

By Senator Villalobos

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1                                   A reviser's bill to be entitled  
 2           An act relating to the Florida Statutes; amending ss.  
 3           7.06, 11.45, 17.0315, 112.354, 112.361, 112.363,  
 4           120.55, 121.053, 121.081, 121.091, 163.31771,  
 5           163.3180, 175.071, 185.06, 192.001, 192.0105,  
 6           193.1555, 193.503, 193.703, 196.011, 196.075,  
 7           196.1975, 196.1977, 197.402, 200.069, 210.1801,  
 8           211.06, 212.098, 215.211, 238.07, 238.071, 238.09,  
 9           255.043, 260.019, 265.2865, 265.32, 265.606, 265.701,  
 10          282.201, 282.204, 282.318, 282.702, 288.012, 288.021,  
 11          288.0656, 288.1081, 288.1169, 288.1224, 311.12,  
 12          311.121, 311.122, 318.18, 318.21, 321.02, 322.271,  
 13          327.73, 334.044, 337.0261, 337.16, 338.235, 365.172,  
 14          373.046, 373.236, 376.30713, 377.709, 380.06, 394.875,  
 15          394.9082, 395.4036, 397.311, 397.334, 400.141,  
 16          400.474, 403.0872, 403.93345, 403.9336, 408.0361,  
 17          408.05, 408.820, 409.816, 409.908, 409.911, 409.912,  
 18          409.91211, 420.628, 430.04, 440.105, 443.1117,  
 19          445.049, 450.231, 456.041, 466.0067, 472.016, 472.036,  
 20          473.315, 489.119, 494.00321, 494.00611, 494.0066,  
 21          501.1377, 517.191, 526.144, 556.105, 569.19, 589.011,  
 22          627.062, 627.351, 733.817, 817.36, 921.002, 934.02,  
 23          1002.335, 1003.57, 1004.87, 1011.71, and 1011.73,  
 24          F.S.; reenacting ss. 120.52, 381.84(6), 409.905(5),  
 25          624.91(6), and 1013.45(1), F.S.; and repealing ss.  
 26          28.39, 34.205, 39.4086, 282.5001, 282.5002, 282.5003,  
 27          282.5004, 282.5005, 282.5006, 282.5007, 282.5008,  
 28          322.181, 381.912, 382.357, 400.195, and 576.092, F.S.,  
 29          pursuant to s. 11.242, F.S.; deleting provisions that

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30 have expired, have become obsolete, have had their  
31 effect, have served their purpose, or have been  
32 impliedly repealed or superseded; replacing incorrect  
33 cross-references and citations; correcting  
34 grammatical, typographical, and like errors; removing  
35 inconsistencies, redundancies, and unnecessary  
36 repetition in the statutes; improving the clarity of  
37 the statutes and facilitating their correct  
38 interpretation; and confirming the restoration of  
39 provisions unintentionally omitted from republication  
40 in the acts of the Legislature during the amendatory  
41 process; providing an effective date.

42  
43 Be It Enacted by the Legislature of the State of Florida:

44  
45 Section 1. Section 7.06, Florida Statutes, as amended by  
46 section 1 of chapter 2007-222, Laws of Florida, is amended to  
47 read:

48 7.06 Broward County.—The boundary lines of Broward County  
49 are as follows: Beginning on the east boundary of the State of  
50 Florida at a point where the south boundary of township forty-  
51 seven south of range forty-three east, produced easterly, would  
52 intersect the same; thence westerly on said township boundary to  
53 its intersection with the axis or center line of Hillsborough  
54 State Drainage Canal, as at present located and constructed;  
55 thence westerly along the center line of said canal to its  
56 intersection with the range line dividing ranges forty and  
57 forty-one east; thence south on the range line dividing ranges  
58 forty and forty-one east, of township forty-seven south, to the

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59 northeast corner of section twenty-five of township forty-seven,  
60 south, of range forty east; thence due west on the north  
61 boundaries of the sections numbered from twenty-five to thirty,  
62 inclusive, of townships forty-seven south, of ranges thirty-  
63 seven to forty east, inclusive, as the same have been surveyed,  
64 or may hereafter be surveyed, by the authority of the Board of  
65 Trustees of the Internal Improvement Trust Fund, to the  
66 northwest corner of section thirty of township forty-seven  
67 south, of range thirty-seven east; thence continuing due west to  
68 the range line between ranges thirty-four and thirty-five east;  
69 thence southerly on the range line dividing ranges thirty-four  
70 and thirty-five east, to the southwest corner of township fifty-  
71 one south, of range thirty-five east; thence east following the  
72 south line of township fifty-one south, across ranges thirty-  
73 five, thirty-six, thirty-seven, thirty-eight, thirty-nine and  
74 forty, to the southwest corner of township fifty-one south of  
75 range forty-one east; thence north on the range line dividing  
76 ranges forty and forty-one to the northwest corner of section  
77 thirty-one of township fifty-one south, of range forty-one east;  
78 thence east on the north boundary of section thirty-one and  
79 other sections to the waters of the Atlantic Ocean; thence  
80 easterly to the eastern boundary of the State of Florida; thence  
81 northerly along said eastern boundary to the point of beginning.  
82 In addition, the boundary lines of Broward County include the  
83 following: Begin at the northwest corner of section thirty-five,  
84 township fifty-one south, range forty-two east, Miami-Dade ~~Dade~~  
85 County, Florida; thence, southerly following the west line of  
86 section thirty-five, township fifty-one south, range forty-two  
87 east to the intersection with a line which is two hundred and

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88 thirty feet south of and parallel to the north line of section  
89 thirty-five, township fifty-one south, range forty-two east;  
90 thence, easterly following the line which is two hundred and  
91 thirty feet south of and parallel to the north line of section  
92 thirty-five, township fifty-one south, range forty-two east, to  
93 the intersection with the west boundary line of the Town of  
94 Golden Beach; thence, northerly following the west boundary line  
95 of the Town of Golden Beach to the intersection with the north  
96 line of section thirty-five, township fifty-one south, range  
97 forty-two east; thence, westerly following the north line of  
98 section thirty-five, township fifty-one south, range forty-two  
99 east to the point of beginning.

100 Reviser's note.—Amended to conform to the  
101 redesignation of Dade County as Miami-Dade County by  
102 s. 1-4.2 of the Miami-Dade County Code.

103 Section 2. Subsection (1) of section 11.45, Florida  
104 Statutes, is amended to read:

105 11.45 Definitions; duties; authorities; reports; rules.—

106 (1) DEFINITIONS.—As used in ss. 11.40-11.513 ~~11.40-11.515~~,  
107 the term:

108 (a) "Audit" means a financial audit, operational audit, or  
109 performance audit.

110 (b) "County agency" means a board of county commissioners  
111 or other legislative and governing body of a county, however  
112 styled, including that of a consolidated or metropolitan  
113 government, a clerk of the circuit court, a separate or ex  
114 officio clerk of the county court, a sheriff, a property  
115 appraiser, a tax collector, a supervisor of elections, or any  
116 other officer in whom any portion of the fiscal duties of the

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117 above are under law separately placed.

118 (c) "Financial audit" means an examination of financial  
119 statements in order to express an opinion on the fairness with  
120 which they are presented in conformity with generally accepted  
121 accounting principles and an examination to determine whether  
122 operations are properly conducted in accordance with legal and  
123 regulatory requirements. Financial audits must be conducted in  
124 accordance with generally accepted auditing standards and  
125 government auditing standards as adopted by the Board of  
126 Accountancy.

127 (d) "Governmental entity" means a state agency, a county  
128 agency, or any other entity, however styled, that independently  
129 exercises any type of state or local governmental function.

130 (e) "Local governmental entity" means a county agency,  
131 municipality, or special district as defined in s. 189.403, but  
132 does not include any housing authority established under chapter  
133 421.

134 (f) "Management letter" means a statement of the auditor's  
135 comments and recommendations.

136 (g) "Operational audit" means a financial-related audit  
137 whose purpose is to evaluate management's performance in  
138 administering assigned responsibilities in accordance with  
139 applicable laws, administrative rules, and other guidelines and  
140 to determine the extent to which the internal control, as  
141 designed and placed in operation, promotes and encourages the  
142 achievement of management's control objectives in the categories  
143 of compliance, economic and efficient operations, reliability of  
144 financial records and reports, and safeguarding of assets.

145 (h) "Performance audit" means an examination of a program,

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146 activity, or function of a governmental entity, conducted in  
147 accordance with applicable government auditing standards or  
148 auditing and evaluation standards of other appropriate  
149 authoritative bodies. The term includes an examination of issues  
150 related to:

151 1. Economy, efficiency, or effectiveness of the program.

152 2. Structure or design of the program to accomplish its  
153 goals and objectives.

154 3. Adequacy of the program to meet the needs identified by  
155 the Legislature or governing body.

156 4. Alternative methods of providing program services or  
157 products.

158 5. Goals, objectives, and performance measures used by the  
159 agency to monitor and report program accomplishments.

160 6. The accuracy or adequacy of public documents, reports,  
161 or requests prepared under the program by state agencies.

162 7. Compliance of the program with appropriate policies,  
163 rules, or laws.

164 8. Any other issues related to governmental entities as  
165 directed by the Legislative Auditing Committee.

166 (i) "Political subdivision" means a separate agency or unit  
167 of local government created or established by law and includes,  
168 but is not limited to, the following and the officers thereof:  
169 authority, board, branch, bureau, city, commission, consolidated  
170 government, county, department, district, institution,  
171 metropolitan government, municipality, office, officer, public  
172 corporation, town, or village.

173 (j) "State agency" means a separate agency or unit of state  
174 government created or established by law and includes, but is

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175 not limited to, the following and the officers thereof:  
176 authority, board, branch, bureau, commission, department,  
177 division, institution, office, officer, or public corporation,  
178 as the case may be, except any such agency or unit within the  
179 legislative branch of state government other than the Florida  
180 Public Service Commission.

181 Reviser's note.—Amended to conform to the repeal of s.  
182 11.515 by s. 3, ch. 2001-86, Laws of Florida.

183 Section 3. Subsection (3) of section 17.0315, Florida  
184 Statutes, is amended to read:

185 17.0315 Financial and cash management system; task force.—

186 (3) State agency administrative services directors, finance  
187 and accounting officers, and budget directors within all  
188 branches of state government shall fully cooperate with the task  
189 force in its development of the strategic plan. The task force  
190 shall submit to the Governor, the President of the Senate, and  
191 the Speaker of the House of Representatives a strategic business  
192 plan that includes, but is not limited to:

193 (a) Identifying problems and opportunities imposed by  
194 current law and the current administration with respect to  
195 existing state accounting and cash management systems;

196 (b) Providing developmental solutions to known failures,  
197 including, but not limited to, those identified by external  
198 review and audit reports;

199 (c) Recommending business processes, requirements, and  
200 governance structure to support a standardized statewide  
201 accounting and cash management system;

202 (d) Evaluating alternative funding approaches to equitably  
203 distribute common accounting infrastructure costs across all

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204 participating users; and

205 (e) Providing an enterprise-wide work product that can be  
206 used as the basis for a revised competitive procurement process  
207 for the implementation of a successor system.

208

209 ~~The Chief Financial Officer shall submit the initial report,~~  
210 ~~along with draft legislation recommended to implement a~~  
211 ~~standardized statewide financial and cash management system, by~~  
212 ~~February 1, 2009.~~

213 Reviser's note.—Amended to delete a provision  
214 requiring submittal of an initial report and draft  
215 legislation by February 1, 2009.

216 Section 4. Section 28.39, Florida Statutes, is repealed.

217 Reviser's note.—Repealed to delete material relating  
218 to court fees and costs imposed on or before June 30,  
219 2004, and repealed effective July 1, 2004.

220 Section 5. Section 34.205, Florida Statutes, is repealed.

221 Reviser's note.—Repealed to delete material relating  
222 to court fees and costs imposed on or before June 30,  
223 2004, and repealed effective July 1, 2004.

224 Section 6. Section 39.4086, Florida Statutes, is repealed.

225 Reviser's note.—Repealed to delete material relating  
226 to a 3-year pilot program for attorneys ad litem and  
227 providing for a final report by October 1, 2003.

228 Section 7. Section 112.354, Florida Statutes, is amended to  
229 read:

230 112.354 Eligibility for supplement.—Each retired member or,  
231 if applicable, a joint annuitant, except any person receiving  
232 survivor benefits under the teachers' retirement system of the



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233 state in accordance with s. 238.07(18) ~~238.07(16)~~, shall be  
234 entitled to receive a supplement computed in accordance with s.  
235 112.355 upon:

236 (1) Furnishing to the Department of Management Services  
237 evidence from the Social Security Administration setting forth  
238 the retired member's social security benefit or certifying the  
239 noninsured status of the retired member under the Social  
240 Security Act, and

241 (2) Filing written application with the Department of  
242 Management Services for such supplement.

243 Reviser's note.—Amended to confirm an editorial  
244 substitution made to conform to the editorial  
245 redesignation of s. 238.07(15A) and (15B) as s.  
246 238.07(16) and (17), which necessitated the  
247 redesignation of s. 238.07(16) as s. 238.07(18).

248 Section 8. Subsection (4) of section 112.361, Florida  
249 Statutes, is amended to read:

250 112.361 Additional and updated supplemental retirement  
251 benefits.—

252 (4) ELIGIBILITY FOR SUPPLEMENT.—Each retired member or, if  
253 applicable, a joint annuitant, except any person receiving  
254 survivor's benefits under the Teachers' Retirement System of the  
255 state in accordance with s. 238.07(18) ~~238.07(16)~~, shall be  
256 entitled to receive a supplement computed in accordance with  
257 subsection (5), upon:

258 (a) Furnishing to the department evidence from the Social  
259 Security Administration setting forth the retired member's  
260 social security benefit or certifying the noninsured status of  
261 the retired member under the Social Security Act, and

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262 (b) Filing written application with the department for such  
263 supplement.

264 Reviser's note.—Amended to confirm an editorial  
265 substitution made to conform to the editorial  
266 redesignation of s. 238.07(15A) and (15B) as s.  
267 238.07(16) and (17), which necessitated the  
268 redesignation of s. 238.07(16) as s. 238.07(18).

269 Section 9. Paragraph (a) of subsection (2) of section  
270 112.363, Florida Statutes, is amended to read:

271 112.363 Retiree health insurance subsidy.—

272 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—

273 (a) A person who is retired under a state-administered  
274 retirement system, or a beneficiary who is a spouse or financial  
275 dependent entitled to receive benefits under a state-  
276 administered retirement system, is eligible for health insurance  
277 subsidy payments provided under this section; except that  
278 pension recipients under ss. 121.40, 238.07(18) (a)  
279 ~~238.07(16) (a)~~, and 250.22, recipients of health insurance  
280 coverage under s. 110.1232, or any other special pension or  
281 relief act shall not be eligible for such payments.

282 Reviser's note.—Amended to confirm an editorial  
283 substitution made to conform to the editorial  
284 redesignation of s. 238.07(15A) and (15B) as s.  
285 238.07(16) and (17), which necessitated the  
286 redesignation of s. 238.07(16) as s. 238.07(18).

287 Section 10. Section 120.52, Florida Statutes, is reenacted  
288 to read:

289 120.52 Definitions.—As used in this act:

290 (1) "Agency" means the following officers or governmental

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291 entities if acting pursuant to powers other than those derived  
292 from the constitution:

293 (a) The Governor; each state officer and state department,  
294 and each departmental unit described in s. 20.04; the Board of  
295 Governors of the State University System; the Commission on  
296 Ethics; the Fish and Wildlife Conservation Commission; a  
297 regional water supply authority; a regional planning agency; a  
298 multicounty special district, but only when a majority of its  
299 governing board is comprised of nonelected persons; educational  
300 units; and each entity described in chapters 163, 373, 380, and  
301 582 and s. 186.504.

302 (b) Each officer and governmental entity in the state  
303 having statewide jurisdiction or jurisdiction in more than one  
304 county.

305 (c) Each officer and governmental entity in the state  
306 having jurisdiction in one county or less than one county, to  
307 the extent they are expressly made subject to this act by  
308 general or special law or existing judicial decisions.

309  
310 This definition does not include any municipality or legal  
311 entity created solely by a municipality; any legal entity or  
312 agency created in whole or in part pursuant to part II of  
313 chapter 361; any metropolitan planning organization created  
314 pursuant to s. 339.175; any separate legal or administrative  
315 entity created pursuant to s. 339.175 of which a metropolitan  
316 planning organization is a member; an expressway authority  
317 pursuant to chapter 348 or any transportation authority under  
318 chapter 343 or chapter 349; or any legal or administrative  
319 entity created by an interlocal agreement pursuant to s.

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320 163.01(7), unless any party to such agreement is otherwise an  
321 agency as defined in this subsection.

322 (2) "Agency action" means the whole or part of a rule or  
323 order, or the equivalent, or the denial of a petition to adopt a  
324 rule or issue an order. The term also includes any denial of a  
325 request made under s. 120.54(7).

326 (3) "Agency head" means the person or collegial body in a  
327 department or other governmental unit statutorily responsible  
328 for final agency action.

329 (4) "Committee" means the Administrative Procedures  
330 Committee.

331 (5) "Division" means the Division of Administrative  
332 Hearings.

333 (6) "Educational unit" means a local school district, a  
334 community college district, the Florida School for the Deaf and  
335 the Blind, or a state university when the university is acting  
336 pursuant to statutory authority derived from the Legislature.

337 (7) "Final order" means a written final decision which  
338 results from a proceeding under s. 120.56, s. 120.565, s.  
339 120.569, s. 120.57, s. 120.573, or s. 120.574 which is not a  
340 rule, and which is not excepted from the definition of a rule,  
341 and which has been filed with the agency clerk, and includes  
342 final agency actions which are affirmative, negative,  
343 injunctive, or declaratory in form. A final order includes all  
344 materials explicitly adopted in it. The clerk shall indicate the  
345 date of filing on the order.

346 (8) "Invalid exercise of delegated legislative authority"  
347 means action that goes beyond the powers, functions, and duties  
348 delegated by the Legislature. A proposed or existing rule is an

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349 invalid exercise of delegated legislative authority if any one  
350 of the following applies:

351 (a) The agency has materially failed to follow the  
352 applicable rulemaking procedures or requirements set forth in  
353 this chapter;

354 (b) The agency has exceeded its grant of rulemaking  
355 authority, citation to which is required by s. 120.54(3)(a)1.;

356 (c) The rule enlarges, modifies, or contravenes the  
357 specific provisions of law implemented, citation to which is  
358 required by s. 120.54(3)(a)1.;

359 (d) The rule is vague, fails to establish adequate  
360 standards for agency decisions, or vests unbridled discretion in  
361 the agency;

362 (e) The rule is arbitrary or capricious. A rule is  
363 arbitrary if it is not supported by logic or the necessary  
364 facts; a rule is capricious if it is adopted without thought or  
365 reason or is irrational; or

366 (f) The rule imposes regulatory costs on the regulated  
367 person, county, or city which could be reduced by the adoption  
368 of less costly alternatives that substantially accomplish the  
369 statutory objectives.

370

371 A grant of rulemaking authority is necessary but not sufficient  
372 to allow an agency to adopt a rule; a specific law to be  
373 implemented is also required. An agency may adopt only rules  
374 that implement or interpret the specific powers and duties  
375 granted by the enabling statute. No agency shall have authority  
376 to adopt a rule only because it is reasonably related to the  
377 purpose of the enabling legislation and is not arbitrary and

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378 capricious or is within the agency's class of powers and duties,  
379 nor shall an agency have the authority to implement statutory  
380 provisions setting forth general legislative intent or policy.  
381 Statutory language granting rulemaking authority or generally  
382 describing the powers and functions of an agency shall be  
383 construed to extend no further than implementing or interpreting  
384 the specific powers and duties conferred by the enabling  
385 statute.

386 (9) "Law implemented" means the language of the enabling  
387 statute being carried out or interpreted by an agency through  
388 rulemaking.

389 (10) "License" means a franchise, permit, certification,  
390 registration, charter, or similar form of authorization required  
391 by law, but it does not include a license required primarily for  
392 revenue purposes when issuance of the license is merely a  
393 ministerial act.

394 (11) "Licensing" means the agency process respecting the  
395 issuance, denial, renewal, revocation, suspension, annulment,  
396 withdrawal, or amendment of a license or imposition of terms for  
397 the exercise of a license.

398 (12) "Official reporter" means the publication in which an  
399 agency publishes final orders, the index to final orders, and  
400 the list of final orders which are listed rather than published.

401 (13) "Party" means:

402 (a) Specifically named persons whose substantial interests  
403 are being determined in the proceeding.

404 (b) Any other person who, as a matter of constitutional  
405 right, provision of statute, or provision of agency regulation,  
406 is entitled to participate in whole or in part in the

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407 proceeding, or whose substantial interests will be affected by  
408 proposed agency action, and who makes an appearance as a party.

409 (c) Any other person, including an agency staff member,  
410 allowed by the agency to intervene or participate in the  
411 proceeding as a party. An agency may by rule authorize limited  
412 forms of participation in agency proceedings for persons who are  
413 not eligible to become parties.

414 (d) Any county representative, agency, department, or unit  
415 funded and authorized by state statute or county ordinance to  
416 represent the interests of the consumers of a county, when the  
417 proceeding involves the substantial interests of a significant  
418 number of residents of the county and the board of county  
419 commissioners has, by resolution, authorized the representative,  
420 agency, department, or unit to represent the class of interested  
421 persons. The authorizing resolution shall apply to a specific  
422 proceeding and to appeals and ancillary proceedings thereto, and  
423 it shall not be required to state the names of the persons whose  
424 interests are to be represented.

425  
426 The term "party" does not include a member government of a  
427 regional water supply authority or a governmental or quasi-  
428 judicial board or commission established by local ordinance or  
429 special or general law where the governing membership of such  
430 board or commission is shared with, in whole or in part, or  
431 appointed by a member government of a regional water supply  
432 authority in proceedings under s. 120.569, s. 120.57, or s.  
433 120.68, to the extent that an interlocal agreement under ss.  
434 163.01 and 373.1962 exists in which the member government has  
435 agreed that its substantial interests are not affected by the

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436 proceedings or that it is to be bound by alternative dispute  
437 resolution in lieu of participating in the proceedings. This  
438 exclusion applies only to those particular types of disputes or  
439 controversies, if any, identified in an interlocal agreement.

440 (14) "Person" means any person described in s. 1.01, any  
441 unit of government in or outside the state, and any agency  
442 described in subsection (1).

443 (15) "Recommended order" means the official recommendation  
444 of an administrative law judge assigned by the division or of  
445 any other duly authorized presiding officer, other than an  
446 agency head or member of an agency head, for the final  
447 disposition of a proceeding under ss. 120.569 and 120.57.

448 (16) "Rule" means each agency statement of general  
449 applicability that implements, interprets, or prescribes law or  
450 policy or describes the procedure or practice requirements of an  
451 agency and includes any form which imposes any requirement or  
452 solicits any information not specifically required by statute or  
453 by an existing rule. The term also includes the amendment or  
454 repeal of a rule. The term does not include:

455 (a) Internal management memoranda which do not affect  
456 either the private interests of any person or any plan or  
457 procedure important to the public and which have no application  
458 outside the agency issuing the memorandum.

459 (b) Legal memoranda or opinions issued to an agency by the  
460 Attorney General or agency legal opinions prior to their use in  
461 connection with an agency action.

462 (c) The preparation or modification of:

463 1. Agency budgets.

464 2. Statements, memoranda, or instructions to state agencies



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465 issued by the Chief Financial Officer or Comptroller as chief  
466 fiscal officer of the state and relating or pertaining to claims  
467 for payment submitted by state agencies to the Chief Financial  
468 Officer or Comptroller.

469 3. Contractual provisions reached as a result of collective  
470 bargaining.

471 4. Memoranda issued by the Executive Office of the Governor  
472 relating to information resources management.

473 (17) "Rulemaking authority" means statutory language that  
474 explicitly authorizes or requires an agency to adopt, develop,  
475 establish, or otherwise create any statement coming within the  
476 definition of the term "rule."

477 (18) "Small city" means any municipality that has an  
478 unincarcerated population of 10,000 or less according to the  
479 most recent decennial census.

480 (19) "Small county" means any county that has an  
481 unincarcerated population of 75,000 or less according to the  
482 most recent decennial census.

483 (20) "Unadopted rule" means an agency statement that meets  
484 the definition of the term "rule," but that has not been adopted  
485 pursuant to the requirements of s. 120.54.

486 (21) "Variance" means a decision by an agency to grant a  
487 modification to all or part of the literal requirements of an  
488 agency rule to a person who is subject to the rule. Any variance  
489 shall conform to the standards for variances outlined in this  
490 chapter and in the uniform rules adopted pursuant to s.  
491 120.54(5).

492 (22) "Waiver" means a decision by an agency not to apply  
493 all or part of a rule to a person who is subject to the rule.

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494 Any waiver shall conform to the standards for waivers outlined  
495 in this chapter and in the uniform rules adopted pursuant to s.  
496 120.54(5).

497 Reviser's note.—Section 1, ch. 2009-85, Laws of  
498 Florida, amended s. 120.52 without publishing  
499 subsections (2)-(22). Absent affirmative evidence of  
500 legislative intent to repeal the omitted subsections,  
501 the section is reenacted to confirm the omissions were  
502 not intended.

503 Section 11. Paragraph (a) of subsection (1) of section  
504 120.55, Florida Statutes, is amended to read:

505 120.55 Publication.—

506 (1) The Department of State shall:

507 (a)1. Through a continuous revision system, compile and  
508 publish the "Florida Administrative Code." The Florida  
509 Administrative Code shall contain all rules adopted by each  
510 agency, citing the grant of rulemaking authority and the  
511 specific law implemented pursuant to which each rule was  
512 adopted, all history notes as authorized in s. 120.545(7)  
513 ~~120.545(8)~~, and complete indexes to all rules contained in the  
514 code. Supplementation shall be made as often as practicable, but  
515 at least monthly. The department may contract with a publishing  
516 firm for the publication, in a timely and useful form, of the  
517 Florida Administrative Code; however, the department shall  
518 retain responsibility for the code as provided in this section.  
519 This publication shall be the official compilation of the  
520 administrative rules of this state. The Department of State  
521 shall retain the copyright over the Florida Administrative Code.

522 2. Rules general in form but applicable to only one school

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523 district, community college district, or county, or a part  
524 thereof, or state university rules relating to internal  
525 personnel or business and finance shall not be published in the  
526 Florida Administrative Code. Exclusion from publication in the  
527 Florida Administrative Code shall not affect the validity or  
528 effectiveness of such rules.

