting state from the compact upon an

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4565 affirmative vote of a majority of the member states and all
4566 rights, privileges, and benefits conferred by this compact shall
4567 be terminated from the effective date of termination. A cure of
4568 the default does not relieve the offending state of obligations
4569 or liabilities incurred during the period of the default.

4570 E. Suspension or termination of membership in the compact
4571 may not be imposed on a member until all other means of securing
4572 compliance have been exhausted. Notice of the intent to suspend
4573 or terminate membership must be given by the Interstate
4574 Commission to the Governor, the majority and minority leaders of
4575 the defaulting state's legislature, and each of the member
4576 states.

4577 F. A state that has been suspended or terminated is
4578 responsible for all assessments, obligations, and liabilities
4579 incurred through the effective date of suspension or
4580 termination, including obligations, the performance of which
4581 extends beyond the effective date of suspension or termination.

4582 G. The remaining member states of the Interstate
4583 Commission do not bear any costs arising from a state that has
4584 been found to be in default or that has been suspended or
4585 terminated from the compact, unless otherwise mutually agreed
4586 upon in writing between the Interstate Commission and the
4587 defaulting state.

4588 H. A defaulting state may appeal the action of the
4589 Interstate Commission by petitioning the United States District
4590 Court for the District of Columbia or the federal district where
4591 the Interstate Commission has its principal offices. The
4592 prevailing party shall be awarded all costs of such litigation,

4593 including reasonable attorney's fees.

4594 I. The Interstate Commission shall attempt, upon the
 4595 request of a member state, to resolve disputes that are subject
 4596 to the compact and that may arise among member states and
 4597 between member and nonmember states. The Interstate Commission
 4598 shall promulgate a rule providing for both mediation and binding
 4599 dispute resolution for disputes as appropriate.

4600 1. The Interstate Commission, in the reasonable exercise
 4601 of its discretion, shall enforce the provisions and rules of
 4602 this compact.

4603 2. The Interstate Commission may, by majority vote of the
 4604 members, initiate legal action in the United States District
 4605 Court for the District of Columbia or, at the discretion of the
 4606 Interstate Commission, in the federal district where the
 4607 Interstate Commission has its principal offices to enforce
 4608 compliance with the provisions of the compact, or its
 4609 promulgated rules and bylaws, against a member state in default.
 4610 The relief sought may include both injunctive relief and
 4611 damages. In the event judicial enforcement is necessary, the
 4612 prevailing party shall be awarded all costs of such litigation,
 4613 including reasonable attorney's fees.

4614 3. The remedies herein are not the exclusive remedies of
 4615 the Interstate Commission. The Interstate Commission may avail
 4616 itself of any other remedies available under state law or the
 4617 regulation of a profession.

4618

4619 ARTICLE XIV

4620

4621 FINANCING OF THE INTERSTATE COMMISSION.--

4622 A. The Interstate Commission shall pay, or provide for the
 4623 payment of, the reasonable expenses of its establishment,
 4624 organization, and ongoing activities.

4625 B. The Interstate Commission may levy on and collect an
 4626 annual assessment from each member state to cover the cost of
 4627 the operations and activities of the Interstate Commission and
 4628 its staff which must be in a total amount sufficient to cover
 4629 the Interstate Commission's annual budget as approved each year.
 4630 The aggregate annual assessment amount shall be allocated based
 4631 upon a formula to be determined by the Interstate Commission,
 4632 which shall adopt a rule binding upon all member states.

4633 C. The Interstate Commission may not incur any obligation
 4634 of any kind before securing the funds adequate to meet the
 4635 obligation and the Interstate Commission may not pledge the
 4636 credit of any of the member states, except by and with the
 4637 permission of the member state.

4638 D. The Interstate Commission shall keep accurate accounts
 4639 of all receipts and disbursements. The receipts and
 4640 disbursements of the Interstate Commission are subject to audit
 4641 and accounting procedures established under its bylaws. However,
 4642 all receipts and disbursements of funds handled by the
 4643 Interstate Commission shall be audited yearly by a certified or
 4644 licensed public accountant, and the report of the audit shall be
 4645 included in and become part of the annual report of the
 4646 Interstate Commission.

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4648 ARTICLE XV

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MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT.--

A. Any state is eligible to become a member state.

B. The compact shall take effect and be binding upon legislative enactment of the compact into law by not less than 10 of the states. The effective date shall be no earlier than December 1, 2007. Thereafter, it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis before adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. An amendment does not become effective and binding upon the Interstate Commission and the member states until the amendment is enacted into law by unanimous consent of the member states.