529         3. At the beginning of the section of the code dealing with  
530 an agency that files copies of its rules with the department,  
531 the department shall publish the address and telephone number of  
532 the executive offices of each agency, the manner by which the  
533 agency indexes its rules, a listing of all rules of that agency  
534 excluded from publication in the code, and a statement as to  
535 where those rules may be inspected.

536         4. Forms shall not be published in the Florida  
537 Administrative Code; but any form which an agency uses in its  
538 dealings with the public, along with any accompanying  
539 instructions, shall be filed with the committee before it is  
540 used. Any form or instruction which meets the definition of  
541 "rule" provided in s. 120.52 shall be incorporated by reference  
542 into the appropriate rule. The reference shall specifically  
543 state that the form is being incorporated by reference and shall  
544 include the number, title, and effective date of the form and an  
545 explanation of how the form may be obtained. Each form created  
546 by an agency which is incorporated by reference in a rule notice  
547 of which is given under s. 120.54(3)(a) after December 31, 2007,  
548 must clearly display the number, title, and effective date of  
549 the form and the number of the rule in which the form is  
550 incorporated.

551         Reviser's note.—Amended to correct an apparent error

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552 and conform to context. Prior to the amendment of s.  
553 120.55 by ss. 8 and 9, ch. 2008-104, Laws of Florida,  
554 the reference to history notes was cited at s.  
555 120.545(9); s. 120.545(9) became s. 120.545(7) by s.  
556 7, ch. 2008-104; current s. 120.545(7) references  
557 history notes.

558 Section 12. Effective July 1, 2010, paragraph (a) of  
559 subsection (1) of section 120.55, Florida Statutes, as amended  
560 by section 9 of chapter 2008-104, Laws of Florida, is amended to  
561 read:

562 120.55 Publication.—

563 (1) The Department of State shall:

564 (a)1. Through a continuous revision system, compile and  
565 publish electronically, on an Internet website managed by the  
566 department, the "Florida Administrative Code." The Florida  
567 Administrative Code shall contain all rules adopted by each  
568 agency, citing the grant of rulemaking authority and the  
569 specific law implemented pursuant to which each rule was  
570 adopted, all history notes as authorized in s. 120.545(7)  
571 ~~120.545(8)~~, complete indexes to all rules contained in the code,  
572 and any other material required or authorized by law or deemed  
573 useful by the department. The electronic code shall display each  
574 rule chapter currently in effect in browse mode and allow full  
575 text search of the code and each rule chapter. The department  
576 shall publish a printed version of the Florida Administrative  
577 Code and may contract with a publishing firm for such printed  
578 publication; however, the department shall retain responsibility  
579 for the code as provided in this section. Supplementation of the  
580 printed code shall be made as often as practicable, but at least

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581 monthly. The printed publication shall be the official  
582 compilation of the administrative rules of this state. The  
583 Department of State shall retain the copyright over the Florida  
584 Administrative Code.

585 2. Rules general in form but applicable to only one school  
586 district, community college district, or county, or a part  
587 thereof, or state university rules relating to internal  
588 personnel or business and finance shall not be published in the  
589 Florida Administrative Code. Exclusion from publication in the  
590 Florida Administrative Code shall not affect the validity or  
591 effectiveness of such rules.

592 3. At the beginning of the section of the code dealing with  
593 an agency that files copies of its rules with the department,  
594 the department shall publish the address and telephone number of  
595 the executive offices of each agency, the manner by which the  
596 agency indexes its rules, a listing of all rules of that agency  
597 excluded from publication in the code, and a statement as to  
598 where those rules may be inspected.

599 4. Forms shall not be published in the Florida  
600 Administrative Code; but any form which an agency uses in its  
601 dealings with the public, along with any accompanying  
602 instructions, shall be filed with the committee before it is  
603 used. Any form or instruction which meets the definition of  
604 "rule" provided in s. 120.52 shall be incorporated by reference  
605 into the appropriate rule. The reference shall specifically  
606 state that the form is being incorporated by reference and shall  
607 include the number, title, and effective date of the form and an  
608 explanation of how the form may be obtained. Each form created  
609 by an agency which is incorporated by reference in a rule notice

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610 of which is given under s. 120.54(3)(a) after December 31, 2007,  
611 must clearly display the number, title, and effective date of  
612 the form and the number of the rule in which the form is  
613 incorporated.

614 5. The department shall allow material incorporated by  
615 reference to be filed in electronic form as prescribed by  
616 department rule. When a rule is filed for adoption with  
617 incorporated material in electronic form, the department's  
618 publication of the Florida Administrative Code on its Internet  
619 website must contain a hyperlink from the incorporating  
620 reference in the rule directly to that material. The department  
621 may not allow hyperlinks from rules in the Florida  
622 Administrative Code to any material other than that filed with  
623 and maintained by the department, but may allow hyperlinks to  
624 incorporated material maintained by the department from the  
625 adopting agency's website or other sites.

626 Reviser's note.—Amended to correct an apparent error  
627 and conform to context. Prior to the amendment of s.  
628 120.55 by ss. 8 and 9, ch. 2008-104, Laws of Florida,  
629 the reference to history notes was cited at s.  
630 120.545(9); s. 120.545(9) became s. 120.545(7) by s.  
631 7, ch. 2008-104; current s. 120.545(7) references  
632 history notes.

633 Section 13. Subsection (2) and paragraph (b) of subsection  
634 (3) of section 121.053, Florida Statutes, are amended to read:  
635 121.053 Participation in the Elected Officers' Class for  
636 retired members.—

637 (2) A retired member of the Florida Retirement System, or  
638 an existing system as defined in s. 121.021, who, beginning July

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639 1, 1990, through June 30, 2010, serves in an elective office  
640 covered by the Elected Officers' Class shall be enrolled in the  
641 appropriate subclass of the Elected Officers' Class of the  
642 Florida Retirement System, and applicable contributions shall be  
643 paid into the Florida Retirement System Trust Fund as provided  
644 in s. 121.052(7).

645 (a) The member may continue to receive retirement benefits  
646 as well as compensation for the elected officer service if he or  
647 she remains in an elective office covered by the Elected  
648 Officers' Class.

649 (b) If the member serves in an elective office covered by  
650 the Elected Officers' Class and becomes vested under that class,  
651 he or she is entitled to receive an additional retirement  
652 benefit for the elected officer service.

653 (c) The member is entitled to purchase additional  
654 retirement credit in the Elected Officers' Class for any  
655 postretirement service performed in an elected position eligible  
656 for the Elected Officers' Class before July 1, 1990, or in the  
657 Regular Class for any postretirement service performed in any  
658 other regularly established position before July 1, 1991, by  
659 paying the applicable Elected Officers' Class or Regular Class  
660 employee and employer contributions for the period being  
661 claimed, plus 4 percent interest compounded annually from the  
662 first year of service claimed until July 1, 1975, and 6.5  
663 percent interest compounded thereafter, until full payment is  
664 made to the Florida Retirement System Trust Fund. The  
665 contribution for postretirement Regular Class service between  
666 July 1, 1985, and July 1, 1991, for which the reemployed retiree  
667 contribution was paid, is the difference between the

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668 contribution and the total applicable contribution for the  
669 period being claimed, plus interest. The employer may pay the  
670 applicable employer contribution in lieu of the member. If a  
671 member does not wish to claim credit for all of the  
672 postretirement service for which he or she is eligible, the  
673 service the member claims must be the most recent service. Any  
674 retiree who served in an elective office before July 1, 1990,  
675 suspended his or her retirement benefits, and had his or her  
676 Florida Retirement System membership reinstated shall, upon  
677 retirement from such office, have his or her retirement benefit  
678 recalculated to include the additional service and compensation  
679 earned.

680 (d) Creditable service for which credit was received, or  
681 which remained unclaimed, at retirement may not be claimed or  
682 applied toward service credit earned following renewed  
683 membership. However, service earned in accordance with the  
684 renewed membership provisions of s. 121.122 may be used in  
685 conjunction with creditable service earned under this  
686 subsection, if applicable vesting requirements and other  
687 existing statutory conditions required by this chapter are met.

688  
689 However, an officer electing to participate in the Deferred  
690 Retirement Option Program on or before June 30, 2002, is not  
691 required to terminate and remains subject to the provisions of  
692 this subsection ~~paragraph~~ as adopted in s. 1, chapter 2001-235,  
693 Laws of Florida.

694 (3) On or after July 1, 2010:

695 (b) An elected officer who is elected or appointed to an  
696 elective office and is participating in the Deferred Retirement



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697 Option Program is subject to termination as defined in s.  
 698 121.021 upon completion of his or her DROP participation period.  
 699 An elected official may defer termination as provided in  
 700 subsection (7) ~~paragraph (2)(e)~~.

701 Reviser's note.—Subsection (2) is amended to confirm  
 702 an editorial substitution made to conform to the  
 703 compilation of the 2009 Florida Statutes. Paragraph  
 704 (3)(b) is amended to correct an erroneous reference  
 705 and conform to context; paragraph (2)(e) does not  
 706 exist, and subsection (7) relates to deferral of  
 707 termination for elected officials.

708 Section 14. Paragraph (b) of subsection (1) of section  
 709 121.081, Florida Statutes, is amended to read:

710 121.081 Past service; prior service; contributions.—  
 711 Conditions under which past service or prior service may be  
 712 claimed and credited are:

713 (1)

714 (b) Past service earned after January 1, 1975, may be  
 715 claimed by officers or employees of a municipality, metropolitan  
 716 planning organization, charter school, charter technical career  
 717 center, or special district who become a covered group under  
 718 this system. The governing body of a covered group may elect to  
 719 provide benefits for ~~to~~ past service earned after January 1,  
 720 1975, in accordance with this chapter, and the cost for such  
 721 past service is established by applying the following formula:  
 722 The employer shall contribute an amount equal to the  
 723 contribution rate in effect at the time the service was earned,  
 724 multiplied by the employee's gross salary for each year of past  
 725 service claimed, plus 6.5-percent interest thereon, compounded

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726 annually, figured on each year of past service, with interest  
727 compounded from date of annual salary earned until date of  
728 payment.

729 Reviser's note.—Amended to confirm an editorial  
730 deletion made to improve clarity and facilitate  
731 correct interpretation.

732 Section 15. Paragraph (b) of subsection (9) and paragraph  
733 (a) of subsection (13) of section 121.091, Florida Statutes, are  
734 amended to read:

735 121.091 Benefits payable under the system.—Benefits may not  
736 be paid under this section unless the member has terminated  
737 employment as provided in s. 121.021(39) (a) or begun  
738 participation in the Deferred Retirement Option Program as  
739 provided in subsection (13), and a proper application has been  
740 filed in the manner prescribed by the department. The department  
741 may cancel an application for retirement benefits when the  
742 member or beneficiary fails to timely provide the information  
743 and documents required by this chapter and the department's  
744 rules. The department shall adopt rules establishing procedures  
745 for application for retirement benefits and for the cancellation  
746 of such application when the required information or documents  
747 are not received.

748 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

749 (b) Any person whose retirement is effective before July 1,  
750 2010, or whose participation in the Deferred Retirement Option  
751 Program terminates before July 1, 2010, except under the  
752 disability retirement provisions of subsection (4) or as  
753 provided in s. 121.053, may be reemployed by an employer that  
754 participates in a state-administered retirement system and

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755 receive retirement benefits and compensation from that employer,  
756 except that the person may not be reemployed by an employer  
757 participating in the Florida Retirement System before meeting  
758 the definition of termination in s. 121.021 and may not receive  
759 both a salary from the employer and retirement benefits for 12  
760 calendar months immediately subsequent to the date of  
761 retirement. However, a DROP participant shall continue  
762 employment and receive a salary during the period of  
763 participation in the Deferred Retirement Option Program, as  
764 provided in subsection (13).

765 1. A retiree who violates such reemployment limitation  
766 before completion of the 12-month limitation period must give  
767 timely notice of this fact in writing to the employer and to the  
768 Division of Retirement or the state board and shall have his or  
769 her retirement benefits suspended for the months employed or the  
770 balance of the 12-month limitation period as required in sub-  
771 subparagraphs b. and c. A retiree employed in violation of this  
772 paragraph and an employer who employs or appoints such person  
773 are jointly and severally liable for reimbursement to the  
774 retirement trust fund, including the Florida Retirement System  
775 Trust Fund and the Public Employee Optional Retirement Program  
776 Trust Fund, from which the benefits were paid. The employer must  
777 have a written statement from the retiree that he or she is not  
778 retired from a state-administered retirement system. Retirement  
779 benefits shall remain suspended until repayment has been made.  
780 Benefits suspended beyond the reemployment limitation shall  
781 apply toward repayment of benefits received in violation of the  
782 reemployment limitation.

783 a. A district school board may reemploy a retiree as a

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784 substitute or hourly teacher, education paraprofessional,  
785 transportation assistant, bus driver, or food service worker on  
786 a noncontractual basis after he or she has been retired for 1  
787 calendar month. A district school board may reemploy a retiree  
788 as instructional personnel, as defined in s. 1012.01(2)(a), on  
789 an annual contractual basis after he or she has been retired for  
790 1 calendar month. Any member who is reemployed within 1 calendar  
791 month after retirement shall void his or her application for  
792 retirement benefits. District school boards reemploying such  
793 teachers, education paraprofessionals, transportation  
794 assistants, bus drivers, or food service workers are subject to  
795 the retirement contribution required by subparagraph 2.

796 b. A community college board of trustees may reemploy a  
797 retiree as an adjunct instructor or as a participant in a phased  
798 retirement program within the Florida Community College System,  
799 after he or she has been retired for 1 calendar month. A member  
800 who is reemployed within 1 calendar month after retirement shall  
801 void his or her application for retirement benefits. Boards of  
802 trustees reemploying such instructors are subject to the  
803 retirement contribution required in subparagraph 2. A retiree  
804 may be reemployed as an adjunct instructor for no more than 780  
805 hours during the first 12 months of retirement. A retiree  
806 reemployed for more than 780 hours during the first 12 months of  
807 retirement must give timely notice in writing to the employer  
808 and to the Division of Retirement or the state board of the date  
809 he or she will exceed the limitation. The division shall suspend  
810 his or her retirement benefits for the remainder of the 12  
811 months of retirement. Any retiree employed in violation of this  
812 sub-subparagraph and any employer who employs or appoints such

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813 person without notifying the division to suspend retirement  
814 benefits are jointly and severally liable for any benefits paid  
815 during the reemployment limitation period. The employer must  
816 have a written statement from the retiree that he or she is not  
817 retired from a state-administered retirement system. Any  
818 retirement benefits received by the retiree while reemployed in  
819 excess of 780 hours during the first 12 months of retirement  
820 must be repaid to the Florida Retirement System Trust Fund, and  
821 retirement benefits shall remain suspended until repayment is  
822 made. Benefits suspended beyond the end of the retiree's first  
823 12 months of retirement shall apply toward repayment of benefits  
824 received in violation of the 780-hour reemployment limitation.

825 c. The State University System may reemploy a retiree as an  
826 adjunct faculty member or as a participant in a phased  
827 retirement program within the State University System after the  
828 retiree has been retired for 1 calendar month. A member who is  
829 reemployed within 1 calendar month after retirement shall void  
830 his or her application for retirement benefits. The State  
831 University System is subject to the retired contribution  
832 required in subparagraph 2., as appropriate. A retiree may be  
833 reemployed as an adjunct faculty member or a participant in a  
834 phased retirement program for no more than 780 hours during the  
835 first 12 months of his or her retirement. A retiree reemployed  
836 for more than 780 hours during the first 12 months of retirement  
837 must give timely notice in writing to the employer and to the  
838 Division of Retirement or the state board of the date he or she  
839 will exceed the limitation. The division shall suspend his or  
840 her retirement benefits for the remainder of the 12 months. Any  
841 retiree employed in violation of this sub-subparagraph and any

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842 employer who employs or appoints such person without notifying  
843 the division to suspend retirement benefits are jointly and  
844 severally liable for any benefits paid during the reemployment  
845 limitation period. The employer must have a written statement  
846 from the retiree that he or she is not retired from a state-  
847 administered retirement system. Any retirement benefits received  
848 by the retiree while reemployed in excess of 780 hours during  
849 the first 12 months of retirement must be repaid to the Florida  
850 Retirement System Trust Fund, and retirement benefits shall  
851 remain suspended until repayment is made. Benefits suspended  
852 beyond the end of the retiree's first 12 months of retirement  
853 shall apply toward repayment of benefits received in violation  
854 of the 780-hour reemployment limitation.

855 d. The Board of Trustees of the Florida School for the Deaf  
856 and the Blind may reemploy a retiree as a substitute teacher,  
857 substitute residential instructor, or substitute nurse on a  
858 noncontractual basis after he or she has been retired for 1  
859 calendar month. Any member who is reemployed within 1 calendar  
860 month after retirement shall void his or her application for  
861 retirement benefits. The Board of Trustees of the Florida School  
862 for the Deaf and the Blind reemploying such teachers,  
863 residential instructors, or nurses is subject to the retirement  
864 contribution required by subparagraph 2.

865 e. A developmental research school may reemploy a retiree  
866 as a substitute or hourly teacher or an education  
867 paraprofessional as defined in s. 1012.01(2) on a noncontractual  
868 basis after he or she has been retired for 1 calendar month. A  
869 developmental research school may reemploy a retiree as  
870 instructional personnel, as defined in s. 1012.01(2)(a), on an

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871 annual contractual basis after he or she has been retired for 1  
872 calendar month after retirement. Any member who is reemployed  
873 within 1 calendar month voids his or her application for  
874 retirement benefits. A developmental research school that  
875 reemploys retired teachers and education paraprofessionals is  
876 subject to the retirement contribution required by subparagraph  
877 2.

878 f. A charter school may reemploy a retiree as a substitute  
879 or hourly teacher on a noncontractual basis after he or she has  
880 been retired for 1 calendar month. A charter school may reemploy  
881 a retired member as instructional personnel, as defined in s.  
882 1012.01(2)(a), on an annual contractual basis after he or she  
883 has been retired for 1 calendar month after retirement. Any  
884 member who is reemployed within 1 calendar month voids his or  
885 her application for retirement benefits. A charter school that  
886 reemploys such teachers is subject to the retirement  
887 contribution required by subparagraph 2.

888 2. The employment of a retiree or DROP participant of a  
889 state-administered retirement system does not affect the average  
890 final compensation or years of creditable service of the retiree  
891 or DROP participant. Before July 1, 1991, upon employment of any  
892 person, other than an elected officer as provided in s. 121.053,  
893 who is retired under a state-administered retirement program,  
894 the employer shall pay retirement contributions in an amount  
895 equal to the unfunded actuarial liability portion of the  
896 employer contribution which would be required for regular  
897 members of the Florida Retirement System. Effective July 1,  
898 1991, contributions shall be made as provided in s. 121.122 for  
899 retirees who have renewed membership or, as provided in

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900 subsection (13), for DROP participants.

901       3. Any person who is holding an elective public office  
902 which is covered by the Florida Retirement System and who is  
903 concurrently employed in nonelected covered employment may elect  
904 to retire while continuing employment in the elective public  
905 office if he or she terminates his or her nonelected covered  
906 employment. Such person shall receive his or her retirement  
907 benefits in addition to the compensation of the elective office  
908 without regard to the time limitations otherwise provided in  
909 this subsection. A person who seeks to exercise the provisions  
910 of this subparagraph as they existed before May 3, 1984, may not  
911 be deemed to be retired under those provisions, unless such  
912 person is eligible to retire under this subparagraph, as amended  
913 by chapter 84-11, Laws of Florida.

914       (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and  
915 subject to this section, the Deferred Retirement Option Program,  
916 hereinafter referred to as DROP, is a program under which an  
917 eligible member of the Florida Retirement System may elect to  
918 participate, deferring receipt of retirement benefits while  
919 continuing employment with his or her Florida Retirement System  
920 employer. The deferred monthly benefits shall accrue in the  
921 Florida Retirement System on behalf of the participant, plus  
922 interest compounded monthly, for the specified period of the  
923 DROP participation, as provided in paragraph (c). Upon  
924 termination of employment, the participant shall receive the  
925 total DROP benefits and begin to receive the previously  
926 determined normal retirement benefits. Participation in the DROP  
927 does not guarantee employment for the specified period of DROP.  
928 Participation in DROP by an eligible member beyond the initial



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929 60-month period as authorized in this subsection shall be on an  
930 annual contractual basis for all participants.

931 (a) *Eligibility of member to participate in DROP.*—All  
932 active Florida Retirement System members in a regularly  
933 established position, and all active members of the Teachers'  
934 Retirement System established in chapter 238 or the State and  
935 County Officers' and Employees' Retirement System established in  
936 chapter 122, which are consolidated within the Florida  
937 Retirement System under s. 121.011, are eligible to elect  
938 participation in DROP if:

939 1. The member is not a renewed member under s. 121.122 or a  
940 member of the State Community College System Optional Retirement  
941 Program under s. 121.051, the Senior Management Service Optional  
942 Annuity Program under s. 121.055, or the optional retirement  
943 program for the State University System under s. 121.35.

944 2. Except as provided in subparagraph 6., election to  
945 participate is made within 12 months immediately following the  
946 date on which the member first reaches normal retirement date,  
947 or, for a member who reaches normal retirement date based on  
948 service before he or she reaches age 62, or age 55 for Special  
949 Risk Class members, election to participate may be deferred to  
950 the 12 months immediately following the date the member attains  
951 age 57, or age 52 for Special Risk Class members. A member who  
952 delays DROP participation during the 12-month period immediately  
953 following his or her maximum DROP deferral date, except as  
954 provided in subparagraph 6., loses a month of DROP participation  
955 for each month delayed. A member who fails to make an election  
956 within the 12-month limitation period forfeits all rights to  
957 participate in DROP. The member shall advise his or her employer

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958 and the division in writing of the date DROP begins. The  
959 beginning date may be subsequent to the 12-month election period  
960 but must be within the original 60-month participation period  
961 provided in subparagraph (b)1. When establishing eligibility of  
962 the member to participate in DROP, the member may elect to  
963 include or exclude any optional service credit purchased by the  
964 member from the total service used to establish the normal  
965 retirement date. A member who has dual normal retirement dates  
966 is eligible to elect to participate in DROP after attaining  
967 normal retirement date in either class.

968 3. The employer of a member electing to participate in  
969 DROP, or employers if dually employed, shall acknowledge in  
970 writing to the division the date the member's participation in  
971 DROP begins and the date the member's employment and DROP  
972 participation will terminate.

973 4. Simultaneous employment of a participant by additional  
974 Florida Retirement System employers subsequent to the  
975 commencement of participation in DROP is permissible if such  
976 employers acknowledge in writing a DROP termination date no  
977 later than the participant's existing termination date or the  
978 maximum participation period provided in subparagraph (b)1.

979 5. A DROP participant may change employers while  
980 participating in DROP, subject to the following:

981 a. A change of employment must take place without a break  
982 in service so that the member receives salary for each month of  
983 continuous DROP participation. If a member receives no salary  
984 during a month, DROP participation shall cease unless the  
985 employer verifies a continuation of the employment relationship  
986 for such participant pursuant to s. 121.021(39)(b).

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987           b. Such participant and new employer shall notify the  
988 division of the identity of the new employer on forms required  
989 by the division.

990           c. The new employer shall acknowledge, in writing, the  
991 participant's DROP termination date, which may be extended but  
992 not beyond the maximum participation period provided in  
993 subparagraph (b)1., shall acknowledge liability for any  
994 additional retirement contributions and interest required if the  
995 participant fails to timely terminate employment, and is subject  
996 to the adjustment required in sub-subparagraph (c)5.d.

997           6. Effective July 1, 2001, for instructional personnel as  
998 defined in s. 1012.01(2), election to participate in DROP may be  
999 made at any time following the date on which the member first  
1000 reaches normal retirement date. The member shall advise his or  
1001 her employer and the division in writing of the date on which  
1002 DROP begins. When establishing eligibility of the member to  
1003 participate in DROP for the 60-month participation period  
1004 provided in subparagraph (b)1., the member may elect to include  
1005 or exclude any optional service credit purchased by the member  
1006 from the total service used to establish the normal retirement  
1007 date. A member who has dual normal retirement dates is eligible  
1008 to elect to participate in either class.

1009           Reviser's note.—Amended to confirm editorial  
1010 insertions made to improve clarity and facilitate  
1011 correct interpretation.

1012           Section 16. Subsection (6) of section 163.31771, Florida  
1013 Statutes, is repealed.

1014           Reviser's note.—Repealed to delete a provision  
1015 relating to a report due January 1, 2007, on the

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1016 effectiveness of using accessory dwelling units to  
1017 address a local government's shortage of affordable  
1018 housing.

1019 Section 17. Paragraph (e) of subsection (15) of section  
1020 163.3180, Florida Statutes, is repealed, and paragraph (e) of  
1021 subsection (5) of that section is amended to read:

1022 163.3180 Concurrency.—

1023 (5)

1024 (e) Before designating a concurrency exception area  
1025 pursuant to subparagraph (b) 7. ~~(b) 6.~~, the state land planning  
1026 agency and the Department of Transportation shall be consulted  
1027 by the local government to assess the impact that the proposed  
1028 exception area is expected to have on the adopted level-of-  
1029 service standards established for regional transportation  
1030 facilities identified pursuant to s. 186.507, including the  
1031 Strategic Intermodal System and roadway facilities funded in  
1032 accordance with s. 339.2819. Further, the local government shall  
1033 provide a plan for the mitigation of impacts to the Strategic  
1034 Intermodal System, including, if appropriate, access management,  
1035 parallel reliever roads, transportation demand management, and  
1036 other measures.

1037 Reviser's note.—Paragraph (5) (e) is amended to confirm  
1038 an editorial substitution made to conform to context  
1039 and correct an apparent error. Paragraph (15) (e) is  
1040 repealed to delete a provision relating to a pilot  
1041 project to study the benefits of and barriers to  
1042 establishing a regional multimodal transportation  
1043 concurrency district and requiring the Department of  
1044 Transportation, in consultation with the state land

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1045 planning agency, to submit a report by March 1, 2009,  
1046 on the status of the pilot project.