ARTICLE XVI

WITHDRAWAL AND DISSOLUTION.--

A. Once in effect, the compact continues in force and remains binding upon each and every member state, provided that a member state may withdraw from the compact, specifically repealing the statute that enacted the compact into law.

1. Withdrawal from the compact occurs when a statute repealing its membership is enacted by the state, but does not take effect until 1 year after the effective date of the statute

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4677 and until written notice of the withdrawal has been given by the
4678 withdrawing state to the Governor of each other member state.

4679 2. The withdrawing state must immediately notify the
4680 chairperson of the Interstate Commission in writing upon the
4681 introduction of legislation repealing this compact in the
4682 withdrawing state. The Interstate Commission shall notify the
4683 other member states of the withdrawing state's intent to
4684 withdraw within 60 days after its receipt thereof.

4685 3. A withdrawing state is responsible for all assessments,
4686 obligations, and liabilities incurred through the effective date
4687 of withdrawal, including obligations, the performance of which
4688 extend beyond the effective date of withdrawal.

4689 4. Reinstatement following withdrawal of a member state
4690 shall occur upon the withdrawing state reenacting the compact or
4691 upon such later date as determined by the Interstate Commission.

4692 B. This compact shall dissolve effective upon the date of
4693 the withdrawal or default of the member state which reduces the
4694 membership in the compact to one member state.

4695 C. Upon the dissolution of this compact, the compact
4696 becomes void and has no further force or effect, and the
4697 business and affairs of the Interstate Commission shall be
4698 concluded and surplus funds shall be distributed in accordance
4699 with the bylaws.

4700

4701 ARTICLE XVII

4702

4703 SEVERABILITY AND CONSTRUCTION.--

4704 A. The provisions of this compact shall be severable, and

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4705 | if any phrase, clause, sentence, or provision is deemed
4706 | unenforceable, the remaining provisions of the compact shall be
4707 | enforceable.

4708 | B. The provisions of this compact shall be liberally
4709 | construed to effectuate its purposes.

4710 | C. This compact does not prohibit the applicability of
4711 | other interstate compacts to which the states are members.

4712 |

4713 | ARTICLE XVIII

4714 |

4715 | BINDING EFFECT OF COMPACT AND OTHER LAWS.--

4716 | A. This compact does not prevent the enforcement of any
4717 | other law of a member state that is not inconsistent with this
4718 | compact.

4719 | B. All member states' laws conflicting with this compact
4720 | are superseded to the extent of the conflict.

4721 | C. All lawful actions of the Interstate Commission,
4722 | including all rules and bylaws promulgated by the Interstate
4723 | Commission, are binding upon the member states.

4724 | D. All agreements between the Interstate Commission and
4725 | the member states are binding in accordance with their terms.

4726 | E. If any part of this compact exceeds the constitutional
4727 | limits imposed on the legislature of any member state, the
4728 | provision shall be ineffective to the extent of the conflict
4729 | with the constitutional provision in question in that member
4730 | state.

4731 | Reviser's note.--Amended to confirm the insertion of
4732 | the word "of" by the editors.

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4733 Section 95. Subsection (1) of section 1001.395, Florida
 4734 Statutes, as amended by section 1 of chapter 2009-3, Laws of
 4735 Florida, is amended to read:

4736 1001.395 District school board members; compensation.--

4737 (1) Each member of the district school board shall receive
 4738 a base salary, the amounts indicated in this section, based on
 4739 the population of the county the district school board member
 4740 serves. In addition, compensation shall be made for population
 4741 increments over the minimum for each population group, which
 4742 shall be determined by multiplying the population in excess of
 4743 the minimum for the group times the group rate. The product of
 4744 such calculation shall be added to the base salary to determine
 4745 the adjusted base salary. The adjusted base salaries of district
 4746 school board members shall be increased annually as provided for
 4747 in s. 145.19.

4748

4749

Pop. Group	County Pop.	Range	Base Salary	Group Rate
	Minimum	Maximum		
I	-0-	9,999	\$5,000	\$0.08330
II	10,000	49,999	5,833	0.020830

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4757	III	50,000	99,999	6,666	0.016680
4758					
4759	IV	100,000	199,999	7,500	0.008330
4760					
4761	V	200,000	399,999	8,333	0.004165
4762					
4763	VI	400,000	999,999	9,166	0.001390
4764					
4765	VII	1,000,000		10,000	0.000000
4766					
4767					

~~District school board member salaries negotiated on or after November of 2006 shall remain in effect up to the date of the 2007-2008 calculation provided pursuant to s. 145.19.~~

Reviser's note.--Amended to delete a provision that has served its purpose.