1047 Section 18. Subsection (8) of section 175.071, Florida  
1048 Statutes, is amended to read:

1049 175.071 General powers and duties of board of trustees.—For  
1050 any municipality, special fire control district, chapter plan,  
1051 local law municipality, local law special fire control district,  
1052 or local law plan under this chapter:

1053 (8) Notwithstanding paragraph (1)(b) and as provided in s.  
1054 215.473, the board of trustees must identify and publicly report  
1055 any direct or indirect holdings it may have in any scrutinized  
1056 company, as defined in that section, and proceed to sell,  
1057 redeem, divest, or withdraw all publicly traded securities it  
1058 may have in that company beginning January 1, 2010. The  
1059 divestiture of any such security must be completed by September  
1060 30, 2010. The board and its named officers or investment  
1061 advisors may not be deemed to have breached their fiduciary duty  
1062 in any action taken to dispose of any such security, and the  
1063 board shall have satisfactorily discharged the fiduciary duties  
1064 of loyalty, prudence, and sole and exclusive benefit to the  
1065 participants of the pension fund and their beneficiaries if the  
1066 actions it takes are consistent with the duties imposed by s.  
1067 215.473, and the manner of the disposition, if any, is  
1068 reasonable as to the means chosen. For the purposes of effecting  
1069 compliance with that section, the pension fund shall designate  
1070 terror-free plans that allocate their funds among securities not  
1071 subject to divestiture. No person may bring any civil, criminal,  
1072 or administrative action against the board of trustees or any  
1073 employee, officer, director, or advisor of such pension fund

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1074 based upon the divestiture of any security pursuant to this  
1075 subsection ~~paragraph~~.

1076 Reviser's note.—Amended to confirm an editorial  
1077 substitution made to conform to context.

1078 Section 19. Subsection (7) of section 185.06, Florida  
1079 Statutes, is amended to read:

1080 185.06 General powers and duties of board of trustees.—For  
1081 any municipality, chapter plan, local law municipality, or local  
1082 law plan under this chapter:

1083 (7) Notwithstanding paragraph (1)(b) and as provided in s.  
1084 215.473, the board of trustees must identify and publicly report  
1085 any direct or indirect holdings it may have in any scrutinized  
1086 company, as defined in that section, and proceed to sell,  
1087 redeem, divest, or withdraw all publicly traded securities it  
1088 may have in that company beginning January 1, 2010. The  
1089 divestiture of any such security must be completed by September  
1090 10, 2010. The board and its named officers or investment  
1091 advisors may not be deemed to have breached their fiduciary duty  
1092 in any action taken to dispose of any such security, and the  
1093 board shall have satisfactorily discharged the fiduciary duties  
1094 of loyalty, prudence, and sole and exclusive benefit to the  
1095 participants of the pension fund and their beneficiaries if the  
1096 actions it takes are consistent with the duties imposed by s.  
1097 215.473, and the manner of the disposition, if any, is  
1098 reasonable as to the means chosen. For the purposes of effecting  
1099 compliance with that section, the pension fund shall designate  
1100 terror-free plans that allocate their funds among securities not  
1101 subject to divestiture. No person may bring any civil, criminal,  
1102 or administrative action against the board of trustees or any

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1103 employee, officer, director, or advisor of such pension fund  
1104 based upon the divestiture of any security pursuant to this  
1105 subsection ~~paragraph~~.

1106 Reviser's note.—Amended to confirm an editorial  
1107 substitution made to conform to context.

1108 Section 20. Subsection (2) of section 192.001, Florida  
1109 Statutes, is amended to read:

1110 192.001 Definitions.—All definitions set out in chapters 1  
1111 and 200 that are applicable to this chapter are included herein.  
1112 In addition, the following definitions shall apply in the  
1113 imposition of ad valorem taxes:

1114 (2) "Assessed value of property" means an annual  
1115 determination of the just or fair market value of an item or  
1116 property or the value of the homestead property as limited  
1117 pursuant to s. 4(d) ~~4(e)~~, Art. VII of the State Constitution or,  
1118 if a property is assessed solely on the basis of character or  
1119 use or at a specified percentage of its value, pursuant to s.  
1120 4(a) or 4(c) ~~(b)~~, Art. VII of the State Constitution, its  
1121 classified use value or fractional value.

1122 Reviser's note.—Amended to conform to the addition of  
1123 a new s. 4(b), Art. VII of the State Constitution  
1124 pursuant to adoption of the constitutional amendment  
1125 by the Taxation and Budget Reform Commission, Revision  
1126 No. 4, in 2008.

1127 Section 21. Paragraph (a) of subsection (1) of section  
1128 192.0105, Florida Statutes, is amended to read:

1129 192.0105 Taxpayer rights.—There is created a Florida  
1130 Taxpayer's Bill of Rights for property taxes and assessments to  
1131 guarantee that the rights, privacy, and property of the

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1132 taxpayers of this state are adequately safeguarded and protected  
1133 during tax levy, assessment, collection, and enforcement  
1134 processes administered under the revenue laws of this state. The  
1135 Taxpayer's Bill of Rights compiles, in one document, brief but  
1136 comprehensive statements that summarize the rights and  
1137 obligations of the property appraisers, tax collectors, clerks  
1138 of the court, local governing boards, the Department of Revenue,  
1139 and taxpayers. Additional rights afforded to payors of taxes and  
1140 assessments imposed under the revenue laws of this state are  
1141 provided in s. 213.015. The rights afforded taxpayers to assure  
1142 that their privacy and property are safeguarded and protected  
1143 during tax levy, assessment, and collection are available only  
1144 insofar as they are implemented in other parts of the Florida  
1145 Statutes or rules of the Department of Revenue. The rights so  
1146 guaranteed to state taxpayers in the Florida Statutes and the  
1147 departmental rules include:

1148 (1) THE RIGHT TO KNOW.—

1149 (a) The right to be mailed notice of proposed property  
1150 taxes and proposed or adopted non-ad valorem assessments (see  
1151 ss. 194.011(1), 200.065(2)(b) and (d) and (13)(a), and 200.069).  
1152 The notice must also inform the taxpayer that the final tax bill  
1153 may contain additional non-ad valorem assessments (see s.  
1154 200.069(9) ~~200.069(10)~~).

1155 Reviser's note.—Amended to conform to the  
1156 redesignation of s. 200.069(10) as s. 200.069(9) by s.  
1157 1, ch. 2009-165, Laws of Florida.

1158 Section 22. Paragraph (a) of subsection (1) of section  
1159 193.1555, Florida Statutes, is amended to read:

1160 193.1555 Assessment of certain residential and



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1161 nonresidential real property.—

1162 (1) As used in this section, the term:

1163 (a) "Nonresidential real property" means real property that  
1164 is not subject to the assessment limitations set forth in s.  
1165 4(a), (c), (d), or (g) ~~4(a)-(e) or s. 4(f)~~, Art. VII of the  
1166 State Constitution.

1167 Reviser's note.—Amended to conform to the addition of  
1168 a new s. 4(b), Art. VII of the State Constitution  
1169 pursuant to adoption of the constitutional amendment  
1170 by the Taxation and Budget Reform Commission, Revision  
1171 No. 4, in 2008.

1172 Section 23. Subsection (1) of section 193.503, Florida  
1173 Statutes, is amended to read:

1174 193.503 Classification and assessment of historic property  
1175 used for commercial or certain nonprofit purposes.—

1176 (1) Pursuant to s. 4(e) ~~4(d)~~, Art. VII of the State  
1177 Constitution, the board of county commissioners of a county or  
1178 the governing authority of a municipality may adopt an ordinance  
1179 providing for assessment of historic property used for  
1180 commercial or certain nonprofit purposes as described in this  
1181 section solely on the basis of character or use as provided in  
1182 this section. Such character or use assessment shall apply only  
1183 to the jurisdiction adopting the ordinance. The board of county  
1184 commissioners or municipal governing authority shall notify the  
1185 property appraiser of the adoption of such ordinance no later  
1186 than December 1 of the year prior to the year such assessment  
1187 will take effect. If such assessment is granted only for a  
1188 specified period or the ordinance is repealed, the board of  
1189 county commissioners or municipal governing authority shall

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1190 notify the property appraiser no later than December 1 of the  
1191 year prior to the year the assessment expires.

1192 Reviser's note.—Amended to conform to the addition of  
1193 a new s. 4(b), Art. VII of the State Constitution  
1194 pursuant to adoption of the constitutional amendment  
1195 by the Taxation and Budget Reform Commission, Revision  
1196 No. 4, in 2008.

1197 Section 24. Subsection (1) of section 193.703, Florida  
1198 Statutes, is amended to read:

1199 193.703 Reduction in assessment for living quarters of  
1200 parents or grandparents.—

1201 (1) In accordance with s. 4(f) ~~4(e)~~, Art. VII of the State  
1202 Constitution, a county may provide for a reduction in the  
1203 assessed value of homestead property which results from the  
1204 construction or reconstruction of the property for the purpose  
1205 of providing living quarters for one or more natural or adoptive  
1206 parents or grandparents of the owner of the property or of the  
1207 owner's spouse if at least one of the parents or grandparents  
1208 for whom the living quarters are provided is at least 62 years  
1209 of age.

1210 Reviser's note.—Amended to conform to the addition of  
1211 a new s. 4(b), Art. VII of the State Constitution  
1212 pursuant to adoption of the constitutional amendment  
1213 by the Taxation and Budget Reform Commission, Revision  
1214 No. 4, in 2008.

1215 Section 25. Paragraph (c) of subsection (9) of section  
1216 196.011, Florida Statutes, is amended to read:

1217 196.011 Annual application required for exemption.—

1218 (9)

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1219 (c) A county may, at the request of the property appraiser  
1220 and by a majority vote of its governing body, waive the  
1221 requirement that an annual application be made for the veteran's  
1222 disability discount granted pursuant to s. 6(e) ~~6(g)~~, Art. VII  
1223 of the State Constitution after an initial application is made  
1224 and the discount granted. The disabled veteran receiving a  
1225 discount for which annual application has been waived shall  
1226 notify the property appraiser promptly whenever the use of the  
1227 property or the percentage of disability to which the veteran is  
1228 entitled changes. If a disabled veteran fails to notify the  
1229 property appraiser and the property appraiser determines that  
1230 for any year within the prior 10 years the veteran was not  
1231 entitled to receive all or a portion of such discount, the  
1232 penalties and processes in paragraph (a) relating to the failure  
1233 to notify the property appraiser of ineligibility for an  
1234 exemption shall apply.

1235 Reviser's note.—Amended to conform to the deletion of  
1236 former s. 6(c) and (d), Art. VII of the State  
1237 Constitution pursuant to adoption of the  
1238 constitutional amendment by C.S. for S.J.R. 2-D (2007)  
1239 in 2008.

1240 Section 26. Subsection (2) of section 196.075, Florida  
1241 Statutes, is amended to read:

1242 196.075 Additional homestead exemption for persons 65 and  
1243 older.—

1244 (2) In accordance with s. 6(d) ~~6(f)~~, Art. VII of the State  
1245 Constitution, the board of county commissioners of any county or  
1246 the governing authority of any municipality may adopt an  
1247 ordinance to allow an additional homestead exemption of up to

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1248 \$50,000 for any person who has the legal or equitable title to  
1249 real estate and maintains thereon the permanent residence of the  
1250 owner, who has attained age 65, and whose household income does  
1251 not exceed \$20,000.

1252 Reviser's note.—Amended to conform to the deletion of  
1253 former s. 6(c) and (d), Art. VII of the State  
1254 Constitution pursuant to adoption of the  
1255 constitutional amendment by C.S. for S.J.R. 2-D (2007)  
1256 in 2008.

1257 Section 27. Subsection (7) of section 196.1975, Florida  
1258 Statutes, is amended to read:

1259 196.1975 Exemption for property used by nonprofit homes for  
1260 the aged.—Nonprofit homes for the aged are exempt to the extent  
1261 that they meet the following criteria:

1262 (7) It is declared to be the intent of the Legislature that  
1263 subsection (3) implements the ad valorem tax exemption  
1264 authorized in the third sentence of s. 3(a), Art. VII, State  
1265 Constitution, and the remaining subsections implement s. 6(c)  
1266 ~~6(e)~~, Art. VII, State Constitution, for purposes of granting  
1267 such exemption to homes for the aged.

1268 Reviser's note.—Amended to conform to the deletion of  
1269 former s. 6(c) and (d), Art. VII of the State  
1270 Constitution pursuant to adoption of the  
1271 constitutional amendment by C.S. for S.J.R. 2-D (2007)  
1272 in 2008.

1273 Section 28. Subsection (5) of section 196.1977, Florida  
1274 Statutes, is amended to read:

1275 196.1977 Exemption for property used by proprietary  
1276 continuing care facilities.—

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1277 (5) It is the intent of the Legislature that this section  
1278 implements s. 6(c) ~~6(e)~~, Art. VII of the State Constitution.

1279 Reviser's note.—Amended to conform to the deletion of  
1280 former s. 6(c) and (d), Art. VII of the State  
1281 Constitution pursuant to adoption of the  
1282 constitutional amendment by C.S. for S.J.R. 2-D (2007)  
1283 in 2008.

1284 Section 29. Subsection (5) of section 197.402, Florida  
1285 Statutes, is repealed.

1286 Reviser's note.—Repeals material requiring Lake,  
1287 Marion, Seminole, and Sumter Counties to enter into a  
1288 2-year pilot program regarding advertising and payment  
1289 of delinquent property taxes and, by October 1, 2007,  
1290 each county's tax collector to submit a report to the  
1291 President of the Senate and the Speaker of the House  
1292 of Representatives.

1293 Section 30. Paragraph (a) of subsection (2), paragraph (f)  
1294 of subsection (4), and paragraph (b) of subsection (10) of  
1295 section 200.069, Florida Statutes, are amended to read:

1296 200.069 Notice of proposed property taxes and non-ad  
1297 valorem assessments.—Pursuant to s. 200.065(2)(b), the property  
1298 appraiser, in the name of the taxing authorities and local  
1299 governing boards levying non-ad valorem assessments within his  
1300 or her jurisdiction and at the expense of the county, shall  
1301 prepare and deliver by first-class mail to each taxpayer to be  
1302 listed on the current year's assessment roll a notice of  
1303 proposed property taxes, which notice shall contain the elements  
1304 and use the format provided in the following form.

1305 Notwithstanding the provisions of s. 195.022, no county officer

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1306 shall use a form other than that provided herein. The Department  
1307 of Revenue may adjust the spacing and placement on the form of  
1308 the elements listed in this section as it considers necessary  
1309 based on changes in conditions necessitated by various taxing  
1310 authorities. If the elements are in the order listed, the  
1311 placement of the listed columns may be varied at the discretion  
1312 and expense of the property appraiser, and the property  
1313 appraiser may use printing technology and devices to complete  
1314 the form, the spacing, and the placement of the information in  
1315 the columns. A county officer may use a form other than that  
1316 provided by the department for purposes of this part, but only  
1317 if his or her office pays the related expenses and he or she  
1318 obtains prior written permission from the executive director of  
1319 the department; however, a county officer may not use a form the  
1320 substantive content of which is at variance with the form  
1321 prescribed by the department. The county officer may continue to  
1322 use such an approved form until the law that specifies the form  
1323 is amended or repealed or until the officer receives written  
1324 disapproval from the executive director.

1325 (2) (a) The notice shall include a brief legal description  
1326 of the property, the name and mailing address of the owner of  
1327 record, and the tax information applicable to the specific  
1328 parcel in question. The information shall be in columnar form.  
1329 There shall be seven column headings which shall read: "Taxing  
1330 Authority," "Your Property Taxes Last Year," "Last Year's  
1331 Adjusted Tax Rate (Millage)," "Your Taxes This Year IF NO Budget  
1332 Change Is Adopted," "Tax Rate This Year IF PROPOSED Budget Is  
1333 Adopted (Millage)," "Your Taxes This Year IF PROPOSED Budget  
1334 Change Is Adopted," and "A Public Hearing on the Proposed Taxes

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1335 and Budget Will Be Held:.”

1336 (4) For each entry listed in subsection (3), there shall  
1337 appear on the notice the following:

1338 (f) In the sixth column, the gross amount of ad valorem  
1339 taxes that must be levied in the current year if the proposed  
1340 budget is adopted.

1341 (10)

1342 (b) If the notice includes all adopted non-ad valorem  
1343 assessments, the provisions contained in subsection (9) ~~(10)~~  
1344 shall not be placed on the notice.

1345 Reviser's note.—Paragraphs (2)(a) and (4)(f) are  
1346 amended to confirm editorial insertions made to  
1347 improve clarity and facilitate correct interpretation.  
1348 Paragraph (10)(b) is amended to conform to the  
1349 redesignation of former subsection (10) as subsection  
1350 (9) by s. 1, ch. 2009-165, Laws of Florida.

1351 Section 31. Subsection (1) of section 210.1801, Florida  
1352 Statutes, is amended to read:

1353 210.1801 Exempt cigarettes for members of recognized Indian  
1354 tribes.—

1355 (1) Notwithstanding any provision of this chapter to the  
1356 contrary, a member of an Indian tribe recognized in this state  
1357 who purchases cigarettes on an Indian reservation for his or her  
1358 own use is exempt from paying a cigarette tax and surcharge.  
1359 However, such member purchasing cigarettes outside of an Indian  
1360 reservation or a nontribal member purchasing cigarettes on an  
1361 Indian reservation is not exempt from paying the cigarette tax  
1362 or surcharge when purchasing cigarettes within this state.  
1363 Accordingly, the tax and surcharge shall apply to all cigarettes

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1364 sold on an Indian reservation to a nontribal member, and  
 1365 evidence of such tax or surcharge shall be by means of an  
 1366 affixed cigarette tax and surcharge stamp.

1367 Reviser's note.—Amended to confirm an editorial  
 1368 insertion made to improve clarity.

1369 Section 32. Subsection (2) of section 211.06, Florida  
 1370 Statutes, is amended to read:

1371 211.06 Oil and Gas Tax Trust Fund; distribution of tax  
 1372 proceeds.—All taxes, interest, and penalties imposed under this  
 1373 part shall be collected by the department and placed in a  
 1374 special fund designated the "Oil and Gas Tax Trust Fund."

1375 (2) Beginning July 1, 1995, the remaining proceeds in the  
 1376 Oil and Gas Tax Trust Fund shall be distributed monthly by the  
 1377 department and shall be paid into the State Treasury as follows:

1378 (a) To the credit of the General Revenue Fund of the state:

1379 1. Seventy-five percent of the proceeds from the oil  
 1380 production tax imposed under s. 211.02(1)(c) ~~211.02(1)(b)~~.

1381 2. Sixty-seven and one-half percent of the proceeds from  
 1382 the tax on small well oil and tertiary oil imposed under s.  
 1383 211.02(1)(a).

1384 3. Sixty-seven and one-half percent of the proceeds from  
 1385 the tax on gas imposed under s. 211.025.

1386 4. Sixty-seven and one-half percent of the proceeds of the  
 1387 tax on sulfur imposed under s. 211.026.

1388 (b) To the credit of the general revenue fund of the board  
 1389 of county commissioners of the county where produced, subject to  
 1390 the service charge imposed under chapter 215:

1391 1. Twelve and one-half percent of the proceeds from the tax  
 1392 on oil imposed under s. 211.02(1)(c) ~~211.02(1)(b)~~.



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1393           2. Twenty percent of the proceeds from the tax on small  
1394 well oil and tertiary oil imposed under s. 211.02(1)(a).

1395           3. Twenty percent of the proceeds from the tax on gas  
1396 imposed under s. 211.025.

1397           4. Twenty percent of the proceeds from the tax on sulfur  
1398 imposed under s. 211.026.

1399           (c) To the credit of the Minerals Trust Fund:

1400           1. Twelve and one-half percent of the proceeds from the tax  
1401 on oil imposed under s. 211.02(1)(c) ~~211.02(1)(b)~~.

1402           2. Twelve and one-half percent of the proceeds from the tax  
1403 on small well and tertiary oil imposed under s. 211.02(1)(a).

1404           3. Twelve and one-half percent of the proceeds from the tax  
1405 on gas imposed under s. 211.025.

1406           4. Twelve and one-half percent of the proceeds from the tax  
1407 on sulfur imposed under s. 211.026.

1408           Reviser's note.—Amended to conform to the  
1409 redesignation of s. 211.02(1)(b) as s. 211.02(1)(c) by  
1410 s. 1, ch. 2009-139, Laws of Florida.

1411           Section 33. Paragraph (c) of subsection (1) of section  
1412 212.098, Florida Statutes, is amended to read:

1413           212.098 Rural Job Tax Credit Program.—

1414           (1) As used in this section, the term:

1415           (c) "Qualified area" means any area that is contained  
1416 within a rural area of critical economic concern designated  
1417 under s. 288.0656, a county that has a population of fewer than  
1418 75,000 persons, or a county that has a population of 125,000 or  
1419 less and is contiguous to a county that has a population of less  
1420 than 75,000, selected in the following manner: every third year,  
1421 the Office of Tourism, Trade, and Economic Development shall

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1422 rank and tier the state's counties according to the following  
1423 four factors:

1424 1. Highest unemployment rate for the most recent 36-month  
1425 period.

1426 2. Lowest per capita income for the most recent 36-month  
1427 period.

1428 3. Highest percentage of residents whose incomes are below  
1429 the poverty level, based upon the most recent data available.

1430 4. Average weekly manufacturing wage, based upon the most  
1431 recent data available.

1432 Reviser's note.—Amended to confirm an editorial  
1433 insertion made to improve clarity and facilitate  
1434 correct interpretation.

1435 Section 34. Subsections (1) and (2) of section 215.211,  
1436 Florida Statutes, are amended to read:

1437 215.211 Service charge; elimination or reduction for  
1438 specified proceeds.—

1439 (1) Notwithstanding the provisions of s. 215.20(1) and  
1440 former s. 215.20(3) ~~(3)~~, the service charge provided in s.  
1441 215.20(1) and former s. 215.20(3) ~~(3)~~, which is deducted from  
1442 the proceeds of the taxes distributed under ss. 206.606(1),  
1443 207.026, 212.0501(6), and 319.32(5), shall be eliminated  
1444 beginning July 1, 2000.

1445 (2) Notwithstanding the provisions of s. 215.20(1) and  
1446 former s. 215.20(3) ~~(3)~~, the service charge provided in s.  
1447 215.20(1) and former s. 215.20(3) ~~(3)~~, which is deducted from  
1448 the proceeds of the taxes distributed under ss. 206.608 and  
1449 320.072(4), shall be eliminated beginning July 1, 2001.

1450 Reviser's note.—Amended to conform to the repeal of

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1451 former s. 215.20(3) by s. 1, ch. 2009-78, Laws of  
1452 Florida.

1453 Section 35. Subsections (15A), (15B), (16), and (17) of  
1454 section 238.07, Florida Statutes, as carried forward from the  
1455 2008 Florida Statutes, are redesignated as subsections (16),  
1456 (17), (18), and (19) of that section and amended to read:

1457 238.07 Regular benefits; survivor benefits.—

1458 (16)~~(15A)~~(a) Any member of the Teachers' Retirement System  
1459 who has heretofore, or who hereafter, retires with no less than  
1460 10 years of creditable service and who has passed his or her  
1461 65th birthday, may, upon application to the department, have his  
1462 or her retirement allowance redetermined and thereupon shall be  
1463 entitled to a monthly service retirement allowance which shall  
1464 be equal to \$4 multiplied by the number of years of the member's  
1465 creditable service which shall be payable monthly during his or  
1466 her retirement; provided, that the amount of retirement  
1467 allowance as determined hereunder, shall be reduced by an amount  
1468 equal to:

1469 1. Any social security benefits received by the member, and  
1470 2. Any social security benefits that the member is eligible  
1471 to receive by reason of his or her own right or through his or  
1472 her spouse.

1473 (b) No payment shall be made to a member of the Teachers'  
1474 Retirement System under this act, until the department has  
1475 determined the social security status of such member.

1476 (c) Eligibility of a member of the Teachers' Retirement  
1477 System shall be determined under the social security laws and  
1478 regulations; provided, however, that a member shall be  
1479 considered eligible if the member or the member's spouse has

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1480 reached 65 years of age and would draw social security if the  
1481 member or the member's spouse were not engaged in activity that  
1482 results in the member or the member's spouse receiving income  
1483 that would make him or her ineligible to receive social security  
1484 benefits. A member of the Teachers' Retirement System shall be  
1485 deemed to be eligible for social security benefits if the member  
1486 has this eligibility in his or her own right or through his or  
1487 her spouse.

1488 (d) The department shall review, at least annually, the  
1489 social security status of all members of the Teachers'  
1490 Retirement System receiving payment under this act and shall  
1491 increase or decrease payments to such members as shall be  
1492 necessary to carry out the intent of this act.

1493 (e) No member of the Teachers' Retirement System shall have  
1494 his or her retirement allowance reduced or any of his or her  
1495 rights impaired by reason of this act.

1496 (f) This subsection shall take effect on January 1, 1962.

1497 (17)~~(15B)~~ If the member recovers from disability, has his  
1498 or her disability benefit terminated, reenters covered  
1499 employment, and is continuously employed for a minimum of 1 year  
1500 of creditable service, he or she may claim as creditable service  
1501 the months during which he or she was receiving a disability  
1502 benefit, upon payment of the required contributions.

1503 Contributions shall equal the total required employee and  
1504 employer contribution rate during the period the retiree  
1505 received retirement benefits, multiplied times his or her rate  
1506 of monthly compensation prior to the commencement of disability  
1507 retirement for each month of the period claimed, plus 4 percent  
1508 interest until July 1, 1975, and 6.5 percent interest thereafter

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1509 on such contributions, compounded annually each June 30 to the  
1510 date of payment. If the member does not claim credit for all of  
1511 the months he or she received disability benefits, the months  
1512 claimed must be his or her most recent months of retirement.

1513 (18)~~(16)~~ (a) Definitions under survivor benefits are:

1514 1. A dependent is a child, widow, widower, or parent of the  
1515 deceased member who was receiving not less than one-half of his  
1516 or her support from the deceased member at the time of the death  
1517 of such member.

1518 2. A child is a natural or legally adopted child of a  
1519 member, who:

1520 a. Is under 18 years of age, or

1521 b. Is over 18 years of age but not over 22 years of age and  
1522 is enrolled as a student in an accredited educational  
1523 institution, or

1524 c. Is 18 years of age or older and is physically or  
1525 mentally incapable of self-support, when such mental and  
1526 physical incapacity occurred prior to such child obtaining the  
1527 age of 18 years. Such person shall cease to be regarded as a  
1528 child upon the termination of such physical or mental  
1529 disability. The determination as to such physical or mental  
1530 incapability shall be vested in the department.

1531  
1532 No person shall be considered a child who has married or, except  
1533 as provided in sub-subparagraph 2.b. or as to a child who is  
1534 physically or mentally incapable of self-support as hereinbefore  
1535 set forth, has become 18 years of age.

1536 3. A parent is a natural parent of a member and includes a  
1537 lawful spouse of a natural parent.

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1538 4. A beneficiary is a person who is entitled to benefits  
 1539 under this subsection by reason of his or her relation to a  
 1540 deceased member during the lifetime of such member.

1541 (b) In addition to all other benefits to which a member  
 1542 shall, subject to the conditions set out below, be entitled, the  
 1543 beneficiary of such member shall, upon the death of such member,  
 1544 receive the following benefits:

1545

Minimum period of  
 paid service of  
 member in Florida as  
 regular full-time  
 teacher

Beneficiaries of  
 deceased member

Benefits

1546

1.	One calendar day	Widow or widower who has care of dependent child or children of deceased member.	\$190 per month for one child. \$250 per month if more than one child, maximum benefits \$250 per month.
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1547

2.	One calendar day	One or more dependent children if there is no surviving widow or widower.	\$190 per month per child; maximum benefits \$250 per month if more than one child.
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1548

3.	One calendar day	Dependent parents 65 years or older.	For each parent, \$100 per month for
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1549

life.

4. One calendar day Designated \$500 lump-sum death  
 beneficiary and, if benefits payable  
 no designated only once.  
 beneficiary, then  
 the executor or  
 administrator of  
 deceased member.

1550

5. One calendar day Dependent widow or \$150 per month for  
 widower 50 years of life.  
 age and less than 65  
 years of age.

1551

6. Ten years Widow or widower 65 \$175 per month for  
 years of age or life.  
 older.

1552

7. Retired member Designated \$500 lump-sum death  
 beneficiary and if benefits payable  
 no designated only once.  
 beneficiary, then  
 the executor or  
 administrator of  
 deceased retired  
 member.

1553

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1555 Beginning on July 1, 1971, the lump-sum death benefit, provided  
1556 in item 7 above for the retired teacher, shall apply to all  
1557 present and future retirees of the systems.

1558 (c) The payment of survivor benefits shall begin as of the  
1559 month immediately following the death of the member except where  
1560 the beneficiary has not reached the age required to receive  
1561 benefits under paragraph (b), in which event the payment of  
1562 survivor benefits shall begin as of the month immediately  
1563 following the month in which the beneficiary reaches the  
1564 required age. Provided that if death occurs during the first 3  
1565 years of employment, the payment of survivor benefits shall be  
1566 reduced by the amount of monthly benefits the member's survivors  
1567 are entitled to receive under federal social security as either  
1568 a survivor of the member or as a covered worker under federal  
1569 social security.

1570 (d) Limitations on rights of beneficiary are:

1571 1. The person named as beneficiary in paragraph (b) shall,  
1572 in no event, be entitled to receive the benefits set out in such  
1573 paragraph unless the death of the member under whom such  
1574 beneficiary claims occurs within the period of time after the  
1575 member has served in Florida as follows:

Minimum number of years of service in Florida	Period after serving in Florida in which death of member occurs
3 to 5 .....	2 years
6 to 9 .....	5 years



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10 or more .....

10 years

1580  
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1607

2. Upon the death of a member, the department shall make a determination of the beneficiary or beneficiaries of the deceased member and shall pay survivor benefits to such beneficiary or beneficiaries beginning 1 month immediately following the death of the member except where the beneficiary has not reached the age required to receive benefits under paragraph (b), in which event the payment of survivor benefits shall begin as of the month immediately following the month in which the beneficiary reaches the required age. When required by the department, the beneficiary or beneficiaries shall file an application for survivor benefits upon forms prescribed by the department.

3. The beneficiaries of a member to receive survivor benefits are fixed by this subsection, and a member may not buy or otherwise change such benefits. He or she may, however, designate the beneficiary to receive the \$500 death benefits. If a member fails to make this designation, the \$500 death benefits shall be paid to his or her executor or administrator.

4. The beneficiary or beneficiaries of a member whose death occurs while he or she is in service or while he or she is receiving a disability allowance under subsection (11), shall receive survivor benefits under this subsection determined by the years of service in Florida of the deceased member as set out in paragraph (b). The requirement that the death of a member must occur within a certain period of time after service in Florida as set out in subparagraph (d)1. shall not apply to a

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1608 member receiving a disability benefit at the time of his or her  
1609 death.

1610 (19)~~(17)~~ Any person who hereafter elects to receive  
1611 retirement benefits under s. 112.05 shall not be entitled to the  
1612 retirement benefits of this chapter except for the refund of his  
1613 or her accumulated contributions as provided in subsection (13);  
1614 likewise any person who elects to receive retirement benefits  
1615 under this chapter shall thereby become ineligible to receive  
1616 retirement benefits under s. 112.05.

1617 Reviser's note.—Amended to confirm the editorial  
1618 redesignation of subsections (15A) and (15B) as  
1619 subsections (16) and (17), which necessitated the  
1620 redesignation of subsections (16) and (17) as  
1621 subsections (18) and (19).

1622 Section 36. Section 238.071, Florida Statutes, is amended  
1623 to read:

1624 238.071 Social security benefits; determination of  
1625 retirement allowance.—Any member of the Teachers' Retirement  
1626 System who has heretofore or who hereafter retires and has his  
1627 or her retirement allowance redetermined under the provisions of  
1628 s. 238.07(16) ~~238.07(15A)~~, shall not after July 1, 1969, have  
1629 the amount of the redetermined retirement allowance reduced  
1630 because of social security benefits received by the member or  
1631 his or her spouse.

1632 Reviser's note.—Amended to confirm an editorial  
1633 substitution made to conform to the editorial  
1634 redesignation of s. 238.07(15A) as s. 238.07(16).

1635 Section 37. Paragraphs (a) and (d) of subsection (5) of  
1636 section 238.09, Florida Statutes, are amended to read:

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1637           238.09 Method of financing.—All of the assets of the  
 1638 retirement system shall be credited, according to the purposes  
 1639 for which they are held, to one of four funds; namely, the  
 1640 Annuity Savings Trust Fund, the Pension Accumulation Trust Fund,  
 1641 the Expense Trust Fund, and the Survivors' Benefit Trust Fund.

1642           (5) (a) The survivors' benefit fund shall be the fund in  
 1643 which shall be accumulated all reserves for the payment of all  
 1644 survivor benefits provided for in s. 238.07(18) ~~238.07(16)~~,  
 1645 except refund of accumulated contributions. There shall be paid  
 1646 into this fund:

1647           1. All contributions by members based on the rate of  
 1648 twenty-five-hundredths percent of their salary as set out in  
 1649 paragraph (b) of this subsection.

1650           2. All contributions by the state to the Survivors' Benefit  
 1651 Trust Fund.

1652           3. All transfers from other funds as required by this  
 1653 subsection.

1654           (d) A member who makes contributions to the Survivors'  
 1655 Benefit Trust Fund shall not thereby obtain, prior to July 1,  
 1656 1959, any vested interest or right to the benefits under s.  
 1657 238.07(18) ~~238.07(16)~~, and these benefits may be altered,  
 1658 changed or repealed by the Legislature at its 1959 session,  
 1659 provided that the beneficiaries of members whose deaths occur  
 1660 prior to July 1, 1959, shall have a vested interest in the  
 1661 benefits accruing to such beneficiaries under s. 238.07(18)  
 1662 ~~238.07(16)~~, and these rights may not be altered, changed nor  
 1663 repealed by the Legislature.

1664           Reviser's note.—Amended to confirm editorial  
 1665 substitutions made to conform to the editorial

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1666 redesignation of s. 238.07(15A) and (15B) as s.  
1667 238.07(16) and (17), which necessitated the  
1668 redesignation of s. 238.07(16) as s. 238.07(18).

1669 Section 38. Subsection (2) of section 255.043, Florida  
1670 Statutes, is amended to read:

1671 255.043 Art in state buildings.—

1672 (2) The Department of Management Services or other state  
1673 agencies receiving appropriations for original constructions  
1674 shall notify the Florida ~~Arts~~ Council on Arts and Culture and  
1675 the user agency of any construction project which is eligible  
1676 under the provisions of this section. The Department of  
1677 Management Services or other state agency shall determine the  
1678 amount to be made available for purchase or commission of works  
1679 of art for each project and shall report these amounts to the  
1680 Florida ~~Arts~~ Council on Arts and Culture and the user agency.  
1681 Payments therefor shall be made from funds appropriated for  
1682 fixed capital outlay according to law.

1683 Reviser's note.—Amended to conform to the council's  
1684 name change by s. 7, ch. 2009-72, Laws of Florida.

1685 Section 39. Subsection (2) of section 260.019, Florida  
1686 Statutes, is amended to read:

1687 260.019 Florida Circumnavigation Saltwater Paddling Trail.—

1688 (2) The department shall establish the initial starting and  
1689 ending points by latitude and longitude for the trail segments  
1690 described in subsection (3) within 180 days after the effective  
1691 date of this act. Except for the Big Bend Historic Saltwater  
1692 Paddling Trail, segment 6, the department has the exclusive  
1693 authority to officially name and locate the remaining 25 trail  
1694 segments. The department shall name and locate the segments

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1695 based on logical geographical boundaries, safety to trail users,  
 1696 ease of management, desires of local communities and user  
 1697 groups, and other factors that assist in the overall success of  
 1698 the trail system. The department may adjust the location of any  
 1699 trail segment; give official recognition to specific sites along  
 1700 the trail route; publish official trail guides and literature in  
 1701 cooperation with other governmental and private entities; and  
 1702 resolve conflicts that may arise between competing and  
 1703 conflicting parties over trail issues. The Florida Greenways and  
 1704 Trails Council may advise the department on all matters relating  
 1705 to the paddling trail. ~~By January 1, 2008, the department shall~~  
 1706 ~~prepare and submit a report setting forth the names and~~  
 1707 ~~locations adopted for each trail segment to the Governor, the~~  
 1708 ~~President of the Senate, and the Speaker of the House of~~  
 1709 ~~Representatives.~~

1710 Reviser's note.—Amended to delete an obsolete  
 1711 provision.

1712 Section 40. Paragraph (a) of subsection (2) and subsection  
 1713 (3) of section 265.2865, Florida Statutes, are amended to read:  
 1714 265.2865 Florida Artists Hall of Fame.—

1715 (2) (a) There is hereby created the Florida Artists Hall of  
 1716 Fame. The Florida ~~Arts~~ Council on Arts and Culture shall  
 1717 identify an appropriate location in the public area of a  
 1718 building in the Capitol Center that is under the jurisdiction of  
 1719 the Department of Management Services, which location shall be  
 1720 set aside by the department and designated as the Florida  
 1721 Artists Hall of Fame.

1722 (3) The Florida ~~Arts~~ Council on Arts and Culture shall  
 1723 accept nominations annually for persons to be recommended as

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1724 members of the Florida Artists Hall of Fame. The council shall  
1725 recommend to the Secretary of State persons to be named as  
1726 members of the Florida Artists Hall of Fame. The council shall  
1727 recommend as members of the Florida Artists Hall of Fame persons  
1728 who were born in Florida or adopted Florida as their home state  
1729 and base of operation and who have made a significant  
1730 contribution to the enhancement of the arts in this state.

1731 Reviser's note.—Amended to conform to the council's  
1732 name change by s. 7, ch. 2009-72, Laws of Florida.

1733 Section 41. Paragraph (f) of subsection (7) of section  
1734 265.32, Florida Statutes, is amended to read:

1735 265.32 County fine arts council.—

1736 (7) COUNCIL MEETINGS; PUBLIC HEARINGS; COMMITTEES AND  
1737 ADVISERS; REPORTS; RULES.—

1738 (f) The county arts council may, from time to time and at  
1739 any time, submit to the Florida ~~Arts~~ Council on Arts and Culture  
1740 a report summarizing its activities and setting forth any  
1741 recommendations it considers appropriate, including  
1742 recommendations with respect to present or proposed legislation  
1743 concerning state encouragement and support of the arts.

1744 Reviser's note.—Amended to conform to the council's  
1745 name change by s. 7, ch. 2009-72, Laws of Florida.

1746 Section 42. Paragraph (c) of subsection (1) of section  
1747 265.606, Florida Statutes, is amended to read:

1748 265.606 Cultural Endowment Program; administration;  
1749 qualifying criteria; matching fund program levels;  
1750 distribution.—

1751 (1) To be eligible for receipt of state matching funds, the  
1752 local sponsoring organization shall meet all of the following

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1753 criteria:

1754 (c) Be designated a cultural sponsoring organization by the  
1755 department, if recommended by the Florida ~~Arts~~ Council on Arts  
1756 and Culture to the Secretary of State pursuant to the procedures  
1757 contained in s. 265.285.

1758 Reviser's note.—Amended to conform to the council's  
1759 name change by s. 7, ch. 2009-72, Laws of Florida.

1760 Section 43. Subsections (3) and (5) of section 265.701,  
1761 Florida Statutes, are amended to read:

1762 265.701 Cultural facilities; grants for acquisition,  
1763 renovation, or construction; funding; approval; allocation.—

1764 (3) The Florida ~~Arts~~ Council on Arts and Culture shall  
1765 review each application for a grant to acquire, renovate, or  
1766 construct a cultural facility which is submitted pursuant to  
1767 subsection (2) and shall submit annually to the Secretary of  
1768 State for approval lists of all applications that are  
1769 recommended by the council for the award of grants, arranged in  
1770 order of priority. The division may allocate grants only for  
1771 projects that are approved or for which funds are appropriated  
1772 by the Legislature. Projects approved and recommended by the  
1773 Secretary of State which are not funded by the Legislature shall  
1774 be retained on the project list for the following grant cycle  
1775 only. All projects that are retained shall be required to submit  
1776 such information as may be required by the department as of the  
1777 established deadline date of the latest grant cycle in order to  
1778 adequately reflect the most current status of the project.

1779 (5) The Division of Cultural Affairs shall adopt rules  
1780 prescribing the criteria to be applied by the Florida ~~Arts~~  
1781 Council on Arts and Culture in recommending applications for the

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1782 award of grants and rules providing for the administration of  
1783 the other provisions of this section.

1784 Reviser's note.—Amended to conform to the council's  
1785 name change by s. 7, ch. 2009-72, Laws of Florida.

1786 Section 44. Paragraph (f) of subsection (2) of section  
1787 282.201, Florida Statutes, is amended to read:

1788 282.201 State data center system; agency duties and  
1789 limitations.—A state data center system that includes all  
1790 primary data centers, other nonprimary data centers, and  
1791 computing facilities, and that provides an enterprise  
1792 information technology service as defined in s. 282.0041, is  
1793 established.

1794 (2) AGENCY FOR ENTERPRISE INFORMATION TECHNOLOGY DUTIES.—  
1795 The Agency for Enterprise Information Technology shall:

1796 (f) Develop and establish rules relating to the operation  
1797 of the state data center system which comply with applicable  
1798 federal regulations, including 2 C.F.R. part 225 and 45 C.F.R.  
1799 The rules may address:

1800 1. Ensuring that financial information is captured and  
1801 reported consistently and accurately.

1802 2. Requiring the establishment of service-level agreements  
1803 executed between a data center and its customer entities for  
1804 services provided.

1805 3. Requiring annual full cost recovery on an equitable  
1806 rational basis. The cost-recovery methodology must ensure that  
1807 no service is subsidizing another service and may include  
1808 adjusting the subsequent year's rates as a means to recover  
1809 deficits or refund surpluses from a prior year.

1810 4. Requiring that any special assessment imposed to fund



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1811 expansion is based on a methodology that apportions the  
1812 assessment according to the proportional benefit to each  
1813 customer entity.

1814 5. Requiring that rebates be given when revenues have  
1815 exceeded costs, that rebates be applied to offset charges to  
1816 those customer entities that have subsidized the costs of other  
1817 customer entities, and that such rebates may be in the form of  
1818 credits against future billings.

1819 6. Requiring that all service-level agreements have a  
1820 contract term of up to 3 years, but may include an option to  
1821 renew for up to 3 additional years contingent on approval by the  
1822 board, and require at least a 180-day notice of termination.

1823 7. Designating any nonstate data center ~~centers~~ as a  
1824 primary data center ~~centers~~ if the center:

1825 a. Has an established governance structure that represents  
1826 customer entities proportionally.

1827 b. Maintains an appropriate cost-allocation methodology  
1828 that accurately bills a customer entity based on the actual  
1829 direct and indirect costs to the customer entity, and prohibits  
1830 the subsidization of one customer entity's costs by another  
1831 entity.

1832 c. Has sufficient raised floor space, cooling, and  
1833 redundant power capacity, including uninterruptible power supply  
1834 and backup power generation, to accommodate the computer  
1835 processing platforms and support necessary to host the computing  
1836 requirements of additional customer entities.

1837 8. Removing a nonstate data center ~~centers~~ from primary  
1838 data center designation if the nonstate data center fails to  
1839 meet standards necessary to ensure that the state's data is

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1840 maintained pursuant to subparagraph 7.

1841 Reviser's note.—Amended to provide contextual  
1842 consistency within the paragraph.

1843 Section 45. Paragraph (c) of subsection (1) of section  
1844 282.204, Florida Statutes, is repealed.

1845 Reviser's note.—Repeals a provision requiring  
1846 recommendations for a workgroup report due December  
1847 31, 2008.

1848 Section 46. Subsection (2) of section 282.318, Florida  
1849 Statutes, is amended to read:

1850 282.318 Enterprise security of data and information  
1851 technology.—

1852 (2) Information technology security is established as an  
1853 enterprise information technology service as defined in s.  
1854 282.0041 ~~287.0041~~.

1855 Reviser's note.—Amended to confirm an editorial  
1856 substitution; the term "enterprise information  
1857 technology service" is defined in s. 282.0041, and s.  
1858 287.0041 does not exist.

1859 Section 47. Sections 282.5001, 282.5002, 282.5003,  
1860 282.5004, 282.5005, 282.5006, 282.5007, and 282.5008, Florida  
1861 Statutes, are repealed.

1862 Reviser's note.—Repeals sections relating to year 2000  
1863 compliance for information technology products.

1864 Section 48. Subsection (14) of section 282.702, Florida  
1865 Statutes, is amended to read:

1866 282.702 Powers and duties.—The Department of Management  
1867 Services shall have the following powers, duties, and functions:

1868 (14) To enter into contracts or agreements, with or without

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1869 competitive bidding or procurement, to make available, on a  
1870 fair, reasonable, and nondiscriminatory basis, property and  
1871 other structures under departmental control for the placement of  
1872 new facilities by any wireless provider of mobile service as  
1873 defined in 47 U.S.C. s. 153(27) ~~153(n)~~ or s. 332(d) and any  
1874 telecommunications company as defined in s. 364.02 when it is  
1875 determined to be practical and feasible to make such property or  
1876 other structures available. The department may, without adopting  
1877 a rule, charge a just, reasonable, and nondiscriminatory fee for  
1878 the placement of the facilities, payable annually, based on the  
1879 fair market value of space used by comparable communications  
1880 facilities in the state. The department and a wireless provider  
1881 or telecommunications company may negotiate the reduction or  
1882 elimination of a fee in consideration of services provided to  
1883 the department by the wireless provider or telecommunications  
1884 company. All such fees collected by the department shall be  
1885 deposited directly into the Law Enforcement Radio Operating  
1886 Trust Fund, and may be used by the department to construct,  
1887 maintain, or support the system.

1888 Reviser's note.—Amended to confirm an editorial  
1889 substitution; 47 U.S.C. s. 153(27) defines the term  
1890 "mobile service," and 47 U.S.C. s. 153(n) does not  
1891 exist.

1892 Section 49. Subsection (4) of section 288.012, Florida  
1893 Statutes, is amended to read:

1894 288.012 State of Florida foreign offices.—The Legislature  
1895 finds that the expansion of international trade and tourism is  
1896 vital to the overall health and growth of the economy of this  
1897 state. This expansion is hampered by the lack of technical and

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1898 business assistance, financial assistance, and information  
1899 services for businesses in this state. The Legislature finds  
1900 that these businesses could be assisted by providing these  
1901 services at State of Florida foreign offices. The Legislature  
1902 further finds that the accessibility and provision of services  
1903 at these offices can be enhanced through cooperative agreements  
1904 or strategic alliances between state entities, local entities,  
1905 foreign entities, and private businesses.

1906 (4) The Office of Tourism, Trade, and Economic Development,  
1907 in connection with the establishment, operation, and management  
1908 of any of its offices located in a foreign country, is exempt  
1909 from the provisions of ss. 255.21, 255.25, and 255.254 relating  
1910 to leasing of buildings; ss. 283.33 and 283.35 relating to bids  
1911 for printing; ss. 287.001-287.20 relating to purchasing and  
1912 motor vehicles; and ss. 282.003-282.0056 and 282.702-282.7101  
1913 ~~282.003-282.111~~ relating to communications, and from all  
1914 statutory provisions relating to state employment.

1915 (a) The Office of Tourism, Trade, and Economic Development  
1916 may exercise such exemptions only upon prior approval of the  
1917 Governor.

1918 (b) If approval for an exemption under this section is  
1919 granted as an integral part of a plan of operation for a  
1920 specified foreign office, such action shall constitute  
1921 continuing authority for the Office of Tourism, Trade, and  
1922 Economic Development to exercise the exemption, but only in the  
1923 context and upon the terms originally granted. Any modification  
1924 of the approved plan of operation with respect to an exemption  
1925 contained therein must be resubmitted to the Governor for his or  
1926 her approval. An approval granted to exercise an exemption in

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1927 any other context shall be restricted to the specific instance  
1928 for which the exemption is to be exercised.

1929 (c) As used in this subsection, the term "plan of  
1930 operation" means the plan developed pursuant to subsection (2).

1931 (d) Upon final action by the Governor with respect to a  
1932 request to exercise the exemption authorized in this subsection,  
1933 the Office of Tourism, Trade, and Economic Development shall  
1934 report such action, along with the original request and any  
1935 modifications thereto, to the President of the Senate and the  
1936 Speaker of the House of Representatives within 30 days.

1937 Reviser's note.—Amended to conform to the  
1938 redesignation of sections within chapter 282 by ch.  
1939 2009-80, Laws of Florida, and the further  
1940 redesignation of s. 282.710 as s. 282.7101 by the  
1941 reviser incident to compiling the 2009 Florida  
1942 Statutes.

1943 Section 50. Subsection (2) of section 288.021, Florida  
1944 Statutes, is amended to read:

1945 288.021 Economic development liaison.—

1946 (2) ~~Within 30 days of April 17, 1992, and~~ Whenever it is  
1947 necessary to change the designee, the head of each agency shall  
1948 notify the Governor in writing of the person designated as the  
1949 economic development liaison for such agency.

1950 Reviser's note.—Amended to delete obsolete language.

1951 Section 51. Paragraph (e) of subsection (2) of section  
1952 288.0656, Florida Statutes, is amended to read:

1953 288.0656 Rural Economic Development Initiative.—

1954 (2) As used in this section, the term:

1955 (e) "Rural community" means:

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- 1956 1. A county with a population of 75,000 or fewer ~~less~~.
- 1957 2. A county with a population of 125,000 or fewer which is
- 1958 contiguous to a county with a population of 75,000 or fewer.
- 1959 3. A municipality within a county described in subparagraph
- 1960 1. or subparagraph 2.
- 1961 4. An unincorporated federal enterprise community or an
- 1962 incorporated rural city with a population of 25,000 or fewer
- 1963 ~~less~~ and an employment base focused on traditional agricultural
- 1964 or resource-based industries, located in a county not defined as
- 1965 rural, which has at least three or more of the economic distress
- 1966 factors identified in paragraph (c) and verified by the Office
- 1967 of Tourism, Trade, and Economic Development.

1968  
 1969 For purposes of this paragraph, population shall be determined  
 1970 in accordance with the most recent official estimate pursuant to  
 1971 s. 186.901.

1972 Reviser's note.—Amended to provide contextual  
 1973 consistency within the paragraph.

1974 Section 52. Paragraph (d) of subsection (5) of section  
 1975 288.1081, Florida Statutes, is amended to read:

1976 288.1081 Economic Gardening Business Loan Pilot Program.—

1977 (5)

1978 (d) A loan administrator is entitled to receive a loan  
 1979 origination fee, payable at closing, of 1 percent of each loan  
 1980 issued by the loan administrator and a servicing fee of 0.625  
 1981 percent per annum of the loan's outstanding principal ~~principle~~  
 1982 balance, payable monthly. During the first 12 months of the  
 1983 loan, the servicing fee shall be paid from the disbursement from  
 1984 the Economic Development Trust Fund, and thereafter the loan

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1985 administrator shall collect the servicing fee from the payments  
 1986 made by the borrower, charging the fee against repayments of  
 1987 principal.

1988 Reviser's note.—Amended to confirm an editorial  
 1989 substitution made to conform to context.

1990 Section 53. Subsection (6) of section 288.1169, Florida  
 1991 Statutes, is amended to read:

1992 288.1169 International Game Fish Association World Center  
 1993 facility.—

1994 (6) The Department of Commerce must recertify every 10  
 1995 years that the facility is open, that the International Game  
 1996 Fish Association World Center continues to be the only  
 1997 international administrative headquarters, fishing museum, and  
 1998 Hall of Fame in the United States recognized by the  
 1999 International Game Fish Association, and that the project is  
 2000 meeting the minimum projections for attendance or sales tax  
 2001 revenues as required at the time of original certification. If  
 2002 the facility is not recertified during this 10-year review as  
 2003 meeting the minimum projections, then funding shall be abated  
 2004 until certification criteria are met. If the project fails to  
 2005 generate \$1 million of annual revenues pursuant to paragraph  
 2006 (2) (e), the distribution of revenues pursuant to s.  
 2007 212.20(6)(d)6.d. ~~212.02(6)(d)6.d.~~ shall be reduced to an amount  
 2008 equal to \$83,333 multiplied by a fraction, the numerator of  
 2009 which is the actual revenues generated and the denominator of  
 2010 which is \$1 million. Such reduction remains in effect until  
 2011 revenues generated by the project in a 12-month period equal or  
 2012 exceed \$1 million.

2013 Reviser's note.—Amended to correct an apparent error.

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2014 Section 9, ch. 2009-68, Laws of Florida, revised the  
 2015 cite from s. 212.20(6)(d)7.d. to s. 212.02(6)(d)6.d.  
 2016 to conform to s. 2, ch. 2009-68, which amended s.  
 2017 212.20(6)(d) to delete subparagraph 2. and  
 2018 redesignated subsequent subparagraphs. Section 212.02  
 2019 does not contain a paragraph (6)(d).

2020 Section 54. Paragraph (b) of subsection (9) of section  
 2021 288.1224, Florida Statutes, is amended to read:

2022 288.1224 Powers and duties.—The commission:

2023 (9) Is authorized to establish and operate tourism offices  
 2024 in foreign countries in the execution of its responsibilities  
 2025 for promoting the development of tourism. To facilitate the  
 2026 performance of these responsibilities, the commission is  
 2027 authorized to contract with the commission's direct-support  
 2028 organization to establish and administer such offices. Where  
 2029 feasible, appropriate, and recommended by the 4-year marketing  
 2030 plan, the commission may collocate the programs of foreign  
 2031 tourism offices in cooperation with any foreign office operated  
 2032 by any agency of this state.