Section 96. Paragraph (e) of subsection (4) of section 1002.36, Florida Statutes, is amended to read:

1002.36 Florida School for the Deaf and the Blind.--

(4) BOARD OF TRUSTEES.--

(e) The board of trustees is invested with full power and authority to:

1. Appoint a president, faculty, teachers, and other

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4780 employees and remove the same as in its judgment may be best and
 4781 fix their compensation.

4782 2. Procure professional services, such as medical, mental
 4783 health, architectural, and engineering.

4784 3. Procure legal services without the prior written
 4785 approval of the Attorney General.

4786 4. Determine eligibility of students and procedure for
 4787 admission.

4788 5. Provide for the students of the school necessary
 4789 bedding, clothing, food, and medical attendance and such other
 4790 things as may be proper for the health and comfort of the
 4791 students without cost to their parents, except that the board of
 4792 trustees may set tuition and other fees for nonresidents.

4793 6. Provide for the proper keeping of accounts and records
 4794 and for budgeting of funds.

4795 7. Enter into contracts.

4796 8. Sue and be sued.

4797 9. Secure public liability insurance.

4798 10. Do and perform every other matter or thing requisite
 4799 to the proper management, maintenance, support, and control of
 4800 the school at the highest efficiency economically possible, the
 4801 board of trustees taking into consideration the purposes of the
 4802 establishment.

4803 11. Receive gifts, donations, and bequests of money or
 4804 property, real or personal, tangible or intangible, from any
 4805 person, firm, corporation, or other legal entity. However, the
 4806 board of trustees may not obligate the state to any expenditure
 4807 or policy that is not specifically authorized by law. If the

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4808 bill of sale, will, trust indenture, deed, or other legal
 4809 conveyance specifies terms and conditions concerning the use of
 4810 such money or property, the board of trustees shall observe such
 4811 terms and conditions.

4812 12. Deposit outside the State Treasury such moneys as are
 4813 received as gifts, donations, or bequests and may disburse and
 4814 expend such moneys, upon its own warrant, for the use and
 4815 benefit of the Florida School for the Deaf and the Blind and its
 4816 students, as the board of trustees deems to be in the best
 4817 interest of the school and its students. Such money or property
 4818 shall not constitute or be considered a part of any legislative
 4819 appropriation.

4820 13. Sell or convey by bill of sale, deed, or other legal
 4821 instrument any property, real or personal, received as a gift,
 4822 donation, or bequest, upon such terms and conditions as the
 4823 board of trustees deems to be in the best interest of the school
 4824 and its students.

4825 14. Invest such moneys in securities enumerated under s.
 4826 215.47(1), (2)(c), (3), (4), and (10) ~~215.47(1), (2)(e), (3),~~
 4827 ~~(4), and (9)~~, and in The Common Fund, an Investment Management
 4828 Fund exclusively for nonprofit educational institutions.

4829 Reviser's note.--Amended to conform to the renumbering
 4830 of subsections resulting from the addition of a new
 4831 subsection (7) by s. 3, ch. 2008-31, Laws of Florida.

4832 Section 97. Subsection (4) of section 1006.035, Florida
 4833 Statutes, is amended to read:

4834 1006.035 Dropout reentry and mentor project.--

4835 (4) In each of the four locations, the project shall

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4836 identify 15 high-achieving minority students to serve as one-on-
 4837 one mentors to the students who are being reentered in school.
 4838 An alumnus of Bethune-Cookman University College, Florida
 4839 Memorial University College, Edward Waters College, or Florida
 4840 Agricultural and Mechanical University shall be assigned to each
 4841 pair of students. Student mentors and alumni must serve as role
 4842 models and resource people for the students who are being
 4843 reentered in school.

4844 Reviser's note.--Amended to conform to the correct
 4845 names of Bethune-Cookman University and Florida
 4846 Memorial University.

4847 Section 98. Subsection (1) of section 1006.59, Florida
 4848 Statutes, is amended to read:

4849 1006.59 The Historically Black College and University
 4850 Library Improvement Program.--

4851 (1) It is the intent of the Legislature to enhance the
 4852 quality of the libraries at Florida Agricultural and Mechanical
 4853 University, Bethune-Cookman University College, Edward Waters
 4854 College, and Florida Memorial University College.

4855 Reviser's note.--Amended to conform to the correct
 4856 names of Bethune-Cookman University and Florida
 4857 Memorial University.

4858 Section 99. Paragraph (c) of subsection (3) of section
 4859 1008.22, Florida Statutes, is amended to read:

4860 1008.22 Student assessment program for public schools.--

4861 (3) STATEWIDE ASSESSMENT PROGRAM.--The commissioner shall
 4862 design and implement a statewide program of educational
 4863 assessment that provides information for the improvement of the

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4864 operation and management of the public schools, including
4865 schools operating for the purpose of providing educational
4866 services to youth in Department of Juvenile Justice programs.
4867 The commissioner may enter into contracts for the continued
4868 administration of the assessment, testing, and evaluation
4869 programs authorized and funded by the Legislature. Contracts may
4870 be initiated in 1 fiscal year and continue into the next and may
4871 be paid from the appropriations of either or both fiscal years.
4872 The commissioner is authorized to negotiate for the sale or
4873 lease of tests, scoring protocols, test scoring services, and
4874 related materials developed pursuant to law. Pursuant to the
4875 statewide assessment program, the commissioner shall:

4876 (c) Develop and implement a student achievement testing
4877 program known as the Florida Comprehensive Assessment Test
4878 (FCAT) as part of the statewide assessment program to measure a
4879 student's content knowledge and skills in reading, writing,
4880 science, and mathematics. Other content areas may be included as
4881 directed by the commissioner. Comprehensive assessments of
4882 reading and mathematics shall be administered annually in grades
4883 3 through 10. Comprehensive assessments of writing and science
4884 shall be administered at least once at the elementary, middle,
4885 and high school levels. End-of-course assessments for a subject
4886 may be administered in addition to the comprehensive assessments
4887 required for that subject under this paragraph. An end-of-course
4888 assessment must be rigorous, statewide, standardized, and
4889 developed or approved by the department. The content knowledge
4890 and skills assessed by comprehensive and end-of-course
4891 assessments must be aligned to the core curricular content

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4892 established in the Sunshine State Standards. The commissioner
4893 may select one or more nationally developed comprehensive
4894 examinations, which may include, but need not be limited to,
4895 examinations for a College Board Advanced Placement course,
4896 International Baccalaureate course, or Advanced International
4897 Certificate of Education course or industry-approved
4898 examinations to earn national industry certifications as defined
4899 in s. 1003.492, for use as end-of-course assessments under this
4900 paragraph, if the commissioner determines that the content
4901 knowledge and skills assessed by the examinations meet or exceed
4902 the grade level expectations for the core curricular content
4903 established for the course in the Next Generation Sunshine State
4904 Standards. The commissioner may collaborate with the American
4905 Diploma Project in the adoption or development of rigorous end-
4906 of-course assessments that are aligned to the Next Generation
4907 Sunshine State Standards. The testing program must be designed
4908 as follows:

4909 1. The tests shall measure student skills and competencies
4910 adopted by the State Board of Education as specified in
4911 paragraph (a). The tests must measure and report student
4912 proficiency levels of all students assessed in reading, writing,
4913 mathematics, and science. The commissioner shall provide for the
4914 tests to be developed or obtained, as appropriate, through
4915 contracts and project agreements with private vendors, public
4916 vendors, public agencies, postsecondary educational
4917 institutions, or school districts. The commissioner shall obtain
4918 input with respect to the design and implementation of the
4919 testing program from state educators, assistive technology

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4920 experts, and the public.

4921 2. The testing program shall be composed of criterion-
4922 referenced tests that shall, to the extent determined by the
4923 commissioner, include test items that require the student to
4924 produce information or perform tasks in such a way that the core
4925 content knowledge and skills he or she uses can be measured.

4926 3. Beginning with the 2008-2009 school year, the
4927 commissioner shall discontinue administration of the selected-
4928 response test items on the comprehensive assessments of writing.
4929 Beginning with the 2012-2013 school year, the comprehensive
4930 assessments of writing shall be composed of a combination of
4931 selected-response test items, short-response performance tasks,
4932 and extended-response performance tasks, which shall measure a
4933 student's content knowledge of writing, including, but not
4934 limited to, paragraph and sentence structure, sentence
4935 construction, grammar and usage, punctuation, capitalization,
4936 spelling, parts of speech, verb tense, irregular verbs, subject-
4937 verb agreement, and noun-pronoun agreement.

4938 4. A score shall be designated for each subject area
4939 tested, below which score a student's performance is deemed
4940 inadequate. The school districts shall provide appropriate
4941 remedial instruction to students who score below these levels.

4942 5. Except as provided in s. 1003.428(8)(b) or s.
4943 1003.43(11)(b), students must earn a passing score on the grade
4944 10 assessment test described in this paragraph or attain
4945 concordant scores as described in subsection (10) ~~(9)~~ in
4946 reading, writing, and mathematics to qualify for a standard high
4947 school diploma. The State Board of Education shall designate a

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4948 | passing score for each part of the grade 10 assessment test. In
4949 | establishing passing scores, the state board shall consider any
4950 | possible negative impact of the test on minority students. The
4951 | State Board of Education shall adopt rules which specify the
4952 | passing scores for the grade 10 FCAT. Any such rules, which have
4953 | the effect of raising the required passing scores, shall apply
4954 | only to students taking the grade 10 FCAT for the first time
4955 | after such rules are adopted by the State Board of Education.