2033 (b) The Florida Commission on Tourism, or its direct-  
 2034 support organization, in connection with the establishment,  
 2035 operation, and management of any of its tourism offices located  
 2036 in a foreign country, is exempt from the provisions of ss.  
 2037 255.21, 255.25, and 255.254 relating to leasing of buildings;  
 2038 ss. 283.33 and 283.35 relating to bids for printing; ss.  
 2039 287.001-287.20 relating to purchasing and motor vehicles; and  
 2040 ss. 282.003-282.0056 and 282.702-282.7101 ~~282.003-282.111~~  
 2041 relating to communications, and from all statutory provisions  
 2042 relating to state employment, if the laws, administrative code,



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2043 or business practices or customs of the foreign country, or  
2044 political or administrative subdivision thereof, in which such  
2045 office is located are in conflict with these provisions.

2046 Reviser's note.—Amended to conform to the  
2047 redesignation of sections within chapter 282 by ch.  
2048 2009-80, Laws of Florida, and the further  
2049 redesignation of s. 282.710 as s. 282.7101 by the  
2050 reviser incident to compiling the 2009 Florida  
2051 Statutes.

2052 Section 55. Paragraph (a) of subsection (4) of section  
2053 311.12, Florida Statutes, is amended to read:

2054 311.12 Seaport security.—

2055 (4) SECURE AND RESTRICTED AREAS.—Each seaport listed in s.  
2056 311.09 must clearly designate in seaport security plans, and  
2057 clearly identify with appropriate signs and markers on the  
2058 premises of a seaport, all secure and restricted areas as  
2059 defined by the United States Department of Homeland Security-  
2060 United States Coast Guard Navigation and Vessel Inspection  
2061 Circular No. 03-07 and 49 C.F.R. part 1572. The plans must also  
2062 address access eligibility requirements and corresponding  
2063 security enforcement authorizations.

2064 (a) The seaport's security plan must set forth the  
2065 conditions and restrictions to be imposed on persons employed  
2066 at, doing business at, or visiting the seaport who have access  
2067 to secure and restricted areas which are sufficient to provide  
2068 substantial compliance with the minimum security standards  
2069 established in subsection (1) and federal regulations.

2070 1. All seaport employees and other persons working at the  
2071 seaport who have regular access to secure or restricted areas

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2072 must comply with federal access control regulations and state  
2073 criminal history checks as prescribed in this section.

2074 2. All persons and objects in secure and restricted areas  
2075 are subject to search by a sworn state-certified law enforcement  
2076 officer, a Class D seaport security officer certified under  
2077 Maritime Transportation Security Act of 2002 guidelines and s.  
2078 311.121, or an employee of the seaport security force certified  
2079 under the Maritime Transportation Security Act of 2002  
2080 guidelines and s. 311.121.

2081 3. Persons found in these areas without the proper  
2082 permission are subject to the trespass provisions of ss. 810.08  
2083 and 810.09.

2084 Reviser's note.—Amended to conform to the full title  
2085 of the act.

2086 Section 56. Paragraph (c) of subsection (3) of section  
2087 311.121, Florida Statutes, is amended to read:

2088 311.121 Qualifications, training, and certification of  
2089 licensed security officers at Florida seaports.—

2090 (3) The Seaport Security Officer Qualification, Training,  
2091 and Standards Coordinating Council is created under the  
2092 Department of Law Enforcement.

2093 (c) Council members designated under subparagraphs (a)1.-4.  
2094 shall serve for the duration of their employment or appointment.  
2095 Council members designated under subparagraphs (a)5.-9. ~~(b)5.-9.~~  
2096 shall be appointed for 4-year terms.

2097 Reviser's note.—Amended to confirm an editorial  
2098 substitution; paragraph (b) does not contain  
2099 subparagraphs, and subparagraphs (a)5.-9. relate to  
2100 designation of specified council members.

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2101 Section 57. Subsection (3) of section 311.122, Florida  
2102 Statutes, is amended to read:

2103 311.122 Seaport law enforcement agency; authorization;  
2104 requirements; powers; training.—

2105 (3) If a seaport creates a seaport law enforcement agency  
2106 for its facility, a minimum of 30 percent of the aggregate  
2107 personnel of each seaport law enforcement agency shall be sworn  
2108 state-certified law enforcement officers with additional  
2109 Maritime Transportation Security Act of 2002 seaport training; a  
2110 minimum of 30 percent of on-duty personnel of each seaport law  
2111 enforcement agency shall be sworn state-certified law  
2112 enforcement officers with additional Maritime Transportation  
2113 Security Act of 2002 seaport training; and at least one on-duty  
2114 supervisor must be a sworn state-certified law enforcement  
2115 officer with additional Maritime Transportation Security Act of  
2116 2002 seaport training.

2117 Reviser's note.—Amended to conform to the full title  
2118 of the act.

2119 Section 58. Subsection (17) of section 318.18, Florida  
2120 Statutes, is amended to read:

2121 318.18 Amount of penalties.—The penalties required for a  
2122 noncriminal disposition pursuant to s. 318.14 or a criminal  
2123 offense listed in s. 318.17 are as follows:

2124 (17) In addition to any penalties imposed, a surcharge of  
2125 \$3 must be paid for all criminal offenses listed in s. 318.17  
2126 and for all noncriminal moving traffic violations under chapter  
2127 316. Revenue from the surcharge shall be remitted to the  
2128 Department of Revenue and deposited quarterly into the State  
2129 Agency Law Enforcement Radio System Trust Fund of the Department

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2130 of Management Services for the state agency law enforcement  
 2131 radio system, as described in s. 282.709, and to provide  
 2132 technical assistance to state agencies and local law enforcement  
 2133 agencies with their statewide systems of regional law  
 2134 enforcement communications, as described in s. 282.7101 ~~282.710~~.  
 2135 This subsection expires July 1, 2012. The Department of  
 2136 Management Services may retain funds sufficient to recover the  
 2137 costs and expenses incurred for managing, administering, and  
 2138 overseeing the Statewide Law Enforcement Radio System, and  
 2139 providing technical assistance to state agencies and local law  
 2140 enforcement agencies with their statewide systems of regional  
 2141 law enforcement communications. The Department of Management  
 2142 Services working in conjunction with the Joint Task Force on  
 2143 State Agency Law Enforcement Communications shall determine and  
 2144 direct the purposes for which these funds are used to enhance  
 2145 and improve the radio system.

2146 Reviser's note.—Amended to conform to the  
 2147 redesignation of s. 282.710 as s. 282.7101 by the  
 2148 reviser incident to compiling the 2009 Florida  
 2149 Statutes.

2150 Section 59. Subsection (13) of section 318.21, Florida  
 2151 Statutes, is amended to read:

2152 318.21 Disposition of civil penalties by county courts.—All  
 2153 civil penalties received by a county court pursuant to the  
 2154 provisions of this chapter shall be distributed and paid monthly  
 2155 as follows:

2156 (13) Of the proceeds from the fine under s. 318.18(15)  
 2157 ~~318.18(14)~~, \$65 shall be remitted to the Department of Revenue  
 2158 for deposit into the Administrative Trust Fund of the Department

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2159 of Health and the remaining \$60 shall be distributed pursuant to  
2160 subsections (1) and (2).

2161 Reviser's note.—Amended to conform to the  
2162 redesignation of s. 318.18(14) as s. 318.18(15). Two  
2163 subsections (14) were created by different 2005 laws,  
2164 and this reference was renumbered as subsection (15).

2165 Section 60. Section 321.02, Florida Statutes, is amended to  
2166 read:

2167 321.02 Powers and duties of department, highway patrol.—The  
2168 director of the Division of Highway Patrol of the Department of  
2169 Highway Safety and Motor Vehicles shall also be the commander of  
2170 the Florida Highway Patrol. The said department shall set up and  
2171 promulgate rules and regulations by which the personnel of the  
2172 Florida Highway Patrol officers shall be examined, employed,  
2173 trained, located, suspended, reduced in rank, discharged,  
2174 recruited, paid and pensioned, subject to civil service  
2175 provisions hereafter set out. The department may enter into  
2176 contracts or agreements, with or without competitive bidding or  
2177 procurement, to make available, on a fair, reasonable,  
2178 nonexclusive, and nondiscriminatory basis, property and other  
2179 structures under division control for the placement of new  
2180 facilities by any wireless provider of mobile service as defined  
2181 in 47 U.S.C. s. 153(27) ~~153(n)~~ or s. 332(d), and any  
2182 telecommunications company as defined in s. 364.02 when it is  
2183 determined to be practical and feasible to make such property or  
2184 other structures available. The department may, without adopting  
2185 a rule, charge a just, reasonable, and nondiscriminatory fee for  
2186 placement of the facilities, payable annually, based on the fair  
2187 market value of space used by comparable communications

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2188 facilities in the state. The department and a wireless provider  
2189 or telecommunications company may negotiate the reduction or  
2190 elimination of a fee in consideration of services provided to  
2191 the division by the wireless provider or the telecommunications  
2192 company. All such fees collected by the department shall be  
2193 deposited directly into the State Agency Law Enforcement Radio  
2194 System Trust Fund, and may be used to construct, maintain, or  
2195 support the system. The department is further specifically  
2196 authorized to purchase, sell, trade, rent, lease and maintain  
2197 all necessary equipment, uniforms, motor vehicles, communication  
2198 systems, housing facilities, office space, and perform any other  
2199 acts necessary for the proper administration and enforcement of  
2200 this chapter. However, all supplies and equipment consisting of  
2201 single items or in lots shall be purchased under the  
2202 requirements of s. 287.057. Purchases shall be made by accepting  
2203 the bid of the lowest responsive bidder, the right being  
2204 reserved to reject all bids. The department shall prescribe a  
2205 distinctive uniform and distinctive emblem to be worn by all  
2206 officers of the Florida Highway Patrol. It shall be unlawful for  
2207 any other person or persons to wear a similar uniform or emblem,  
2208 or any part or parts thereof. The department shall also  
2209 prescribe distinctive colors for use on motor vehicles and  
2210 motorcycles operated by the Florida Highway Patrol. The  
2211 prescribed colors shall be referred to as "Florida Highway  
2212 Patrol black and tan."

2213 Reviser's note.—Amended to confirm an editorial  
2214 substitution; 47 U.S.C. s. 153(27) defines the term  
2215 "mobile service," and 47 U.S.C. s. 153(n) does not  
2216 exist.

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2217 Section 61. Section 322.181, Florida Statutes, is repealed.

2218 Reviser's note.—Repeals material requiring a study and  
2219 report due February 1, 2004.

2220 Section 62. Paragraph (b) of subsection (2) of section  
2221 322.271, Florida Statutes, is amended to read:

2222 322.271 Authority to modify revocation, cancellation, or  
2223 suspension order.—

2224 (2) At such hearing, the person whose license has been  
2225 suspended, canceled, or revoked may show that such suspension,  
2226 cancellation, or revocation causes a serious hardship and  
2227 precludes the person from carrying out his or her normal  
2228 business occupation, trade, or employment and that the use of  
2229 the person's license in the normal course of his or her business  
2230 is necessary to the proper support of the person or his or her  
2231 family.

2232 (b) The department may waive the hearing process for  
2233 suspensions and revocations upon request by the driver if the  
2234 driver has enrolled in or completed the applicable driver  
2235 training course approved under s. 318.1451 or the DUI program  
2236 substance abuse education course and evaluation provided in s.  
2237 316.193(5). However, the department may not waive the hearing  
2238 for suspensions or revocations that involve death or serious  
2239 bodily injury, multiple convictions for violations of s. 316.193  
2240 pursuant to s. 322.27(5), or a second or subsequent suspension  
2241 or revocation pursuant to the same provision of this chapter.  
2242 This paragraph does not preclude the department from requiring a  
2243 hearing for any suspension or revocation that it determines is  
2244 warranted based on the severity of the offense.

2245 Reviser's note.—Amended to confirm an editorial

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2246 insertion made to facilitate correct interpretation.  
2247 Section 63. Paragraph (x) of subsection (1) of section  
2248 327.73, Florida Statutes, is amended to read:  
2249 327.73 Noncriminal infractions.—  
2250 (1) Violations of the following provisions of the vessel  
2251 laws of this state are noncriminal infractions:  
2252 (x) Section 253.04(3)(a) ~~253.04(4)(a)~~, relating to  
2253 carelessly causing seagrass scarring, for which the civil  
2254 penalty upon conviction is:  
2255 1. For a first offense, \$50.  
2256 2. For a second offense occurring within 12 months after a  
2257 prior conviction, \$250.  
2258 3. For a third offense occurring within 36 months after a  
2259 prior conviction, \$500.  
2260 4. For a fourth or subsequent offense occurring within 72  
2261 months after a prior conviction, \$1,000.  
2262  
2263 Any person cited for a violation of any such provision shall be  
2264 deemed to be charged with a noncriminal infraction, shall be  
2265 cited for such an infraction, and shall be cited to appear  
2266 before the county court. The civil penalty for any such  
2267 infraction is \$50, except as otherwise provided in this section.  
2268 Any person who fails to appear or otherwise properly respond to  
2269 a uniform boating citation shall, in addition to the charge  
2270 relating to the violation of the boating laws of this state, be  
2271 charged with the offense of failing to respond to such citation  
2272 and, upon conviction, be guilty of a misdemeanor of the second  
2273 degree, punishable as provided in s. 775.082 or s. 775.083. A  
2274 written warning to this effect shall be provided at the time



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2275 such uniform boating citation is issued.

2276 Reviser's note.—Amended to confirm an editorial  
2277 substitution necessitated by the repeal of former  
2278 subsection (3) by s. 59, ch. 2009-86, Laws of Florida.  
2279 Section 64. Subsection (26) of section 334.044, Florida  
2280 Statutes, is amended to read:

2281 334.044 Department; powers and duties.—The department shall  
2282 have the following general powers and duties:

2283 (26) To provide for the enhancement of environmental  
2284 benefits, including air and water quality; to prevent roadside  
2285 erosion; to conserve the natural roadside growth and scenery;  
2286 and to provide for the implementation and maintenance of  
2287 roadside conservation, enhancement, and stabilization  
2288 ~~stabilization,~~ and programs. No less than 1.5 percent of the  
2289 amount contracted for construction projects shall be allocated  
2290 by the department for the purchase of plant materials, with, to  
2291 the greatest extent practical, a minimum of 50 percent of these  
2292 funds for large plant materials and the remaining funds for  
2293 other plant materials. All such plant materials shall be  
2294 purchased from Florida commercial nursery stock in this state on  
2295 a uniform competitive bid basis. The department will develop  
2296 grades and standards for landscaping materials purchased through  
2297 this process. To accomplish these activities, the department may  
2298 contract with nonprofit organizations having the primary purpose  
2299 of developing youth employment opportunities.

2300 Reviser's note.—Amended to confirm an editorial  
2301 substitution made to correct an apparent error.

2302 Section 65. Subsection (5) of section 337.0261, Florida  
2303 Statutes, is repealed.

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2304 Reviser's note.—Repealed to delete references to the  
2305 "Strategic Aggregates Review Task Force," which was  
2306 dissolved on July 1, 2008.

2307 Section 66. Paragraph (a) of subsection (2) of section  
2308 337.16, Florida Statutes, is amended to read:

2309 337.16 Disqualification of delinquent contractors from  
2310 bidding; determination of contractor nonresponsibility; denial,  
2311 suspension, and revocation of certificates of qualification;  
2312 grounds; hearing.—

2313 (2) For reasons other than delinquency in progress, the  
2314 department, for good cause, may determine any contractor not  
2315 having a certificate of qualification nonresponsible for a  
2316 specified period of time or may deny, suspend, or revoke any  
2317 certificate of qualification. Good cause includes, but is not  
2318 limited to, circumstances in which a contractor or the  
2319 contractor's official representative:

2320 (a) Makes or submits to the department false, deceptive, or  
2321 fraudulent statements or materials in any bid proposal to the  
2322 department, any application for a certificate of qualification,  
2323 any certification of payment pursuant to s. 337.11(11)  
2324 ~~337.11(10)~~, or any administrative or judicial proceeding;

2325 Reviser's note.—Amended to conform to the  
2326 redesignation of s. 337.11(10) as s. 337.11(11) by s.  
2327 7, ch. 2009-85, Laws of Florida.

2328 Section 67. Subsection (3) of section 338.235, Florida  
2329 Statutes, is amended to read:

2330 338.235 Contracts with department for provision of services  
2331 on the turnpike system.—

2332 (3) The department may enter into contracts or agreements,

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2333 with or without competitive bidding or procurement, to make  
2334 available, on a fair, reasonable, nonexclusive, and  
2335 nondiscriminatory basis, turnpike property and other turnpike  
2336 structures, for the placement of wireless facilities by any  
2337 wireless provider of mobile services as defined in 47 U.S.C. s.  
2338 153(27) ~~153(n)~~ or s. 332(d), and any telecommunications company  
2339 as defined in s. 364.02 when it is determined to be practical  
2340 and feasible to make such property or structures available. The  
2341 department may, without adopting a rule, charge a just,  
2342 reasonable, and nondiscriminatory fee for placement of the  
2343 facilities, payable annually, based on the fair market value of  
2344 space used by comparable communications facilities in the state.  
2345 The department and a wireless provider may negotiate the  
2346 reduction or elimination of a fee in consideration of goods or  
2347 services provided to the department by the wireless provider.  
2348 All such fees collected by the department shall be deposited  
2349 directly into the State Agency Law Enforcement Radio System  
2350 Trust Fund and may be used to construct, maintain, or support  
2351 the system.

2352 Reviser's note.—Amended to confirm an editorial  
2353 substitution; 47 U.S.C. s. 153(27) defines the term  
2354 "mobile service," and 47 U.S.C. s. 153(n) does not  
2355 exist.

2356 Section 68. Paragraph (a) of subsection (8) of section  
2357 365.172, Florida Statutes, is amended to read:

2358 365.172 Emergency communications number "E911."—

2359 (8) E911 FEE.—

2360 (a) Each voice communications services provider shall  
2361 collect the fee described in this subsection. Each provider, as

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2362 part of its monthly billing process, shall bill the fee as  
2363 follows. The fee shall not be assessed on any pay telephone in  
2364 the state.

2365 1. Each local exchange carrier shall bill the fee to the  
2366 local exchange subscribers on a service-identifier basis, up to  
2367 a maximum of 25 access lines per account bill rendered.

2368 2. Except in the case of prepaid wireless service, each  
2369 wireless provider shall bill the fee to a subscriber on a per-  
2370 service-identifier basis for service identifiers whose primary  
2371 place of use is within this state. Before July 1, 2009, the fee  
2372 shall not be assessed on or collected from a provider with  
2373 respect to an end user's service if that end user's service is a  
2374 prepaid calling arrangement that is subject to s. 212.05(1)(e).

2375 a. The board shall conduct a study to determine whether it  
2376 is feasible to collect E911 fees from the sale of prepaid  
2377 wireless service. ~~If, based on the findings of the study, the~~  
2378 ~~board determines that a fee should not be collected from the~~  
2379 ~~sale of prepaid wireless service, it shall report its findings~~  
2380 ~~and recommendation to the Governor, the President of the Senate,~~  
2381 ~~and the Speaker of the House of Representatives by December 31,~~  
2382 ~~2008.~~ If the board determines that a fee should be collected  
2383 from the sale of prepaid wireless service, the board shall  
2384 collect the fee beginning July 1, 2009.

2385 b. For purposes of this section, the term:

2386 (I) "Prepaid wireless service" means the right to access  
2387 telecommunications services that must be paid for in advance and  
2388 is sold in predetermined units or dollars enabling the  
2389 originator to make calls such that the number of units or  
2390 dollars declines with use in a known amount.

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2391 (II) "Prepaid wireless service providers" includes those  
2392 persons who sell prepaid wireless service regardless of its  
2393 form, either as a retailer or reseller.

2394 c. The study must include an evaluation of methods by which  
2395 E911 fees may be collected from end users and purchasers of  
2396 prepaid wireless service on an equitable, efficient,  
2397 competitively neutral, and nondiscriminatory basis and must  
2398 consider whether the collection of fees on prepaid wireless  
2399 service would constitute an efficient use of public funds given  
2400 the technological and practical considerations of collecting the  
2401 fee based on the varying methodologies prepaid wireless service  
2402 providers and their agents use in marketing prepaid wireless  
2403 service.

2404 d. The study must include a review and evaluation of the  
2405 collection of E911 fees on prepaid wireless service at the point  
2406 of sale within the state. This evaluation must be consistent  
2407 with the collection principles of end user charges such as those  
2408 in s. 212.05(1)(e).

2409 e. No later than 90 days after this section becomes law,  
2410 the board shall require all prepaid wireless service providers,  
2411 including resellers, to provide the board with information that  
2412 the board determines is necessary to discharge its duties under  
2413 this section, including information necessary for its  
2414 recommendation, such as total retail and reseller prepaid  
2415 wireless service sales.

2416 f. All subscriber information provided by a prepaid  
2417 wireless service provider in response to a request from the  
2418 board while conducting this study is subject to s. 365.174.

2419 g. The study shall be conducted by an entity competent and

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2420 knowledgeable in matters of state taxation policy if the board  
2421 does not possess that expertise. The study must be paid from the  
2422 moneys distributed to the board for administrative purposes  
2423 under s. 365.173(2)(f) but may not exceed \$250,000.

2424 3. All voice communications services providers not  
2425 addressed under subparagraphs 1. and 2. shall bill the fee on a  
2426 per-service-identifier basis for service identifiers whose  
2427 primary place of use is within the state up to a maximum of 25  
2428 service identifiers for each account bill rendered.

2429  
2430 The provider may list the fee as a separate entry on each bill,  
2431 in which case the fee must be identified as a fee for E911  
2432 services. A provider shall remit the fee to the board only if  
2433 the fee is paid by the subscriber. If a provider receives a  
2434 partial payment for a monthly bill from a subscriber, the amount  
2435 received shall first be applied to the payment due the provider  
2436 for providing voice communications service.

2437 Reviser's note.—Amended to delete obsolete language.

2438 Section 69. Subsection (4) of section 373.046, Florida  
2439 Statutes, is amended to read:

2440 373.046 Interagency agreements.—

2441 (4) The Legislature recognizes and affirms the division of  
2442 responsibilities between the department and the water management  
2443 districts as set forth in ss. III. and X. of each of the  
2444 operating agreements codified as rules 17-101.040(12)(a)3., 4.,  
2445 and 5., Florida Administrative Code. Section IV.A.2.a. of each  
2446 operating agreement regarding individual permit oversight is  
2447 rescinded. The department shall be responsible for permitting  
2448 those activities under part IV of this chapter which, because of

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2449 their complexity and magnitude, need to be economically and  
2450 efficiently evaluated at the state level, including, but not  
2451 limited to, mining, hazardous waste management facilities and  
2452 solid waste management facilities that do not qualify for a  
2453 general permit under chapter 403. With regard to  
2454 postcertification information submittals for activities  
2455 authorized under chapters 341 and 403 siting act certifications,  
2456 the department, after consultation with the appropriate water  
2457 management district and other agencies having applicable  
2458 regulatory jurisdiction, shall be responsible for determining  
2459 the permittee's compliance with conditions of certification  
2460 which were based upon the nonprocedural requirements of part IV  
2461 of this chapter. The Legislature authorizes the water management  
2462 districts and the department to modify the division of  
2463 responsibilities referenced in this section and enter into  
2464 further interagency agreements by rulemaking, including  
2465 incorporation by reference, pursuant to chapter 120, to provide  
2466 for greater efficiency and to avoid duplication in the  
2467 administration of part IV of this chapter by designating certain  
2468 activities which will be regulated by either the water  
2469 management districts or the department. In developing such  
2470 interagency agreements, the water management districts and the  
2471 department should take into consideration the technical and  
2472 fiscal ability of each water management district to implement  
2473 all or some of the provisions of part IV of this chapter.  
2474 Nothing herein rescinds or restricts the authority of the  
2475 districts to regulate silviculture and agriculture pursuant to  
2476 part IV of this chapter or s. 403.927. ~~By December 10, 1993, the~~  
2477 ~~secretary of the department shall submit a report to the~~

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2478 ~~President of the Senate and the Speaker of the House of~~  
2479 ~~Representatives regarding the efficiency of the procedures and~~  
2480 ~~the division of responsibilities contemplated by this subsection~~  
2481 ~~and regarding progress toward the execution of further~~  
2482 ~~interagency agreements and the integration of permitting with~~  
2483 ~~sovereignty lands approval. The report also will consider the~~  
2484 ~~feasibility of improving the protection of the environment~~  
2485 ~~through comprehensive criteria for protection of natural~~  
2486 ~~systems.~~

2487 Reviser's note.—Amended to delete obsolete language.

2488 Section 70. Subsection (7) of section 373.236, Florida  
2489 Statutes, is amended to read:

2490 373.236 Duration of permits; compliance reports.—

2491 (7) A permit approved for a renewable energy generating  
2492 facility or the cultivation of agricultural products on lands  
2493 consisting of 1,000 acres or more for use in the production of  
2494 renewable energy, as defined in s. 366.91(2)(d), shall be  
2495 granted for a term of at least 25 years at the applicant's  
2496 request based on the anticipated life of the facility if there  
2497 is sufficient data to provide reasonable assurance that the  
2498 conditions for permit issuance will be met for the duration of  
2499 the permit; otherwise, a permit may be issued for a shorter  
2500 duration that reflects the longest period for which such  
2501 reasonable assurances are provided. Such a permit is subject to  
2502 compliance reports under subsection (4).

2503 Reviser's note.—Amended to confirm an editorial  
2504 insertion made to improve clarity and correct sentence  
2505 construction.

2506 Section 71. Subsection (5) of section 376.30713, Florida



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2507 Statutes, is repealed.

2508 Reviser's note.—Repeals material relating to a report  
2509 due by December 31, 1998, on the progress and level of  
2510 activity made regarding preapproved advanced cleanup.

2511 Section 72. Paragraph (f) of subsection (2) of section  
2512 377.709, Florida Statutes, is amended to read:

2513 377.709 Funding by electric utilities of local governmental  
2514 solid waste facilities that generate electricity.—

2515 (2) DEFINITIONS.—As used in this section, the term:

2516 (f) "Solid waste facility" means a facility owned or  
2517 operated by, or on behalf of, a local government for the purpose  
2518 of disposing of solid waste, as that term is defined in s.  
2519 403.703(32) ~~403.703(13)~~, by any process that produces heat and  
2520 incorporates, as a part of the facility, the means of converting  
2521 heat to electrical energy in amounts greater than actually  
2522 required for the operation of the facility.