4956 | 6. Participation in the testing program is mandatory for
4957 | all students attending public school, including students served
4958 | in Department of Juvenile Justice programs, except as otherwise
4959 | prescribed by the commissioner. If a student does not
4960 | participate in the statewide assessment, the district must
4961 | notify the student's parent and provide the parent with
4962 | information regarding the implications of such nonparticipation.
4963 | A parent must provide signed consent for a student to receive
4964 | classroom instructional accommodations that would not be
4965 | available or permitted on the statewide assessments and must
4966 | acknowledge in writing that he or she understands the
4967 | implications of such instructional accommodations. The State
4968 | Board of Education shall adopt rules, based upon recommendations
4969 | of the commissioner, for the provision of test accommodations
4970 | for students in exceptional education programs and for students
4971 | who have limited English proficiency. Accommodations that negate
4972 | the validity of a statewide assessment are not allowable in the
4973 | administration of the FCAT. However, instructional
4974 | accommodations are allowable in the classroom if included in a
4975 | student's individual education plan. Students using

4976 instructional accommodations in the classroom that are not
 4977 allowable as accommodations on the FCAT may have the FCAT
 4978 requirement waived pursuant to the requirements of s.
 4979 1003.428(8)(b) or s. 1003.43(11)(b).

4980 7. A student seeking an adult high school diploma must
 4981 meet the same testing requirements that a regular high school
 4982 student must meet.

4983 8. District school boards must provide instruction to
 4984 prepare students to demonstrate proficiency in the core
 4985 curricular content established in the Next Generation Sunshine
 4986 State Standards adopted under s. 1003.41, including the core
 4987 content knowledge and skills necessary for successful grade-to-
 4988 grade progression and high school graduation. If a student is
 4989 provided with instructional accommodations in the classroom that
 4990 are not allowable as accommodations in the statewide assessment
 4991 program, as described in the test manuals, the district must
 4992 inform the parent in writing and must provide the parent with
 4993 information regarding the impact on the student's ability to
 4994 meet expected proficiency levels in reading, writing, and
 4995 mathematics. The commissioner shall conduct studies as necessary
 4996 to verify that the required core curricular content is part of
 4997 the district instructional programs.

4998 9. District school boards must provide opportunities for
 4999 students to demonstrate an acceptable level of performance on an
 5000 alternative standardized assessment approved by the State Board
 5001 of Education following enrollment in summer academies.

5002 10. The Department of Education must develop, or select,
 5003 and implement a common battery of assessment tools that will be

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5004 used in all juvenile justice programs in the state. These tools
5005 must accurately measure the core curricular content established
5006 in the Sunshine State Standards.

5007 11. For students seeking a special diploma pursuant to s.
5008 1003.438, the Department of Education must develop or select and
5009 implement an alternate assessment tool that accurately measures
5010 the core curricular content established in the Sunshine State
5011 Standards for students with disabilities under s. 1003.438.

5012 12. The Commissioner of Education shall establish
5013 schedules for the administration of statewide assessments and
5014 the reporting of student test results. The commissioner shall,
5015 by August 1 of each year, notify each school district in writing
5016 and publish on the department's Internet website the testing and
5017 reporting schedules for, at a minimum, the school year following
5018 the upcoming school year. The testing and reporting schedules
5019 shall require that:

5020 a. There is the latest possible administration of
5021 statewide assessments and the earliest possible reporting to the
5022 school districts of student test results which is feasible
5023 within available technology and specific appropriations;
5024 however, test results must be made available no later than the
5025 final day of the regular school year for students.

5026 b. Beginning with the 2010-2011 school year, a
5027 comprehensive statewide assessment of writing is not
5028 administered earlier than the week of March 1 and a
5029 comprehensive statewide assessment of any other subject is not
5030 administered earlier than the week of April 15.

5031 c. A statewide standardized end-of-course assessment is

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5032 administered within the last 2 weeks of the course.

5033

5034 The commissioner may, based on collaboration and input from
 5035 school districts, design and implement student testing programs,
 5036 for any grade level and subject area, necessary to effectively
 5037 monitor educational achievement in the state, including the
 5038 measurement of educational achievement of the Sunshine State
 5039 Standards for students with disabilities. Development and
 5040 refinement of assessments shall include universal design
 5041 principles and accessibility standards that will prevent any
 5042 unintended obstacles for students with disabilities while
 5043 ensuring the validity and reliability of the test. These
 5044 principles should be applicable to all technology platforms and
 5045 assistive devices available for the assessments. The field
 5046 testing process and psychometric analyses for the statewide
 5047 assessment program must include an appropriate percentage of
 5048 students with disabilities and an evaluation or determination of
 5049 the effect of test items on such students.

5050 Reviser's note.--Amended to confirm the editorial
 5051 substitution of a reference to subsection (10) for a
 5052 reference to subsection (9) to conform to the
 5053 redesignation of subsection (9) as subsection (10) by
 5054 s. 18, ch. 2008-235, Laws of Florida.

5055 Section 100. Paragraph (a) of subsection (3) of section
 5056 1008.34, Florida Statutes, is amended to read:

5057 1008.34 School grading system; school report cards;
 5058 district grade.--

5059 (3) DESIGNATION OF SCHOOL GRADES.--

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5060 (a) Each school that has students who are tested and
 5061 included in the school grading system shall receive a school
 5062 grade, except as follows:

5063 1. A school shall not receive a school grade if the number
 5064 of its students tested and included in the school grading system
 5065 is less ~~are fewer~~ than the minimum sample size necessary, based
 5066 on accepted professional practice, for statistical reliability
 5067 and prevention of the unlawful release of personally
 5068 identifiable student data under s. 1002.22 or 20 U.S.C. s.
 5069 1232g.

5070 2. An alternative school may choose to receive a school
 5071 grade under this section or a school improvement rating under s.
 5072 1008.341.

5073 3. A school that serves any combination of students in
 5074 kindergarten through grade 3 which does not receive a school
 5075 grade because its students are not tested and included in the
 5076 school grading system shall receive the school grade designation
 5077 of a K-3 feeder pattern school identified by the Department of
 5078 Education and verified by the school district. A school feeder
 5079 pattern exists if at least 60 percent of the students in the
 5080 school serving a combination of students in kindergarten through
 5081 grade 3 are scheduled to be assigned to the graded school.

5082 Reviser's note.--Amended to confirm the substitution
 5083 by the editors of the words "is less" for the words
 5084 "are fewer" to improve clarity and facilitate correct
 5085 interpretation.

5086 Section 101. Subsection (2) of section 1008.341, Florida
 5087 Statutes, is amended to read:

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5088 | 1008.341 School improvement rating for alternative
 5089 | schools.--

5090 | (2) SCHOOL IMPROVEMENT RATING.--An alternative school that
 5091 | provides dropout prevention and academic intervention services
 5092 | pursuant to s. 1003.53 shall receive a school improvement rating
 5093 | pursuant to this section. However, an alternative school shall
 5094 | not receive a school improvement rating if the number of its
 5095 | students for whom student performance data is available for the
 5096 | current year and previous year is less ~~are fewer~~ than the
 5097 | minimum sample size necessary, based on accepted professional
 5098 | practice, for statistical reliability and prevention of the
 5099 | unlawful release of personally identifiable student data under
 5100 | s. 1002.22 or 20 U.S.C. s. 1232g. The school improvement rating
 5101 | shall identify an alternative school as having one of the
 5102 | following ratings defined according to rules of the State Board
 5103 | of Education:

5104 | (a) "Improving" means the students attending the school
 5105 | are making more academic progress than when the students were
 5106 | served in their home schools.

5107 | (b) "Maintaining" means the students attending the school
 5108 | are making progress equivalent to the progress made when the
 5109 | students were served in their home schools.

5110 | (c) "Declining" means the students attending the school
 5111 | are making less academic progress than when the students were
 5112 | served in their home schools.

5113 |
 5114 | The school improvement rating shall be based on a comparison of
 5115 | student performance data for the current year and previous year.

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5116 Schools that improve at least one level or maintain an
5117 "improving" rating pursuant to this section are eligible for
5118 school recognition awards pursuant to s. 1008.36.

5119 Reviser's note.--Amended to confirm the substitution
5120 by the editors of the words "is less" for the words
5121 "are fewer" to improve clarity and facilitate correct
5122 interpretation.

5123 Section 102. Subsection (5) of section 1008.345, Florida
5124 Statutes, is amended to read:

5125 1008.345 Implementation of state system of school
5126 improvement and education accountability.--

5127 (5) The commissioner shall report to the Legislature and
5128 recommend changes in state policy necessary to foster school
5129 improvement and education accountability. Included in the report
5130 shall be a list of the schools, including schools operating for
5131 the purpose of providing educational services to youth in
5132 Department of Juvenile Justice programs, for which district
5133 school boards have developed assistance and intervention plans
5134 and an analysis of the various strategies used by the school
5135 boards. School reports shall be distributed pursuant to this
5136 subsection and s. 1001.42(18)(e) ~~1001.42(16)(e)~~ and according to
5137 rules adopted by the State Board of Education.