2523 Reviser's note.—Amended to correct a cross-reference.

2524 The definition for "solid waste" is at s. 403.703(32)  
2525 as amended by s. 6, ch. 2007-184, Laws of Florida.

2526 Section 73. Paragraph (a) of subsection (29) of section  
2527 380.06, Florida Statutes, is amended to read:

2528 380.06 Developments of regional impact.—

2529 (29) EXEMPTIONS FOR DENSE URBAN LAND AREAS.—

2530 (a) The following are exempt from this section:

- 2531 1. Any proposed development in a municipality that
- 2532 qualifies as a dense urban land area as defined in s. 163.3164;
- 2533 2. Any proposed development within a county that qualifies
- 2534 as a dense urban land area as defined in s. 163.3164 and that is
- 2535 located within an urban service area as defined in s. 163.3164

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2536 which has been adopted into the comprehensive plan; or

2537 3. Any proposed development within a county, including the  
2538 municipalities located therein, which has a population of at  
2539 least 900,000, which qualifies as a dense urban land area under  
2540 s. 163.3164, but which does not have an urban service area  
2541 designated in the comprehensive plan.

2542 Reviser's note.—Amended to improve clarity.

2543 Section 74. Subsection (6) of section 381.84, Florida  
2544 Statutes, is reenacted to read:

2545 381.84 Comprehensive Statewide Tobacco Education and Use  
2546 Prevention Program.—

2547 (6) CONTRACT REQUIREMENTS.—Contracts or grants for the  
2548 program components or subcomponents described in paragraphs  
2549 (3) (a)-(f) shall be awarded by the State Surgeon General, after  
2550 consultation with the council, on the basis of merit, as  
2551 determined by an open, competitive, peer-reviewed process that  
2552 ensures objectivity, consistency, and high quality. The  
2553 department shall award such grants or contracts no later than  
2554 October 1 for each fiscal year. A recipient of a contract or  
2555 grant for the program component described in paragraph (3) (c) is  
2556 not eligible for a contract or grant award for any other program  
2557 component described in subsection (3) in the same state fiscal  
2558 year. A school or college of medicine that is represented on the  
2559 council is not eligible to receive a contract or grant under  
2560 this section. For the 2009-2010 fiscal year only, the department  
2561 shall award a contract or grant in the amount of \$10 million to  
2562 the AHEC network for the purpose of developing the components  
2563 described in paragraph (3) (i). The AHEC network may apply for a  
2564 competitive contract or grant after the 2009-2010 fiscal year.

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2565 (a) In order to ensure that all proposals for funding are  
2566 appropriate and are evaluated fairly on the basis of merit, the  
2567 State Surgeon General, in consultation with the council, shall  
2568 appoint a peer review panel of independent, qualified experts in  
2569 the field of tobacco control to review the content of each  
2570 proposal and establish its priority score. The priority scores  
2571 shall be forwarded to the council and must be considered in  
2572 determining which proposals will be recommended for funding.

2573 (b) The council and the peer review panel shall establish  
2574 and follow rigorous guidelines for ethical conduct and adhere to  
2575 a strict policy with regard to conflicts of interest. A member  
2576 of the council or panel may not participate in any discussion or  
2577 decision with respect to a research proposal by any firm,  
2578 entity, or agency with which the member is associated as a  
2579 member of the governing body or as an employee or with which the  
2580 member has entered into a contractual arrangement. Meetings of  
2581 the council and the peer review panels are subject to chapter  
2582 119, s. 286.011, and s. 24, Art. I of the State Constitution.

2583 (c) In each contract or grant agreement, the department  
2584 shall limit the use of food and promotional items to no more  
2585 than 2.5 percent of the total amount of the contract or grant  
2586 and limit overhead or indirect costs to no more than 7.5 percent  
2587 of the total amount of the contract or grant. The department, in  
2588 consultation with the Department of Financial Services, shall  
2589 publish guidelines for appropriate food and promotional items.

2590 (d) In each advertising contract, the department shall  
2591 limit the total of production fees, buyer commissions, and  
2592 related costs to no more than 10 percent of the total contract  
2593 amount.

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2594 (e) Notwithstanding the competitive process for contracts  
2595 prescribed in this subsection, each county health department is  
2596 eligible for core funding, on a per capita basis, to implement  
2597 tobacco education and use prevention activities within that  
2598 county.

2599 Reviser's note.—Section 3, ch. 2009-58, Laws of  
2600 Florida, amended subsection (6) without publishing  
2601 paragraphs (a)-(e). Absent affirmative evidence of  
2602 legislative intent to repeal the omitted paragraphs,  
2603 subsection (6) is reenacted to confirm the omission  
2604 was not intended.

2605 Section 75. Section 381.912, Florida Statutes, is repealed.

2606 Reviser's note.—Repealed to delete a section relating  
2607 to the Cervical Cancer Elimination Task Force, which  
2608 was dissolved after submitting its final report due on  
2609 or before June 30, 2008.

2610 Section 76. Section 382.357, Florida Statutes, is repealed.

2611 Reviser's note.—Repealed to delete a section  
2612 applicable to a study to determine the feasibility of  
2613 electronically filing original and new or amended  
2614 birth certificates, documentation of paternity  
2615 determinations, and adoptions with the Department of  
2616 Health and a report of the findings to be made by July  
2617 1, 2006.

2618 Section 77. Subsections (2) and (3) of section 394.875,  
2619 Florida Statutes, are amended to read:

2620 394.875 Crisis stabilization units, residential treatment  
2621 facilities, and residential treatment centers for children and  
2622 adolescents; authorized services; license required.—

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2623 (2) The requirements of part II of chapter 408 apply to the  
 2624 provision of services that require licensure under ss. 394.455-  
 2625 394.903 ~~394.455-394.904~~ and part II of chapter 408 and to  
 2626 entities licensed by or applying for such licensure from the  
 2627 Agency for Health Care Administration pursuant to ss. 394.455-  
 2628 394.903 ~~394.455-394.904~~. A license issued by the agency is  
 2629 required in order to operate a crisis stabilization unit, a  
 2630 residential treatment facility, or a residential treatment  
 2631 center for children and adolescents, or to act as a crisis  
 2632 stabilization unit, a residential treatment facility, or a  
 2633 residential treatment center for children and adolescents in  
 2634 this state.

2635 (3) The following are exempt from licensure as required in  
 2636 ss. 394.455-394.903 ~~394.455-394.904~~:

2637 (a) Homes for special services licensed under chapter 400.

2638 (b) Nursing homes licensed under chapter 400.

2639 (c) Comprehensive transitional education programs licensed  
 2640 under s. 393.067.

2641 Reviser's note.—Amended to conform to the repeal of s.  
 2642 394.904 by s. 10, ch. 2008-9, Laws of Florida.

2643 Section 78. Paragraph (d) of subsection (2) of section  
 2644 394.9082, Florida Statutes, is amended to read:

2645 394.9082 Behavioral health managing entities.—

2646 (2) DEFINITIONS.—As used in this section, the term:

2647 (d) "Managing entity" means a corporation that is organized  
 2648 in this state, is designated or filed as a nonprofit  
 2649 organization under s. 501(c)(3) of the Internal Revenue Code  
 2650 ~~Service~~, and is under contract to the department to manage the  
 2651 day-to-day operational delivery of behavioral health services

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2652 through an organized system of care.

2653 Reviser's note.—Amended to confirm an editorial  
2654 substitution made to correct an apparent error and  
2655 facilitate correct interpretation.

2656 Section 79. Paragraph (b) of subsection (1) of section  
2657 395.4036, Florida Statutes, is amended to read:

2658 395.4036 Trauma payments.—

2659 (1) Recognizing the Legislature's stated intent to provide  
2660 financial support to the current verified trauma centers and to  
2661 provide incentives for the establishment of additional trauma  
2662 centers as part of a system of state-sponsored trauma centers,  
2663 the department shall utilize funds collected under s. 318.18 and  
2664 deposited into the Administrative Trust Fund of the department  
2665 to ensure the availability and accessibility of trauma services  
2666 throughout the state as provided in this subsection.

2667 (b) Funds collected under s. 318.18(5)(c) and (20) ~~(19)~~  
2668 shall be distributed as follows:

2669 1. Thirty percent of the total funds collected shall be  
2670 distributed to Level II trauma centers operated by a public  
2671 hospital governed by an elected board of directors as of  
2672 December 31, 2008.

2673 2. Thirty-five percent of the total funds collected shall  
2674 be distributed to verified trauma centers based on trauma  
2675 caseload volume for the most recent calendar year available. The  
2676 determination of caseload volume for distribution of funds under  
2677 this subparagraph shall be based on the department's Trauma  
2678 Registry data.

2679 3. Thirty-five percent of the total funds collected shall  
2680 be distributed to verified trauma centers based on severity of

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2681 trauma patients for the most recent calendar year available. The  
2682 determination of severity for distribution of funds under this  
2683 subparagraph shall be based on the department's International  
2684 Classification Injury Severity Scores or another statistically  
2685 valid and scientifically accepted method of stratifying a trauma  
2686 patient's severity of injury, risk of mortality, and resource  
2687 consumption as adopted by the department by rule, weighted based  
2688 on the costs associated with and incurred by the trauma center  
2689 in treating trauma patients. The weighting of scores shall be  
2690 established by the department by rule.

2691 Reviser's note.—Amended to conform to the  
2692 redesignation of s. 318.18(19), as created by s. 1,  
2693 ch. 2009-138, Laws of Florida, as s. 318.18(20) to  
2694 conform to the creation of a different subsection (19)  
2695 by s. 3, ch. 2009-6, Laws of Florida.

2696 Section 80. Subsection (32) of section 397.311, Florida  
2697 Statutes, is amended to read:

2698 397.311 Definitions.—As used in this chapter, except part  
2699 VIII, the term:

2700 (32) "Service component" or "component" means a discrete  
2701 operational entity within a service provider which is subject to  
2702 licensing as defined by rule. Service components include  
2703 prevention, intervention, and clinical treatment described in  
2704 subsection (18) ~~(17)~~.

2705 Reviser's note.—Amended to correct a cross-reference.  
2706 The referenced service components are set out in  
2707 detail in subsection (18).

2708 Section 81. Subsection (5) of section 397.334, Florida  
2709 Statutes, is amended to read:

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2710 397.334 Treatment-based drug court programs.—  
2711 (5) Treatment-based drug court programs may include  
2712 pretrial intervention programs as provided in ss. 948.08,  
2713 948.16, and 985.345, treatment-based drug court programs  
2714 authorized in chapter 39, postadjudicatory programs, and review  
2715 of the status of compliance or noncompliance of sentenced  
2716 offenders through a treatment-based drug court program. While  
2717 enrolled in a treatment-based drug court program, the  
2718 participant is subject to a coordinated strategy developed by a  
2719 drug court team under subsection (4) ~~(3)~~. The coordinated  
2720 strategy may include a protocol of sanctions that may be imposed  
2721 upon the participant for noncompliance with program rules. The  
2722 protocol of sanctions may include, but is not limited to,  
2723 placement in a substance abuse treatment program offered by a  
2724 licensed service provider as defined in s. 397.311 or in a jail-  
2725 based treatment program or serving a period of secure detention  
2726 under chapter 985 if a child or a period of incarceration within  
2727 the time limits established for contempt of court if an adult.  
2728 The coordinated strategy must be provided in writing to the  
2729 participant before the participant agrees to enter into a  
2730 treatment-based drug court program.

2731 Reviser's note.—Amended to conform to the  
2732 redesignation of subsection (3) as subsection (4) by  
2733 s. 1, ch. 2009-64, Laws of Florida.  
2734 Section 82. Paragraph (u) of subsection (1) of section  
2735 400.141, Florida Statutes, is amended to read:  
2736 400.141 Administration and management of nursing home  
2737 facilities.—

2738 (1) Every licensed facility shall comply with all



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2739 applicable standards and rules of the agency and shall:

2740 (u) Before November 30 of each year, subject to the  
2741 availability of an adequate supply of the necessary vaccine,  
2742 provide for immunizations against influenza viruses to all its  
2743 consenting residents in accordance with the recommendations of  
2744 the United States Centers for Disease Control and Prevention,  
2745 subject to exemptions for medical contraindications and  
2746 religious or personal beliefs. Subject to these exemptions, any  
2747 consenting person who becomes a resident of the facility after  
2748 November 30 but before March 31 of the following year must be  
2749 immunized within 5 working days after becoming a resident.  
2750 Immunization shall not be provided to any resident who provides  
2751 documentation that he or she has been immunized as required by  
2752 this paragraph. This paragraph does not prohibit a resident from  
2753 receiving the immunization from his or her personal physician if  
2754 he or she so chooses. A resident who chooses to receive the  
2755 immunization from his or her personal physician shall provide  
2756 proof of immunization to the facility. The agency may adopt and  
2757 enforce any rules necessary to comply with or implement this  
2758 paragraph subsection.

2759 Reviser's note.—Amended to conform to the  
2760 redesignation of subunits by s. 39, ch. 2009-223, Laws  
2761 of Florida.

2762 Section 83. Section 400.195, Florida Statutes, is repealed.

2763 Reviser's note.—Repealed to delete language applicable  
2764 to reports by the Agency for Health Care  
2765 Administration with respect to nursing homes for a  
2766 period ending June 30, 2005.

2767 Section 84. Subsection (6) of section 400.474, Florida

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2768 Statutes, is amended to read:

2769 400.474 Administrative penalties.—

2770 (6) The agency may deny, revoke, or suspend the license of  
2771 a home health agency and shall impose a fine of \$5,000 against a  
2772 home health agency that:

2773 (a) Gives remuneration for staffing services to:

2774 1. Another home health agency with which it has formal or  
2775 informal patient-referral transactions or arrangements; or

2776 2. A health services pool with which it has formal or  
2777 informal patient-referral transactions or arrangements,

2778  
2779 unless the home health agency has activated its comprehensive  
2780 emergency management plan in accordance with s. 400.492. This  
2781 paragraph does not apply to a Medicare-certified home health  
2782 agency that provides fair market value remuneration for staffing  
2783 services to a non-Medicare-certified home health agency that is  
2784 part of a continuing care facility licensed under chapter 651  
2785 for providing services to its own residents if each resident  
2786 receiving home health services pursuant to this arrangement  
2787 attests in writing that he or she made a decision without  
2788 influence from staff of the facility to select, from a list of  
2789 Medicare-certified home health agencies provided by the  
2790 facility, that Medicare-certified home health agency to provide  
2791 the services.

2792 (b) Provides services to residents in an assisted living  
2793 facility for which the home health agency does not receive fair  
2794 market value remuneration.

2795 (c) Provides staffing to an assisted living facility for  
2796 which the home health agency does not receive fair market value

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2797 remuneration.

2798 (d) Fails to provide the agency, upon request, with copies  
2799 of all contracts with assisted living facilities which were  
2800 executed within 5 years before the request.

2801 (e) Gives remuneration to a case manager, discharge  
2802 planner, facility-based staff member, or third-party vendor who  
2803 is involved in the discharge planning process of a facility  
2804 licensed under chapter 395, chapter 429, or this chapter from  
2805 whom the home health agency receives referrals.

2806 (f) Fails to submit to the agency, within 15 days after the  
2807 end of each calendar quarter, a written report that includes the  
2808 following data based on data as it existed on the last day of  
2809 the quarter:

2810 1. The number of insulin-dependent diabetic patients  
2811 receiving insulin-injection services from the home health  
2812 agency;

2813 2. The number of patients receiving both home health  
2814 services from the home health agency and hospice services;

2815 3. The number of patients receiving home health services  
2816 from that home health agency; and

2817 4. The names and license numbers of nurses whose primary  
2818 job responsibility is to provide home health services to  
2819 patients and who received remuneration from the home health  
2820 agency in excess of \$25,000 during the calendar quarter.

2821 (g) Gives cash, or its equivalent, to a Medicare or  
2822 Medicaid beneficiary.

2823 (h) Has more than one medical director contract in effect  
2824 at one time or more than one medical director contract and one  
2825 contract with a physician-specialist whose services are mandated

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2826 for the home health agency in order to qualify to participate in  
2827 a federal or state health care program at one time.

2828 (i) Gives remuneration to a physician without a medical  
2829 director contract being in effect. The contract must:

- 2830 1. Be in writing and signed by both parties;
- 2831 2. Provide for remuneration that is at fair market value  
2832 for an hourly rate, which must be supported by invoices  
2833 submitted by the medical director describing the work performed,  
2834 the dates on which that work was performed, and the duration of  
2835 that work; and
- 2836 3. Be for a term of at least 1 year.

2837

2838 The hourly rate specified in the contract may not be increased  
2839 during the term of the contract. The home health agency may not  
2840 execute a subsequent contract with that physician which has an  
2841 increased hourly rate and covers any portion of the term that  
2842 was in the original contract.

2843 (j) Gives remuneration to:

- 2844 1. A physician, and the home health agency is in violation  
2845 of paragraph (h) or paragraph (i);
- 2846 2. A member of the physician's office staff; or
- 2847 3. An immediate family member of the physician,

2848

2849 if the home health agency has received a patient referral in the  
2850 preceding 12 months from that physician or physician's office  
2851 staff.

2852 (k) Fails to provide to the agency, upon request, copies of  
2853 all contracts with a medical director which were executed within  
2854 5 years before the request.

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2855 (1) Demonstrates a pattern of billing the Medicaid program  
 2856 for services to Medicaid recipients which are medically  
 2857 unnecessary as determined by a final order. A pattern may be  
 2858 demonstrated by a showing of at least two such medically  
 2859 unnecessary services within one Medicaid program integrity audit  
 2860 period.

2861  
 2862 Nothing in paragraph (e) or paragraph (j) shall be interpreted  
 2863 as applying to or precluding any discount, compensation, waiver  
 2864 of payment, or payment practice permitted by 42 U.S.C. s. 1320a-  
 2865 7(b) ~~52 U.S.C. s. 1320a-7(b)~~ or regulations adopted thereunder,  
 2866 including 42 C.F.R. s. 1001.952 or s. 1395nn or regulations  
 2867 adopted thereunder.

2868 Reviser's note.—Amended to confirm an editorial  
 2869 substitution; 42 U.S.C. s. 1320a-7(b) includes  
 2870 exemptions from application of criminal penalties  
 2871 relating to federal health care programs, and 52  
 2872 U.S.C. s. 1320a-7(b) does not exist.

2873 Section 85. Paragraph (a) of subsection (11) of section  
 2874 403.0872, Florida Statutes, is amended to read:

2875 403.0872 Operation permits for major sources of air  
 2876 pollution; annual operation license fee.—Provided that program  
 2877 approval pursuant to 42 U.S.C. s. 7661a has been received from  
 2878 the United States Environmental Protection Agency, beginning  
 2879 January 2, 1995, each major source of air pollution, including  
 2880 electrical power plants certified under s. 403.511, must obtain  
 2881 from the department an operation permit for a major source of  
 2882 air pollution under this section. This operation permit is the  
 2883 only department operation permit for a major source of air

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2884 pollution required for such source; provided, at the applicant's  
2885 request, the department shall issue a separate acid rain permit  
2886 for a major source of air pollution that is an affected source  
2887 within the meaning of 42 U.S.C. s. 7651a(1). Operation permits  
2888 for major sources of air pollution, except general permits  
2889 issued pursuant to s. 403.814, must be issued in accordance with  
2890 the procedures contained in this section and in accordance with  
2891 chapter 120; however, to the extent that chapter 120 is  
2892 inconsistent with the provisions of this section, the procedures  
2893 contained in this section prevail.

2894 (11) Each major source of air pollution permitted to  
2895 operate in this state must pay between January 15 and March 1 of  
2896 each year, upon written notice from the department, an annual  
2897 operation license fee in an amount determined by department  
2898 rule. The annual operation license fee shall be terminated  
2899 immediately in the event the United States Environmental  
2900 Protection Agency imposes annual fees solely to implement and  
2901 administer the major source air-operation permit program in  
2902 Florida under 40 C.F.R. s. 70.10(d).

2903 (a) The annual fee must be assessed based upon the source's  
2904 previous year's emissions and must be calculated by multiplying  
2905 the applicable annual operation license fee factor times the  
2906 tons of each regulated air pollutant (except carbon monoxide)  
2907 allowed to be emitted per hour by specific condition of the  
2908 source's most recent construction or operation permit, times the  
2909 annual hours of operation allowed by permit condition; provided,  
2910 however, that:

2911 1. The license fee factor is \$25 or another amount  
2912 determined by department rule which ensures that the revenue

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2913 provided by each year's operation license fees is sufficient to  
2914 cover all reasonable direct and indirect costs of the major  
2915 stationary source air-operation permit program established by  
2916 this section. The license fee factor may be increased beyond \$25  
2917 only if the secretary of the department affirmatively finds that  
2918 a shortage of revenue for support of the major stationary source  
2919 air-operation permit program will occur in the absence of a fee  
2920 factor adjustment. The annual license fee factor may never  
2921 exceed \$35.

2922         2. For any source that operates for fewer hours during the  
2923 calendar year than allowed under its permit, the annual fee  
2924 calculation must be based upon actual hours of operation rather  
2925 than allowable hours if the owner or operator of the source  
2926 documents the source's actual hours of operation for the  
2927 calendar year. For any source that has an emissions limit that  
2928 is dependent upon the type of fuel burned, the annual fee  
2929 calculation must be based on the emissions limit applicable  
2930 during actual hours of operation.

2931         3. For any source whose allowable emission limitation is  
2932 specified by permit per units of material input or heat input or  
2933 product output, the applicable input or production amount may be  
2934 used to calculate the allowable emissions if the owner or  
2935 operator of the source documents the actual input or production  
2936 amount. If the input or production amount is not documented, the  
2937 maximum allowable input or production amount specified in the  
2938 permit must be used to calculate the allowable emissions.

2939         4. For any new source that does not receive its first  
2940 operation permit until after the beginning of a calendar year,  
2941 the annual fee for the year must be reduced pro rata to reflect

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2942 the period during which the source was not allowed to operate.

2943 5. For any source that emits less of any regulated air  
2944 pollutant than allowed by permit condition, the annual fee  
2945 calculation for such pollutant must be based upon actual  
2946 emissions rather than allowable emissions if the owner or  
2947 operator documents the source's actual emissions by means of  
2948 data from a department-approved certified continuous emissions  
2949 monitor or from an emissions monitoring method which has been  
2950 approved by the United States Environmental Protection Agency  
2951 under the regulations implementing 42 U.S.C. ss. 7651 et seq.,  
2952 or from a method approved by the department for purposes of this  
2953 section.

2954 6. The amount of each regulated air pollutant in excess of  
2955 4,000 tons per year allowed to be emitted by any source, or  
2956 group of sources belonging to the same Major Group as described  
2957 in the Standard Industrial Classification Manual, 1987, may not  
2958 be included in the calculation of the fee. Any source, or group  
2959 of sources, which does not emit any regulated air pollutant in  
2960 excess of 4,000 tons per year, is allowed a one-time credit not  
2961 to exceed 25 percent of the first annual licensing fee for the  
2962 prorated portion of existing air-operation permit application  
2963 fees remaining upon commencement of the annual licensing fees.

2964 7. If the department has not received the fee by February  
2965 15 of the calendar year, the permittee must be sent a written  
2966 warning of the consequences for failing to pay the fee by March  
2967 1. If the fee is not postmarked by March 1 of the calendar year,  
2968 the department shall impose, in addition to the fee, a penalty  
2969 of 50 percent of the amount of the fee, plus interest on such  
2970 amount computed in accordance with s. 220.807. The department



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2971 may not impose such penalty or interest on any amount underpaid,  
2972 provided that the permittee has timely remitted payment of at  
2973 least 90 percent of the amount determined to be due and remits  
2974 full payment within 60 days after receipt of notice of the  
2975 amount underpaid. The department may waive the collection of  
2976 underpayment and shall not be required to refund overpayment of  
2977 the fee, if the amount due is less than 1 percent of the fee, up  
2978 to \$50. The department may revoke any major air pollution source  
2979 operation permit if it finds that the permitholder has failed to  
2980 timely pay any required annual operation license fee, penalty,  
2981 or interest.

2982 8. Notwithstanding the computational provisions of this  
2983 subsection, the annual operation license fee for any source  
2984 subject to this section shall not be less than \$250, except that  
2985 the annual operation license fee for sources permitted solely  
2986 through general permits issued under s. 403.814 shall not exceed  
2987 \$50 per year.

2988 9. Notwithstanding the provisions of s. 403.087(6)(a)5.a.  
2989 ~~403.087(6)(a)4.a.~~, authorizing air pollution construction permit  
2990 fees, the department may not require such fees for changes or  
2991 additions to a major source of air pollution permitted pursuant  
2992 to this section, unless the activity triggers permitting  
2993 requirements under Title I, Part C or Part D, of the federal  
2994 Clean Air Act, 42 U.S.C. ss. 7470-7514a. Costs to issue and  
2995 administer such permits shall be considered direct and indirect  
2996 costs of the major stationary source air-operation permit  
2997 program under s. 403.0873. The department shall, however,  
2998 require fees pursuant to the provisions of s. 403.087(6)(a)5.a.  
2999 ~~403.087(6)(a)4.a.~~ for the construction of a new major source of

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3000 air pollution that will be subject to the permitting  
3001 requirements of this section once constructed and for activities  
3002 triggering permitting requirements under Title I, Part C or Part  
3003 D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a.

3004 Reviser's note.—Amended to conform to the  
3005 redesignation of s. 403.087(6)(a)4.a. as s.  
3006 403.087(6)(a)5.a. by s. 19, ch. 2008-150, Laws of  
3007 Florida.

3008 Section 86. Subsection (8) of section 403.93345, Florida  
3009 Statutes, is amended to read:

3010 403.93345 Coral reef protection.—

3011 (8) In addition to the compensation described in subsection  
3012 (5), the department may assess, per occurrence, civil penalties  
3013 according to the following schedule:

3014 (a) For any anchoring of a vessel on a coral reef or for  
3015 any other damage to a coral reef totaling less than or equal to  
3016 an area of 1 square meter, \$150, provided that a responsible  
3017 party who has anchored a recreational vessel as defined in s.  
3018 327.02 which is lawfully registered or exempt from registration  
3019 pursuant to chapter 328 is issued, at least once, a warning  
3020 letter in lieu of penalty; with aggravating circumstances, an  
3021 additional \$150; occurring within a state park or aquatic  
3022 preserve, an additional \$150.