5138 Reviser's note.--Amended to conform to the renumbering
5139 of subsections by s. 9, ch. 2008-108, Laws of Florida.

5140 Section 103. Subsection (1) and paragraph (a) of
5141 subsection (5) of section 1009.73, Florida Statutes, are amended
5142 to read:

5143 1009.73 Mary McLeod Bethune Scholarship Program.--

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5144 (1) There is established the Mary McLeod Bethune
 5145 Scholarship Program to be administered by the Department of
 5146 Education pursuant to this section and rules of the State Board
 5147 of Education. The program shall provide matching grants for
 5148 private sources that raise money for scholarships to be awarded
 5149 to students who attend Florida Agricultural and Mechanical
 5150 University, Bethune-Cookman University College, Edward Waters
 5151 College, or Florida Memorial University College.

5152 (5) (a) In order to be eligible to receive a scholarship
 5153 pursuant to this section, an applicant must:

5154 1. Meet the general eligibility requirements set forth in
 5155 s. 1009.40.

5156 2. Be accepted at Florida Agricultural and Mechanical
 5157 University, Bethune-Cookman University College, Edward Waters
 5158 College, or Florida Memorial University College.

5159 3. Enroll as a full-time undergraduate student.

5160 4. Earn a 3.0 grade point average on a 4.0 scale, or the
 5161 equivalent, for high school subjects creditable toward a
 5162 diploma.

5163 Reviser's note.--Amended to conform to the correct
 5164 names of Bethune-Cookman University and Florida
 5165 Memorial University.

5166 Section 104. Paragraph (b) of subsection (1), paragraphs
 5167 (d), (h), and (i) of subsection (2), paragraphs (f) and (g) of
 5168 subsection (6), and paragraph (b) of subsection (7) of section
 5169 1012.56, Florida Statutes, are amended to read:

5170 1012.56 Educator certification requirements.--

5171 (1) APPLICATION.--Each person seeking certification

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5172 pursuant to this chapter shall submit a completed application
5173 containing the applicant's social security number to the
5174 Department of Education and remit the fee required pursuant to
5175 s. 1012.59 and rules of the State Board of Education. Pursuant
5176 to the federal Personal Responsibility and Work Opportunity
5177 Reconciliation Act of 1996, each party is required to provide
5178 his or her social security number in accordance with this
5179 section. Disclosure of social security numbers obtained through
5180 this requirement is limited to the purpose of administration of
5181 the Title IV-D program of the Social Security Act for child
5182 support enforcement. Pursuant to s. 120.60, the department shall
5183 issue within 90 calendar days after the stamped receipted date
5184 of the completed application:

5185 (b) If the applicant meets the requirements and if
5186 requested by an employing school district or an employing
5187 private school with a professional education competence
5188 demonstration program pursuant to paragraphs (6) (f) and (8) (b)
5189 ~~(5) (f) and (7) (b)~~, a temporary certificate covering the
5190 classification, level, and area for which the applicant is
5191 deemed qualified and an official statement of status of
5192 eligibility; or

5193
5194 The statement of status of eligibility must advise the applicant
5195 of any qualifications that must be completed to qualify for
5196 certification. Each statement of status of eligibility is valid
5197 for 3 years after its date of issuance, except as provided in
5198 paragraph (2) (d).

5199 (2) ELIGIBILITY CRITERIA.--To be eligible to seek

5200 certification, a person must:

5201 (d) Submit to background screening in accordance with
 5202 subsection (10) ~~(9)~~. If the background screening indicates a
 5203 criminal history or if the applicant acknowledges a criminal
 5204 history, the applicant's records shall be referred to the
 5205 investigative section in the Department of Education for review
 5206 and determination of eligibility for certification. If the
 5207 applicant fails to provide the necessary documentation requested
 5208 by the department within 90 days after the date of the receipt
 5209 of the certified mail request, the statement of eligibility and
 5210 pending application shall become invalid.

5211 (h) Demonstrate mastery of subject area knowledge,
 5212 pursuant to subsection (5) ~~(4)~~.

5213 (i) Demonstrate mastery of professional preparation and
 5214 education competence, pursuant to subsection (6) ~~(5)~~.