3023 (b) For damage totaling more than an area of 1 square meter  
3024 but less than or equal to an area of 10 square meters, \$300 per  
3025 square meter; with aggravating circumstances, an additional \$300  
3026 per square meter; occurring within a state park or aquatic  
3027 preserve, an additional \$300 per square meter.

3028 (c) For damage exceeding an area of 10 square meters,

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3029 \$1,000 per square meter; with aggravating circumstances, an  
3030 additional \$1,000 per square meter; occurring within a state  
3031 park or aquatic preserve, an additional \$1,000 per square meter.

3032 (d) For a second violation, the total penalty may be  
3033 doubled.

3034 (e) For a third violation, the total penalty may be  
3035 tripled.

3036 (f) For any violation after a third violation, the total  
3037 penalty may be quadrupled.

3038 (g) The total of penalties levied may not exceed \$250,000  
3039 per occurrence.

3040 Reviser's note.—Amended to confirm an editorial  
3041 insertion made to improve clarity.

3042 Section 87. Section 403.9336, Florida Statutes, is amended  
3043 to read:

3044 403.9336 Legislative findings.—The Legislature finds that  
3045 the implementation of the Model Ordinance for Florida-Friendly  
3046 Fertilizer Use on Urban Landscapes (2008), which was developed  
3047 by the department in conjunction with the ~~Florida~~ Consumer  
3048 Fertilizer Task Force, the Department of Agriculture and  
3049 Consumer Services, and the University of Florida Institute of  
3050 Food and Agricultural Sciences, will assist in protecting the  
3051 quality of Florida's surface water and groundwater resources.  
3052 The Legislature further finds that local conditions, including  
3053 variations in the types and quality of water bodies, site-  
3054 specific soils and geology, and urban or rural densities and  
3055 characteristics, may necessitate the implementation of  
3056 additional or more stringent fertilizer management practices at  
3057 the local government level.

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3058 Reviser's note.—Amended to conform to the name of the  
3059 task force as created in s. 576.092; the task force  
3060 has been abolished, and s. 576.092 is repealed by this  
3061 act.

3062 Section 88. Subsections (6) and (7) of section 408.0361,  
3063 Florida Statutes, are repealed.

3064 Reviser's note.—Subsection (6) is repealed to delete  
3065 language establishing an advisory group to study the  
3066 issue of replacing certificate-of-need review of organ  
3067 transplant programs with licensure regulation of organ  
3068 transplant programs and to submit a report by July 1,  
3069 2005. Subsection (7) is repealed to delete language  
3070 establishing a workgroup to study certificate-of-need  
3071 regulations and changing market conditions related to  
3072 the supply and distribution of hospital beds and to  
3073 submit a report by July 1, 2005.

3074 Section 89. Paragraph (k) of subsection (3) of section  
3075 408.05, Florida Statutes, is amended to read:

3076 408.05 Florida Center for Health Information and Policy  
3077 Analysis.—

3078 (3) COMPREHENSIVE HEALTH INFORMATION SYSTEM.—In order to  
3079 produce comparable and uniform health information and statistics  
3080 for the development of policy recommendations, the agency shall  
3081 perform the following functions:

3082 (k) Develop, in conjunction with the State Consumer Health  
3083 Information and Policy Advisory Council, and implement a long-  
3084 range plan for making available health care quality measures and  
3085 financial data that will allow consumers to compare health care  
3086 services. The health care quality measures and financial data

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3087 the agency must make available shall include, but is not limited  
3088 to, pharmaceuticals, physicians, health care facilities, and  
3089 health plans and managed care entities. The agency shall ~~submit~~  
3090 ~~the initial plan to the Governor, the President of the Senate,~~  
3091 ~~and the Speaker of the House of Representatives by January 1,~~  
3092 ~~2006, and shall~~ update the plan and report on the status of its  
3093 implementation annually ~~thereafter~~. The agency shall also make  
3094 the plan and status report available to the public on its  
3095 Internet website. As part of the plan, the agency shall identify  
3096 the process and timeframes for implementation, any barriers to  
3097 implementation, and recommendations of changes in the law that  
3098 may be enacted by the Legislature to eliminate the barriers. As  
3099 preliminary elements of the plan, the agency shall:

3100 1. Make available patient-safety indicators, inpatient  
3101 quality indicators, and performance outcome and patient charge  
3102 data collected from health care facilities pursuant to s.  
3103 408.061(1)(a) and (2). The terms "patient-safety indicators" and  
3104 "inpatient quality indicators" shall be as defined by the  
3105 Centers for Medicare and Medicaid Services, the National Quality  
3106 Forum, the Joint Commission on Accreditation of Healthcare  
3107 Organizations, the Agency for Healthcare Research and Quality,  
3108 the Centers for Disease Control and Prevention, or a similar  
3109 national entity that establishes standards to measure the  
3110 performance of health care providers, or by other states. The  
3111 agency shall determine which conditions, procedures, health care  
3112 quality measures, and patient charge data to disclose based upon  
3113 input from the council. When determining which conditions and  
3114 procedures are to be disclosed, the council and the agency shall  
3115 consider variation in costs, variation in outcomes, and

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3116 magnitude of variations and other relevant information. When  
3117 determining which health care quality measures to disclose, the  
3118 agency:

3119 a. Shall consider such factors as volume of cases; average  
3120 patient charges; average length of stay; complication rates;  
3121 mortality rates; and infection rates, among others, which shall  
3122 be adjusted for case mix and severity, if applicable.

3123 b. May consider such additional measures that are adopted  
3124 by the Centers for Medicare and Medicaid Studies, National  
3125 Quality Forum, the Joint Commission on Accreditation of  
3126 Healthcare Organizations, the Agency for Healthcare Research and  
3127 Quality, Centers for Disease Control and Prevention, or a  
3128 similar national entity that establishes standards to measure  
3129 the performance of health care providers, or by other states.

3130  
3131 When determining which patient charge data to disclose, the  
3132 agency shall include such measures as the average of  
3133 undiscounted charges on frequently performed procedures and  
3134 preventive diagnostic procedures, the range of procedure charges  
3135 from highest to lowest, average net revenue per adjusted patient  
3136 day, average cost per adjusted patient day, and average cost per  
3137 admission, among others.

3138 2. Make available performance measures, benefit design, and  
3139 premium cost data from health plans licensed pursuant to chapter  
3140 627 or chapter 641. The agency shall determine which health care  
3141 quality measures and member and subscriber cost data to  
3142 disclose, based upon input from the council. When determining  
3143 which data to disclose, the agency shall consider information  
3144 that may be required by either individual or group purchasers to

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3145 assess the value of the product, which may include membership  
3146 satisfaction, quality of care, current enrollment or membership,  
3147 coverage areas, accreditation status, premium costs, plan costs,  
3148 premium increases, range of benefits, copayments and  
3149 deductibles, accuracy and speed of claims payment, credentials  
3150 of physicians, number of providers, names of network providers,  
3151 and hospitals in the network. Health plans shall make available  
3152 to the agency any such data or information that is not currently  
3153 reported to the agency or the office.

3154 3. Determine the method and format for public disclosure of  
3155 data reported pursuant to this paragraph. The agency shall make  
3156 its determination based upon input from the State Consumer  
3157 Health Information and Policy Advisory Council. At a minimum,  
3158 the data shall be made available on the agency's Internet  
3159 website in a manner that allows consumers to conduct an  
3160 interactive search that allows them to view and compare the  
3161 information for specific providers. The website must include  
3162 such additional information as is determined necessary to ensure  
3163 that the website enhances informed decisionmaking among  
3164 consumers and health care purchasers, which shall include, at a  
3165 minimum, appropriate guidance on how to use the data and an  
3166 explanation of why the data may vary from provider to provider.  
3167 ~~The data specified in subparagraph 1. shall be released no later~~  
3168 ~~than January 1, 2006, for the reporting of infection rates, and~~  
3169 ~~no later than October 1, 2005, for mortality rates and~~  
3170 ~~complication rates. The data specified in subparagraph 2. shall~~  
3171 ~~be released no later than October 1, 2006.~~

3172 4. Publish on its website undiscounted charges for no fewer  
3173 than 150 of the most commonly performed adult and pediatric

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3174 procedures, including outpatient, inpatient, diagnostic, and  
3175 preventative procedures.

3176 Reviser's note.—Amended to delete provisions that have  
3177 served their purpose.

3178 Section 90. Subsection (25) of section 408.820, Florida  
3179 Statutes, is amended to read:

3180 408.820 Exemptions.—Except as prescribed in authorizing  
3181 statutes, the following exemptions shall apply to specified  
3182 requirements of this part:

3183 (25) Health care clinics, as provided under part X of  
3184 chapter 400, are exempt from s. 408.810(6), (7), and (10).

3185 Reviser's note.—Amended to confirm an editorial  
3186 insertion made to improve clarity.

3187 Section 91. Subsection (3) of section 409.816, Florida  
3188 Statutes, is amended to read:

3189 409.816 Limitations on premiums and cost-sharing.—The  
3190 following limitations on premiums and cost-sharing are  
3191 established for the program.

3192 (3) Enrollees in families with a family income above 150  
3193 percent of the federal poverty level who are not receiving  
3194 coverage under the Medicaid program or who are not eligible  
3195 under s. 409.814(6) ~~409.814(7)~~ may be required to pay enrollment  
3196 fees, premiums, copayments, deductibles, coinsurance, or similar  
3197 charges on a sliding scale related to income, except that the  
3198 total annual aggregate cost-sharing with respect to all children  
3199 in a family may not exceed 5 percent of the family's income.  
3200 However, copayments, deductibles, coinsurance, or similar  
3201 charges may not be imposed for preventive services, including  
3202 well-baby and well-child care, age-appropriate immunizations,



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3203 and routine hearing and vision screenings.

3204 Reviser's note.—Amended to correct an apparent error  
3205 and conform to context. The reference was to s.

3206 409.814(5) prior to amendment of s. 409.816(3) by s.

3207 9, ch. 2009-113, Laws of Florida; s. 7, ch. 2009-113,

3208 redesignated s. 409.814(5) as s. 409.814(6).

3209 Section 92. Subsection (5) of section 409.905, Florida  
3210 Statutes, is reenacted to read:

3211 409.905 Mandatory Medicaid services.—The agency may make  
3212 payments for the following services, which are required of the  
3213 state by Title XIX of the Social Security Act, furnished by  
3214 Medicaid providers to recipients who are determined to be  
3215 eligible on the dates on which the services were provided. Any  
3216 service under this section shall be provided only when medically  
3217 necessary and in accordance with state and federal law.

3218 Mandatory services rendered by providers in mobile units to  
3219 Medicaid recipients may be restricted by the agency. Nothing in  
3220 this section shall be construed to prevent or limit the agency  
3221 from adjusting fees, reimbursement rates, lengths of stay,  
3222 number of visits, number of services, or any other adjustments  
3223 necessary to comply with the availability of moneys and any  
3224 limitations or directions provided for in the General  
3225 Appropriations Act or chapter 216.

3226 (5) HOSPITAL INPATIENT SERVICES.—The agency shall pay for  
3227 all covered services provided for the medical care and treatment  
3228 of a recipient who is admitted as an inpatient by a licensed  
3229 physician or dentist to a hospital licensed under part I of  
3230 chapter 395. However, the agency shall limit the payment for  
3231 inpatient hospital services for a Medicaid recipient 21 years of

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3232 age or older to 45 days or the number of days necessary to  
3233 comply with the General Appropriations Act.

3234 (a) The agency is authorized to implement reimbursement and  
3235 utilization management reforms in order to comply with any  
3236 limitations or directions in the General Appropriations Act,  
3237 which may include, but are not limited to: prior authorization  
3238 for inpatient psychiatric days; prior authorization for  
3239 nonemergency hospital inpatient admissions for individuals 21  
3240 years of age and older; authorization of emergency and urgent-  
3241 care admissions within 24 hours after admission; enhanced  
3242 utilization and concurrent review programs for highly utilized  
3243 services; reduction or elimination of covered days of service;  
3244 adjusting reimbursement ceilings for variable costs; adjusting  
3245 reimbursement ceilings for fixed and property costs; and  
3246 implementing target rates of increase. The agency may limit  
3247 prior authorization for hospital inpatient services to selected  
3248 diagnosis-related groups, based on an analysis of the cost and  
3249 potential for unnecessary hospitalizations represented by  
3250 certain diagnoses. Admissions for normal delivery and newborns  
3251 are exempt from requirements for prior authorization. In  
3252 implementing the provisions of this section related to prior  
3253 authorization, the agency shall ensure that the process for  
3254 authorization is accessible 24 hours per day, 7 days per week  
3255 and authorization is automatically granted when not denied  
3256 within 4 hours after the request. Authorization procedures must  
3257 include steps for review of denials. Upon implementing the prior  
3258 authorization program for hospital inpatient services, the  
3259 agency shall discontinue its hospital retrospective review  
3260 program.

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3261 (b) A licensed hospital maintained primarily for the care  
3262 and treatment of patients having mental disorders or mental  
3263 diseases is not eligible to participate in the hospital  
3264 inpatient portion of the Medicaid program except as provided in  
3265 federal law. However, the department shall apply for a waiver,  
3266 within 9 months after June 5, 1991, designed to provide  
3267 hospitalization services for mental health reasons to children  
3268 and adults in the most cost-effective and lowest cost setting  
3269 possible. Such waiver shall include a request for the  
3270 opportunity to pay for care in hospitals known under federal law  
3271 as "institutions for mental disease" or "IMD's." The waiver  
3272 proposal shall propose no additional aggregate cost to the state  
3273 or Federal Government, and shall be conducted in Hillsborough  
3274 County, Highlands County, Hardee County, Manatee County, and  
3275 Polk County. The waiver proposal may incorporate competitive  
3276 bidding for hospital services, comprehensive brokering, prepaid  
3277 capitated arrangements, or other mechanisms deemed by the  
3278 department to show promise in reducing the cost of acute care  
3279 and increasing the effectiveness of preventive care. When  
3280 developing the waiver proposal, the department shall take into  
3281 account price, quality, accessibility, linkages of the hospital  
3282 to community services and family support programs, plans of the  
3283 hospital to ensure the earliest discharge possible, and the  
3284 comprehensiveness of the mental health and other health care  
3285 services offered by participating providers.

3286 (c) The agency shall adjust a hospital's current inpatient  
3287 per diem rate to reflect the cost of serving the Medicaid  
3288 population at that institution if:

- 3289 1. The hospital experiences an increase in Medicaid

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3290 caseload by more than 25 percent in any year, primarily  
3291 resulting from the closure of a hospital in the same service  
3292 area occurring after July 1, 1995;

3293 2. The hospital's Medicaid per diem rate is at least 25  
3294 percent below the Medicaid per patient cost for that year; or

3295 3. The hospital is located in a county that has six or  
3296 fewer general acute care hospitals, began offering obstetrical  
3297 services on or after September 1999, and has submitted a request  
3298 in writing to the agency for a rate adjustment after July 1,  
3299 2000, but before September 30, 2000, in which case such  
3300 hospital's Medicaid inpatient per diem rate shall be adjusted to  
3301 cost, effective July 1, 2002.

3302

3303 By October 1 of each year, the agency must provide estimated  
3304 costs for any adjustment in a hospital inpatient per diem rate  
3305 to the Executive Office of the Governor, the House of  
3306 Representatives General Appropriations Committee, and the Senate  
3307 Appropriations Committee. Before the agency implements a change  
3308 in a hospital's inpatient per diem rate pursuant to this  
3309 paragraph, the Legislature must have specifically appropriated  
3310 sufficient funds in the General Appropriations Act to support  
3311 the increase in cost as estimated by the agency.

3312 (d) The agency shall implement a hospitalist program in  
3313 nonteaching hospitals, select counties, or statewide. The  
3314 program shall require hospitalists to manage Medicaid  
3315 recipients' hospital admissions and lengths of stay. Individuals  
3316 who are dually eligible for Medicare and Medicaid are exempted  
3317 from this requirement. Medicaid participating physicians and  
3318 other practitioners with hospital admitting privileges shall

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3319 coordinate and review admissions of Medicaid recipients with the  
3320 hospitalist. The agency may competitively bid a contract for  
3321 selection of a single qualified organization to provide  
3322 hospitalist services. The agency may procure hospitalist  
3323 services by individual county or may combine counties in a  
3324 single procurement. The qualified organization shall contract  
3325 with or employ board-eligible physicians in Miami-Dade, Palm  
3326 Beach, Hillsborough, Pasco, and Pinellas Counties. The agency is  
3327 authorized to seek federal waivers to implement this program.

3328 (e) The agency shall implement a comprehensive utilization  
3329 management program for hospital neonatal intensive care stays in  
3330 certain high-volume participating hospitals, select counties, or  
3331 statewide, and shall replace existing hospital inpatient  
3332 utilization management programs for neonatal intensive care  
3333 admissions. The program shall be designed to manage the lengths  
3334 of stay for children being treated in neonatal intensive care  
3335 units and must seek the earliest medically appropriate discharge  
3336 to the child's home or other less costly treatment setting. The  
3337 agency may competitively bid a contract for selection of a  
3338 qualified organization to provide neonatal intensive care  
3339 utilization management services. The agency is authorized to  
3340 seek any federal waivers to implement this initiative.

3341 Reviser's note.—Section 5, ch. 2009-55, Laws of  
3342 Florida, amended subsection (5) of s. 409.905 without  
3343 publishing existing paragraphs (a), (b), (d), and (e).  
3344 Absent affirmative evidence of legislative intent to  
3345 repeal existing paragraphs (5) (a), (b), (d), and (e),  
3346 subsection (5) is reenacted to confirm that the  
3347 omission was not intended.

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3348 Section 93. Paragraph (b) of subsection (12) of section  
3349 409.908, Florida Statutes, is amended to read:

3350 409.908 Reimbursement of Medicaid providers.—Subject to  
3351 specific appropriations, the agency shall reimburse Medicaid  
3352 providers, in accordance with state and federal law, according  
3353 to methodologies set forth in the rules of the agency and in  
3354 policy manuals and handbooks incorporated by reference therein.  
3355 These methodologies may include fee schedules, reimbursement  
3356 methods based on cost reporting, negotiated fees, competitive  
3357 bidding pursuant to s. 287.057, and other mechanisms the agency  
3358 considers efficient and effective for purchasing services or  
3359 goods on behalf of recipients. If a provider is reimbursed based  
3360 on cost reporting and submits a cost report late and that cost  
3361 report would have been used to set a lower reimbursement rate  
3362 for a rate semester, then the provider's rate for that semester  
3363 shall be retroactively calculated using the new cost report, and  
3364 full payment at the recalculated rate shall be effected  
3365 retroactively. Medicare-granted extensions for filing cost  
3366 reports, if applicable, shall also apply to Medicaid cost  
3367 reports. Payment for Medicaid compensable services made on  
3368 behalf of Medicaid eligible persons is subject to the  
3369 availability of moneys and any limitations or directions  
3370 provided for in the General Appropriations Act or chapter 216.  
3371 Further, nothing in this section shall be construed to prevent  
3372 or limit the agency from adjusting fees, reimbursement rates,  
3373 lengths of stay, number of visits, or number of services, or  
3374 making any other adjustments necessary to comply with the  
3375 availability of moneys and any limitations or directions  
3376 provided for in the General Appropriations Act, provided the

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3377 adjustment is consistent with legislative intent.

3378 (12)

3379 (b) The agency shall adopt a fee schedule, subject to any  
3380 limitations or directions provided for in the General  
3381 Appropriations Act, based on a resource-based relative value  
3382 scale for pricing Medicaid physician services. Under this fee  
3383 schedule, physicians shall be paid a dollar amount for each  
3384 service based on the average resources required to provide the  
3385 service, including, but not limited to, estimates of average  
3386 physician time and effort, practice expense, and the costs of  
3387 professional liability insurance. The fee schedule shall provide  
3388 increased reimbursement for preventive and primary care services  
3389 and lowered reimbursement for specialty services by using at  
3390 least two conversion factors, one for cognitive services and  
3391 another for procedural services. The fee schedule shall not  
3392 increase total Medicaid physician expenditures unless moneys are  
3393 available, ~~and shall be phased in over a 2-year period beginning~~  
3394 ~~on July 1, 1994.~~ The Agency for Health Care Administration shall  
3395 seek the advice of a 16-member advisory panel in formulating and  
3396 adopting the fee schedule. The panel shall consist of Medicaid  
3397 physicians licensed under chapters 458 and 459 and shall be  
3398 composed of 50 percent primary care physicians and 50 percent  
3399 specialty care physicians.

3400 Reviser's note.—Amended to delete obsolete language.

3401 Section 94. Subsection (5) of section 409.911, Florida  
3402 Statutes, is amended to read:

3403 409.911 Disproportionate share program.—Subject to specific  
3404 allocations established within the General Appropriations Act  
3405 and any limitations established pursuant to chapter 216, the

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3406 agency shall distribute, pursuant to this section, moneys to  
 3407 hospitals providing a disproportionate share of Medicaid or  
 3408 charity care services by making quarterly Medicaid payments as  
 3409 required. Notwithstanding the provisions of s. 409.915, counties  
 3410 are exempt from contributing toward the cost of this special  
 3411 reimbursement for hospitals serving a disproportionate share of  
 3412 low-income patients.

3413 (5) The following formula shall be used to pay  
 3414 disproportionate share dollars to provider service network (PSN)  
 3415 hospitals:

3416 
$$\text{DSHP} = \text{TAAPSNH} \times (\text{IHPSND} \times \text{THPSND})$$

3417

3418 Where:

3419 DSHP = Disproportionate share hospital payments.

3420 TAAPSNH = Total amount available for PSN hospitals.

3421 IHPSND = Individual hospital PSN days.

3422 THPSND = Total of all hospital PSN days.

3423

3424 For purposes of this subsection ~~paragraph~~, the PSN inpatient  
 3425 days shall be provided in the General Appropriations Act.

3426 Reviser's note.—Amended to confirm an editorial  
 3427 substitution; subsection (5) is not divided into  
 3428 paragraphs.

3429 Section 95. Paragraph (f) of subsection (5) and paragraph  
 3430 (g) of subsection (15) of section 409.912, Florida Statutes, are  
 3431 repealed.

3432 Reviser's note.—Paragraph (5) (f) is repealed to delete  
 3433 language requiring a report due by December 31, 2007,  
 3434 analyzing the merits and challenges of seeking a



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3435 waiver to implement a voluntary program that  
3436 integrates payments and services for dually enrolled  
3437 Medicare and Medicaid recipients who are 65 years of  
3438 age or older. Paragraph (15)(g) is repealed to delete  
3439 language requiring a report due by July 1, 2005,  
3440 regarding the impact to the state of modifying level-  
3441 of-care criteria to eliminate the Intermediate II  
3442 level of care.

3443 Section 96. Subsection (14) of section 409.91211, Florida  
3444 Statutes, is amended to read:

3445 409.91211 Medicaid managed care pilot program.—

3446 (14) It is the intent of the Legislature that if any  
3447 conflict exists between the provisions contained in this section  
3448 and other provisions of this chapter which relate to the  
3449 implementation of the Medicaid managed care pilot program, the  
3450 provisions contained in this section shall control. ~~The agency~~  
3451 ~~shall provide a written report to the Legislature by April 1,~~  
3452 ~~2006, identifying any provisions of this chapter which conflict~~  
3453 ~~with the implementation of the Medicaid managed care pilot~~  
3454 ~~program created in this section. After April 1, 2006,~~ The agency  
3455 shall provide a written report to the Legislature immediately  
3456 upon identifying any provisions of this chapter which conflict  
3457 with the implementation of the Medicaid managed care pilot  
3458 program created in this section.

3459 Reviser's note.—Amended to delete provisions that have  
3460 served their purpose.

3461 Section 97. Subsection (2) of section 420.628, Florida  
3462 Statutes, is amended to read:

3463 420.628 Affordable housing for children and young adults

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3464 leaving foster care; legislative findings and intent.-

3465 (2) Young adults who leave the child welfare system meet  
 3466 the definition of eligible persons under ss. 420.503(17) and  
 3467 420.9071(10) ~~ss.420.503(7) and 420.907(10)~~ for affordable  
 3468 housing, and are encouraged to participate in federal, state,  
 3469 and local affordable housing programs. Students deemed to be  
 3470 eligible occupants under 26 U.S.C. s. 42(i)(3)(D) shall be  
 3471 considered eligible persons for purposes of all projects funded  
 3472 under this chapter.

3473 Reviser's note.—Amended to confirm editorial  
 3474 substitutions. Section 420.503(7) defines the term  
 3475 "community housing development organization," and  
 3476 subsection (17) defines the term "eligible persons."  
 3477 Section 420.907(10) does not exist, and s.  
 3478 420.9071(10) defines the term "eligible person."

3479 Section 98. Paragraph (f) of subsection (18) of section  
 3480 430.04, Florida Statutes, is amended to read:

3481 430.04 Duties and responsibilities of the Department of  
 3482 Elderly Affairs.—The Department of Elderly Affairs shall:

3483 (18) Administer all Medicaid waivers and programs relating  
 3484 to elders and their appropriations. The waivers include, but are  
 3485 not limited to:

3486 (f) The Program of ~~for~~ All-inclusive Care for the Elderly.  
 3487 Reviser's note.—Amended to confirm an editorial  
 3488 substitution made to conform to the correct name of  
 3489 the program.

3490 Section 99. Subsection (5) of section 440.105, Florida  
 3491 Statutes, is amended to read:

3492 440.105 Prohibited activities; reports; penalties;

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3493 limitations.-

3494 (5) It shall be unlawful for any attorney or other person,  
 3495 in his or her individual capacity or in his or her capacity as a  
 3496 public or private employee or for any firm, corporation,  
 3497 partnership, or association, to unlawfully solicit any business  
 3498 in and about city or county hospitals, courts, or any public  
 3499 institution or public place; in and about private hospitals or  
 3500 sanitariums; in and about any private institution; or upon  
 3501 private property of any character whatsoever for the purpose of  
 3502 making workers' compensation claims. Whoever violates any  
 3503 provision of this subsection commits a felony of the second  
 3504 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 3505 775.084 ~~775.085~~.

3506 Reviser's note.—Amended to correct an apparent error  
 3507 and facilitate correct interpretation. The reference  
 3508 is not consistent with the contents of s. 775.085 but  
 3509 is consistent with the contents of s. 775.084.