5215 (6) MASTERY OF PROFESSIONAL PREPARATION AND EDUCATION
 5216 COMPETENCE.--Acceptable means of demonstrating mastery of
 5217 professional preparation and education competence are:

5218 (f) Completion of professional preparation courses as
 5219 specified in state board rule, successful completion of a
 5220 professional education competence demonstration program pursuant
 5221 to paragraph (8) (b) ~~(7) (b)~~, and achievement of a passing score
 5222 on the professional education competency examination required by
 5223 state board rule;

5224 (g) Successful completion of a professional preparation
 5225 alternative certification and education competency program,
 5226 outlined in paragraph (8) (a) ~~(7) (a)~~; or

5227 (7) TYPES AND TERMS OF CERTIFICATION.--

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5228 (b) The department shall issue a temporary certificate to
 5229 any applicant who completes the requirements outlined in
 5230 paragraphs (2) (a)-(f) and completes the subject area content
 5231 requirements specified in state board rule or demonstrates
 5232 mastery of subject area knowledge pursuant to subsection (5) ~~(4)~~
 5233 and holds an accredited degree or a degree approved by the
 5234 Department of Education at the level required for the subject
 5235 area specialization in state board rule.

5236
 5237 Each temporary certificate is valid for 3 school fiscal years
 5238 and is nonrenewable. However, the requirement in paragraph
 5239 (2) (g) must be met within 1 calendar year of the date of
 5240 employment under the temporary certificate. Individuals who are
 5241 employed under contract at the end of the 1 calendar year time
 5242 period may continue to be employed through the end of the school
 5243 year in which they have been contracted. A school district shall
 5244 not employ, or continue the employment of, an individual in a
 5245 position for which a temporary certificate is required beyond
 5246 this time period if the individual has not met the requirement
 5247 of paragraph (2) (g). The State Board of Education shall adopt
 5248 rules to allow the department to extend the validity period of a
 5249 temporary certificate for 2 years when the requirements for the
 5250 professional certificate, not including the requirement in
 5251 paragraph (2) (g), were not completed due to the serious illness
 5252 or injury of the applicant or other extraordinary extenuating
 5253 circumstances. The department shall reissue the temporary
 5254 certificate for 2 additional years upon approval by the
 5255 Commissioner of Education. A written request for reissuance of

5256 | the certificate shall be submitted by the district school
 5257 | superintendent, the governing authority of a university lab
 5258 | school, the governing authority of a state-supported school, or
 5259 | the governing authority of a private school.

5260 | Reviser's note.--Amended to conform to the renumbering
 5261 | of subunits by s. 25, ch. 2008-235, Laws of Florida.

5262 | Section 105. Paragraph (a) of subsection (4) of section
 5263 | 1012.795, Florida Statutes, is amended to read:

5264 | 1012.795 Education Practices Commission; authority to
 5265 | discipline.--

5266 | (4) (a) An educator certificate that has been suspended
 5267 | under this section is automatically reinstated at the end of the
 5268 | suspension period, provided the certificate did not expire
 5269 | during the period of suspension. If the certificate expired
 5270 | during the period of suspension, the holder of the former
 5271 | certificate may secure a new certificate by making application
 5272 | therefor and by meeting the certification requirements of the
 5273 | state board current at the time of the application for the new
 5274 | certificate. An educator certificate suspended pursuant to
 5275 | paragraph (1) (i) ~~(1) (h)~~ may be reinstated only upon notice from
 5276 | the court or the Department of Revenue that the party has
 5277 | complied with the terms of the support order, subpoena, order to
 5278 | show cause, or written agreement.

5279 | Reviser's note.--Amended to conform to the
 5280 | redesignation of paragraph (1) (h) as paragraph (1) (i)
 5281 | by s. 32, ch. 2008-108, Laws of Florida.

5282 | Section 106. Subsection (6) of section 1013.12, Florida
 5283 | Statutes, is amended to read:

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5284 1013.12 Casualty, safety, sanitation, and firesafety
 5285 standards and inspection of property.--

5286 (6) CORRECTIVE ACTION; FIRESAFETY DEFICIENCIES.--Upon
 5287 failure of the board to take corrective action within the time
 5288 designated in the plan of action to correct any firesafety
 5289 deficiency noted under paragraph (2) (d) ~~(2) (e)~~ or paragraph
 5290 (3) (c), the local fire official shall immediately report the
 5291 deficiency to the State Fire Marshal, who shall have enforcement
 5292 authority with respect to educational and ancillary plants and
 5293 educational facilities as provided in chapter 633 for any other
 5294 building or structure.

5295 Reviser's note.--Amended to conform to the
 5296 redesignation of paragraph (2) (c) as paragraph (2) (d)
 5297 by s. 29, ch. 2008-235, Laws of Florida.

5298 Section 107. This act shall take effect on the 60th day
 5299 after adjournment sine die of the session of the Legislature in
 5300 which enacted.