3510 Section 100. Subsection (3) of section 443.1117, Florida  
 3511 Statutes, is amended to read:

3512 443.1117 Temporary extended benefits.—

3513 (3) TOTAL EXTENDED BENEFIT AMOUNT.—Except as provided in  
 3514 subsection (4) ~~(5)~~:

3515 (a) For any week for which there is an "on" indicator  
 3516 pursuant to paragraph (2) (g) ~~(3) (g)~~, the total extended benefit  
 3517 amount payable to an eligible individual for her or his  
 3518 applicable benefit year is the lesser of:

3519 1. Fifty percent of the total regular benefits payable  
 3520 under this chapter in the applicable benefit year; or

3521 2. Thirteen times the weekly benefit amount payable under

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3522 this chapter for a week of total unemployment in the applicable  
3523 benefit year.

3524 (b) For any high unemployment period as defined in  
3525 paragraph (2) (h) ~~(3) (h)~~, the total extended benefit amount  
3526 payable to an eligible individual for her or his applicable  
3527 benefit year is the lesser of:

3528 1. Eighty percent of the total regular benefits payable  
3529 under this chapter in the applicable benefit year; or

3530 2. Twenty times the weekly benefit amount payable under  
3531 this chapter for a week of total unemployment in the applicable  
3532 benefit year.

3533 Reviser's note.—The introductory language to  
3534 subsection (3) is amended to correct an apparent error  
3535 and facilitate correct interpretation. Subsection (5)  
3536 does not exist; the content in subsection (4) relates  
3537 to extended benefit periods. Paragraph (3) (a) is  
3538 amended to confirm an editorial substitution;  
3539 paragraph (2) (g) defines the term "state 'on'  
3540 indicator," and paragraph (3) (g) does not exist.  
3541 Paragraph (3) (b) is amended to confirm an editorial  
3542 insertion; paragraph (2) (h) defines the term "high  
3543 unemployment period," and paragraph (3) (h) does not  
3544 exist.

3545 Section 101. Subsection (9) of section 445.049, Florida  
3546 Statutes, is repealed.

3547 Reviser's note.—Repealed to delete language requiring  
3548 the Digital Divide Council to submit a report by March  
3549 1, 2008, with results of the council's monitoring,  
3550 reviewing, and evaluating of and recommendations on

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3551 certain programs.

3552 Section 102. Section 450.231, Florida Statutes, is amended  
3553 to read:

3554 450.231 Annual reports to Legislature.—The commission shall  
3555 report its findings, recommendations, and proposed legislation  
3556 to each regular session of the Legislature no later than  
3557 February 1 of each year ~~beginning in 2006~~.

3558 Reviser's note.—Amended to delete a provision that has  
3559 served its purpose.

3560 Section 103. Paragraph (c) of subsection (1) of section  
3561 456.041, Florida Statutes, is amended to read:

3562 456.041 Practitioner profile; creation.—

3563 (1)

3564 (c) Within 30 calendar days after receiving an update of  
3565 information required for the practitioner's profile, the  
3566 department shall update the practitioner's profile in accordance  
3567 with the requirements of subsection (8) ~~(7)~~.

3568 Reviser's note.—Amended to conform to the  
3569 redesignation of subsection (7) as subsection (8) by  
3570 s. 22, ch. 2009-223, Laws of Florida.

3571 Section 104. Subsections (7) and (8) of section 466.0067,  
3572 Florida Statutes, are amended to read:

3573 466.0067 Application for health access dental license.—The  
3574 Legislature finds that there is an important state interest in  
3575 attracting dentists to practice in underserved health access  
3576 settings in this state and further, that allowing out-of-state  
3577 dentists who meet certain criteria to practice in health access  
3578 settings without the supervision of a dentist licensed in this  
3579 state is substantially related to achieving this important state

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3580 interest. Therefore, notwithstanding the requirements of s.  
3581 466.006, the board shall grant a health access dental license to  
3582 practice dentistry in this state in health access settings as  
3583 defined in s. 466.003(14) to an applicant that:

3584 (7) Currently holds a valid, active, dental license in good  
3585 standing which has not been revoked, suspended, restricted, or  
3586 otherwise disciplined from another of the ~~these~~ United States,  
3587 the District of Columbia, or a United States territory;

3588 (8) Has never had a license revoked from another of the  
3589 ~~these~~ United States, the District of Columbia, or a United  
3590 States territory;

3591 Reviser's note.—Amended to provide contextual  
3592 consistency within the Florida Statutes.

3593 Section 105. Subsection (1) of section 472.016, Florida  
3594 Statutes, is amended to read:

3595 472.016 Members of Armed Forces in good standing with the  
3596 board.—

3597 (1) Any member of the Armed Forces of the United States who  
3598 is now or in the future on active duty and who, at the time of  
3599 becoming such a member of the Armed Forces, was in good standing  
3600 with the board and entitled to practice or engage in surveying  
3601 and mapping in the state shall be kept in good standing by the  
3602 board, without registering, paying dues or fees, or performing  
3603 any other act on his or her part to be performed, as long as he  
3604 or she is a member of the Armed Forces of the United States on  
3605 active duty and for a period of 6 months after discharge from  
3606 active duty, provided that he or she is not engaged in the  
3607 practice of surveying or mapping in the private sector for  
3608 profit.

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3609 Reviser's note.—Amended to confirm an editorial  
3610 insertion made to improve clarity and facilitate  
3611 correct interpretation.

3612 Section 106. Subsection (1) of section 472.036, Florida  
3613 Statutes, is amended to read:

3614 472.036 Unlicensed practice of professional surveying and  
3615 mapping; cease and desist notice; civil penalty; enforcement;  
3616 citations; allocation of moneys collected.—

3617 (1) When the department has probable cause to believe that  
3618 any person not licensed by the department or the board has  
3619 violated any provision of this chapter, or any rule adopted  
3620 pursuant to this chapter, the department may issue and deliver  
3621 to such person a notice to cease and desist from such violation.  
3622 In addition, the department may issue and deliver a notice to  
3623 cease and desist to any person who aids and abets the unlicensed  
3624 practice of surveying and mapping by employing such unlicensed  
3625 person. The issuance of a notice to cease and desist shall not  
3626 constitute agency action for which a hearing under ss. 120.569  
3627 and 120.57 may be sought. For the purpose of enforcing a cease  
3628 and desist order, the department may file a proceeding in the  
3629 name of the state seeking issuance of an injunction or a writ of  
3630 mandamus against any person who violates any provisions of such  
3631 order. In addition to the foregoing remedies, the department may  
3632 impose an administrative penalty not to exceed \$5,000 per  
3633 incident pursuant to the provisions of chapter 120 or may issue  
3634 a citation pursuant to the provisions of subsection (3). If the  
3635 department is required to seek enforcement of the order for a  
3636 penalty pursuant to s. 120.569, it shall be entitled to collect  
3637 its attorney's fees and costs, together with any cost of

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3638 collection.

3639 Reviser's note.—Amended to confirm an editorial  
3640 insertion made to improve clarity and facilitate  
3641 correct interpretation.

3642 Section 107. Subsection (4) of section 473.315, Florida  
3643 Statutes, is amended to read:

3644 473.315 Independence, technical standards.—

3645 (4) Attorneys who are admitted to practice law by the  
3646 Supreme Court of Florida are exempt from the standards of  
3647 practice of public accounting as defined in s. 473.302(8)(b) and  
3648 (c) ~~473.302(7)(b) and (e)~~ when such standards conflict with the  
3649 rules of The Florida Bar or orders of the Florida Supreme Court.

3650 Reviser's note.—Amended to conform to the  
3651 redesignation of s. 473.302(7)(b) and (c) as s.

3652 473.302(8)(b) and (c) by s. 3, ch. 2009-54, Laws of  
3653 Florida.

3654 Section 108. Paragraph (f) of subsection (5) of section  
3655 489.119, Florida Statutes, is amended to read:

3656 489.119 Business organizations; qualifying agents.—

3657 (5)

3658 (f) In addition to any other penalty prescribed by law, a  
3659 local government may impose a civil fine pursuant to s.  
3660 489.127(5) against a person who is not certified or registered  
3661 under this part if the person:

3662 1. Claims to be licensed in any offer of services, business  
3663 proposal, bid, contract, or advertisement, but ~~who~~ does not  
3664 possess a valid competency-based license issued by a local  
3665 government in this state to perform the specified construction  
3666 services; or



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3667 2. Claims to be insured in any offer of services, business  
3668 proposal, bid, contract, or advertisement, but whose performance  
3669 of the subject work is not covered by a general liability or  
3670 workers' compensation insurance policy.

3671 Reviser's note.—Amended to confirm an editorial  
3672 deletion made to improve clarity.

3673 Section 109. Effective October 1, 2010, subsection (3) of  
3674 section 494.00321, Florida Statutes, as created by section 27 of  
3675 chapter 2009-241, Laws of Florida, is amended to read:

3676 494.00321 Mortgage broker license.—

3677 (3) An application is considered received for the purposes  
3678 of s. 120.60 upon the office's receipt of all documentation from  
3679 the registry, including the completed application form, criminal  
3680 history information, and independent credit report, as well as  
3681 the license application fee, the fee required by s. 494.00172  
3682 ~~492.00172~~, and all applicable fingerprinting processing fees.

3683 Reviser's note.—Amended to confirm an editorial  
3684 substitution; s. 494.00172 includes material relating  
3685 to fees, and s. 492.00172 does not exist.

3686 Section 110. Effective October 1, 2010, paragraph (f) of  
3687 subsection (2) of section 494.00611, Florida Statutes, as  
3688 created by section 43 of chapter 2009-241, Laws of Florida, is  
3689 amended to read:

3690 494.00611 Mortgage lender license.—

3691 (2) In order to apply for a mortgage lender license, an  
3692 applicant must:

3693 (f) Submit a copy of the applicant's financial audit report  
3694 for the most recent fiscal year ~~which~~, pursuant to United States  
3695 generally accepted accounting principles. If the applicant is a

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3696 wholly owned subsidiary of another corporation, the financial  
3697 audit report for the parent corporation satisfies this  
3698 requirement. The commission may establish by rule the form and  
3699 procedures for filing the financial audit report, including the  
3700 requirement to file the report with the registry when technology  
3701 is available. The financial audit report must document that the  
3702 applicant has a bona fide and verifiable net worth, of at least  
3703 \$63,000 if the applicant is not seeking a servicing endorsement,  
3704 or at least \$250,000 if the applicant is seeking a servicing  
3705 endorsement, which must be continuously maintained as a  
3706 condition of licensure. However, if the applicant held an active  
3707 license issued before October 1, 2010, pursuant to former s.  
3708 494.0065, and the applicant is seeking a servicing endorsement,  
3709 the minimum net worth requirement:

- 3710 1. Until September 30, 2011, is \$63,000.
- 3711 2. Between October 1, 2011, and September 30, 2012, is  
3712 \$125,000.
- 3713 3. On or after October 1, 2012, is \$250,000.

3714 Reviser's note.—Amended to confirm an editorial  
3715 deletion made to improve clarity and facilitate  
3716 correct interpretation.

3717 Section 111. Effective October 1, 2010, subsection (2) of  
3718 section 494.0066, Florida Statutes, as amended by section 49 of  
3719 chapter 2009-241, Laws of Florida, is amended to read:

3720 494.0066 Branch offices.—

3721 (2) The office shall issue a branch office license to a  
3722 mortgage lender after the office determines that the mortgage  
3723 lender has submitted a completed branch office application form  
3724 as prescribed by rule by the commission and an initial

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3725 nonrefundable branch office license fee of \$225 per branch  
3726 office. Application fees may not be prorated for partial years  
3727 of licensure. The branch office application must include the  
3728 name and license number of the mortgage lender under this part,  
3729 the name of the branch manager in charge of the branch office,  
3730 and the address of the branch office. The branch office license  
3731 shall be issued in the name of the mortgage lender and must be  
3732 renewed in conjunction with the license renewal. An application  
3733 is considered received for purposes of s. 120.60 upon receipt of  
3734 a completed branch office renewal form, as prescribed by  
3735 commission rule, and the required fees.

3736 Reviser's note.—Amended to confirm an editorial  
3737 insertion made to provide clarity.

3738 Section 112. Paragraph (a) of subsection (5) of section  
3739 501.1377, Florida Statutes, is amended to read:

3740 501.1377 Violations involving homeowners during the course  
3741 of residential foreclosure proceedings.—

3742 (5) FORECLOSURE-RESCUE TRANSACTIONS; WRITTEN AGREEMENT.—

3743 (a)1. A foreclosure-rescue transaction must include a  
3744 written agreement prepared in at least 12-point uppercase type  
3745 that is completed, signed, and dated by the homeowner and the  
3746 equity purchaser before executing any instrument from the  
3747 homeowner to the equity purchaser quitclaiming, assigning,  
3748 transferring, conveying, or encumbering an interest in the  
3749 residential real property in foreclosure. The equity purchaser  
3750 must give the homeowner a copy of the completed agreement within  
3751 3 hours after the homeowner signs the agreement. The agreement  
3752 must contain the entire understanding of the parties and must  
3753 include:

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3754 a. The name, business address, and telephone number of the  
3755 equity purchaser.

3756 b. The street address and full legal description of the  
3757 property.

3758 c. Clear and conspicuous disclosure of any financial or  
3759 legal obligations of the homeowner that will be assumed by the  
3760 equity purchaser.

3761 d. The total consideration to be paid by the equity  
3762 purchaser in connection with or incident to the acquisition of  
3763 the property by the equity purchaser.

3764 e. The terms of payment or other consideration, including,  
3765 but not limited to, any services that the equity purchaser  
3766 represents will be performed for the homeowner before or after  
3767 the sale.

3768 f. The date and time when possession of the property is to  
3769 be transferred to the equity purchaser.

3770 2. A foreclosure-rescue transaction agreement must contain,  
3771 above the signature line, a statement in at least 12-point  
3772 uppercase type that substantially complies with the following:

3773

3774 I UNDERSTAND THAT UNDER THIS AGREEMENT I AM SELLING MY  
3775 HOME TO THE OTHER UNDERSIGNED PARTY.

3776 3. A foreclosure-rescue transaction agreement must state  
3777 the specifications of any option or right to repurchase the  
3778 residential real property in foreclosure, including the specific  
3779 amounts of any escrow payments or deposit, down payment,  
3780 purchase price, closing costs, commissions, or other fees or  
3781 costs.

3782 4. A foreclosure-rescue transaction agreement must comply

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3783 with all applicable provisions of 15 U.S.C. ss. 1601 ~~1600~~ et  
3784 seq. and related regulations.

3785 Reviser's note.—Amended to conform to the fact that 15  
3786 U.S.C. s. 1600 does not exist; the Truth in Lending  
3787 Act is cited as 15 U.S.C. ss. 1601 et seq.

3788 Section 113. Subsection (5) of section 517.191, Florida  
3789 Statutes, is amended to read:

3790 517.191 Injunction to restrain violations; civil penalties;  
3791 enforcement by Attorney General.—

3792 (5) In addition to all other means provided by law for  
3793 enforcing any of the provisions of this chapter, when the  
3794 Attorney General, upon complaint or otherwise, has reason to  
3795 believe that a person has engaged or is engaged in any act or  
3796 practice constituting a violation of s. 517.275, s. 517.301, s.  
3797 517.311, or s. 517.312, or any rule or order issued under such  
3798 sections, the Attorney General may investigate and bring an  
3799 action to enforce these provisions as provided in ss. 517.171,  
3800 517.201, and 517.2015 after receiving written approval from the  
3801 office. Such an action may be brought against such person and  
3802 any other person in any way participating in such act or  
3803 practice or engaging in such act or practice or doing any act in  
3804 furtherance of such act or practice, to obtain injunctive  
3805 relief, restitution, civil penalties, and any remedies provided  
3806 for in this section. The Attorney General may recover any costs  
3807 and attorney fees related to the Attorney General's  
3808 investigation or enforcement of this section. Notwithstanding  
3809 any other provision of law, moneys recovered by the Attorney  
3810 General for costs, attorney fees, and civil penalties for a  
3811 violation of s. 517.275, s. 517.301, s. 517.311, or s. 517.312,

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3812 or any rule or order issued pursuant to such sections, shall be  
3813 deposited in the Legal Affairs Revolving Trust Fund. The Legal  
3814 Affairs Revolving Trust Fund may be used to investigate and  
3815 enforce this section.

3816 Reviser's note.—Amended to confirm an editorial  
3817 insertion made to provide clarity.

3818 Section 114. Subsection (5) of section 526.144, Florida  
3819 Statutes, is repealed.

3820 Reviser's note.—Repeals material requiring submittal  
3821 of a report relating to the Florida Disaster Motor  
3822 Fuel Supplier Program by March 1, 2007.

3823 Section 115. Paragraph (d) of subsection (1) of section  
3824 556.105, Florida Statutes, is amended to read:

3825 556.105 Procedures.—

3826 (1)

3827 (d)~~1~~. The system shall study the feasibility of the  
3828 establishment or recognition of zones for the purpose of  
3829 allowing excavation within such zones to be undertaken without  
3830 notice to the system as now required by this chapter when such  
3831 zones are:

3832 1. ~~a.~~ In areas within which no underground facilities are  
3833 located.

3834 2. ~~b.~~ Where permanent markings, permit and mapping systems,  
3835 and structural protection for underwater crossings are required  
3836 or in place.

3837 3. ~~c.~~ For previously marked utilities on construction of  
3838 one- or two-family dwellings where the contractor remains in  
3839 custody and control of the building site for the duration of the  
3840 building permit.

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3841 ~~2. The system shall report the results of the study to the~~  
3842 ~~Legislature on or before February 1, 2007, along with~~  
3843 ~~recommendations for further legislative action.~~

3844 Reviser's note.—Amended to delete material that has  
3845 served its purpose.

3846 Section 116. Section 569.19, Florida Statutes, is amended  
3847 to read:

3848 569.19 Annual report.—The division shall report annually  
3849 with written findings to the Legislature and the Governor by  
3850 December 31, ~~starting with the year 1997,~~ on the progress of  
3851 implementing the enforcement provisions of this chapter. This  
3852 must include, but is not limited to:

3853 (1) The number and results of compliance visits.

3854 (2) The number of violations for failure of a retailer to  
3855 hold a valid license.

3856 (3) The number of violations for selling tobacco products  
3857 to persons under age 18, and the results of administrative  
3858 hearings on the above and related issues.

3859 (4) The number of persons under age 18 cited for violations  
3860 of s. 569.11 and sanctions imposed as a result of citation.

3861 Reviser's note.—Amended to delete obsolete material.

3862 Section 117. Section 576.092, Florida Statutes, is  
3863 repealed.

3864 Reviser's note.—Repeals a provision requiring  
3865 submittal of a report by January 15, 2008, and  
3866 providing for abolishment of the Consumer Fertilizer  
3867 Task Force upon transmittal of the report.

3868 Section 118. Subsection (6) of section 589.011, Florida  
3869 Statutes, is amended to read:

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3870           589.011 Use of state forest lands; fees; rules.-

3871           (6) The Division of Forestry may enter into contracts or  
3872 agreements, with or without competitive bidding or procurement,  
3873 to make available, on a fair, reasonable, and nondiscriminatory  
3874 basis, property and other structures under division control for  
3875 the placement of new facilities by any wireless provider of  
3876 mobile service as defined in 47 U.S.C. s. 153(27) ~~153(n)~~ or 47  
3877 U.S.C. s. 332(d) or any telecommunications company as defined in  
3878 s. 364.02 when it is determined to be practical and feasible to  
3879 make such property or other structures available. The division  
3880 may, without adopting a rule, charge a just, reasonable, and  
3881 nondiscriminatory fee for the placement of the facilities,  
3882 payable annually, based on the fair market value of space used  
3883 by comparable communications facilities in the state. The  
3884 division and a wireless provider or telecommunications company  
3885 may negotiate the reduction or elimination of a fee in  
3886 consideration of services provided to the division by the  
3887 wireless provider or telecommunications company. All such fees  
3888 collected by the division shall be deposited in the Incidental  
3889 Trust Fund.

3890           Reviser's note.—Amended to confirm an editorial  
3891 substitution; 47 U.S.C. s. 153(27) defines the term  
3892 "mobile service," and 47 U.S.C. s. 153(n) does not  
3893 exist.

3894           Section 119. Subsection (6) of section 624.91, Florida  
3895 Statutes, as amended by section 13 of chapter 2009-113, Laws of  
3896 Florida, is reenacted to read:

3897           624.91 The Florida Healthy Kids Corporation Act.—

3898           (6) BOARD OF DIRECTORS.—



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- 3899 (a) The Florida Healthy Kids Corporation shall operate  
3900 subject to the supervision and approval of a board of directors  
3901 chaired by the Chief Financial Officer or her or his designee,  
3902 and composed of 11 other members selected for 3-year terms of  
3903 office as follows:
- 3904 1. The Secretary of Health Care Administration, or his or  
3905 her designee.
  - 3906 2. One member appointed by the Commissioner of Education  
3907 from the Office of School Health Programs of the Florida  
3908 Department of Education.
  - 3909 3. One member appointed by the Chief Financial Officer from  
3910 among three members nominated by the Florida Pediatric Society.
  - 3911 4. One member, appointed by the Governor, who represents  
3912 the Children's Medical Services Program.
  - 3913 5. One member appointed by the Chief Financial Officer from  
3914 among three members nominated by the Florida Hospital  
3915 Association.
  - 3916 6. One member, appointed by the Governor, who is an expert  
3917 on child health policy.
  - 3918 7. One member, appointed by the Chief Financial Officer,  
3919 from among three members nominated by the Florida Academy of  
3920 Family Physicians.
  - 3921 8. One member, appointed by the Governor, who represents  
3922 the state Medicaid program.
  - 3923 9. One member, appointed by the Chief Financial Officer,  
3924 from among three members nominated by the Florida Association of  
3925 Counties.
  - 3926 10. The State Health Officer or her or his designee.
  - 3927 11. The Secretary of Children and Family Services, or his

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3928 or her designee.

3929 (b) A member of the board of directors may be removed by  
3930 the official who appointed that member. The board shall appoint  
3931 an executive director, who is responsible for other staff  
3932 authorized by the board.

3933 (c) Board members are entitled to receive, from funds of  
3934 the corporation, reimbursement for per diem and travel expenses  
3935 as provided by s. 112.061.

3936 (d) There shall be no liability on the part of, and no  
3937 cause of action shall arise against, any member of the board of  
3938 directors, or its employees or agents, for any action they take  
3939 in the performance of their powers and duties under this act.

3940 Reviser's note.—Section 13, ch. 2009-113, Laws of  
3941 Florida, amended subsection (6) without publishing  
3942 paragraphs (b)-(d) of that subsection. Absent  
3943 affirmative evidence of legislative intent to repeal  
3944 paragraphs (b)-(d), subsection (6) is reenacted to  
3945 confirm that the omission was not intended.

3946 Section 120. Subsection (2) of section 627.062, Florida  
3947 Statutes, is amended to read:

3948 627.062 Rate standards.—

3949 (2) As to all such classes of insurance:

3950 (a) Insurers or rating organizations shall establish and  
3951 use rates, rating schedules, or rating manuals to allow the  
3952 insurer a reasonable rate of return on such classes of insurance  
3953 written in this state. A copy of rates, rating schedules, rating  
3954 manuals, premium credits or discount schedules, and surcharge  
3955 schedules, and changes thereto, shall be filed with the office  
3956 under one of the following procedures except as provided in

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3957 subparagraph 3.:

3958       1. If the filing is made at least 90 days before the  
3959 proposed effective date and the filing is not implemented during  
3960 the office's review of the filing and any proceeding and  
3961 judicial review, then such filing shall be considered a "file  
3962 and use" filing. In such case, the office shall finalize its  
3963 review by issuance of a notice of intent to approve or a notice  
3964 of intent to disapprove within 90 days after receipt of the  
3965 filing. The notice of intent to approve and the notice of intent  
3966 to disapprove constitute agency action for purposes of the  
3967 Administrative Procedure Act. Requests for supporting  
3968 information, requests for mathematical or mechanical  
3969 corrections, or notification to the insurer by the office of its  
3970 preliminary findings shall not toll the 90-day period during any  
3971 such proceedings and subsequent judicial review. The rate shall  
3972 be deemed approved if the office does not issue a notice of  
3973 intent to approve or a notice of intent to disapprove within 90  
3974 days after receipt of the filing.

3975       2. If the filing is not made in accordance with the  
3976 provisions of subparagraph 1., such filing shall be made as soon  
3977 as practicable, but no later than 30 days after the effective  
3978 date, and shall be considered a "use and file" filing. An  
3979 insurer making a "use and file" filing is potentially subject to  
3980 an order by the office to return to policyholders portions of  
3981 rates found to be excessive, as provided in paragraph (h).

3982       3. For all property insurance filings made or submitted  
3983 after January 25, 2007, but before December 31, 2010, an insurer  
3984 seeking a rate that is greater than the rate most recently  
3985 approved by the office shall make a "file and use" filing. For

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3986 purposes of this subparagraph, motor vehicle collision and  
3987 comprehensive coverages are not considered to be property  
3988 coverages.

3989 (b) Upon receiving a rate filing, the office shall review  
3990 the rate filing to determine if a rate is excessive, inadequate,  
3991 or unfairly discriminatory. In making that determination, the  
3992 office shall, in accordance with generally accepted and  
3993 reasonable actuarial techniques, consider the following factors:

3994 1. Past and prospective loss experience within and without  
3995 this state.

3996 2. Past and prospective expenses.

3997 3. The degree of competition among insurers for the risk  
3998 insured.

3999 4. Investment income reasonably expected by the insurer,  
4000 consistent with the insurer's investment practices, from  
4001 investable premiums anticipated in the filing, plus any other  
4002 expected income from currently invested assets representing the  
4003 amount expected on unearned premium reserves and loss reserves.  
4004 The commission may adopt rules using reasonable techniques of  
4005 actuarial science and economics to specify the manner in which  
4006 insurers shall calculate investment income attributable to such  
4007 classes of insurance written in this state and the manner in  
4008 which such investment income shall be used to calculate  
4009 insurance rates. Such manner shall contemplate allowances for an  
4010 underwriting profit factor and full consideration of investment  
4011 income which produce a reasonable rate of return; however,  
4012 investment income from invested surplus may not be considered.

4013 5. The reasonableness of the judgment reflected in the  
4014 filing.

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4015           6. Dividends, savings, or unabsorbed premium deposits  
4016 allowed or returned to Florida policyholders, members, or  
4017 subscribers.

4018           7. The adequacy of loss reserves.

4019           8. The cost of reinsurance. The office shall not disapprove  
4020 a rate as excessive solely due to the insurer having obtained  
4021 catastrophic reinsurance to cover the insurer's estimated 250-  
4022 year probable maximum loss or any lower level of loss.

4023           9. Trend factors, including trends in actual losses per  
4024 insured unit for the insurer making the filing.

4025           10. Conflagration and catastrophe hazards, if applicable.

4026           11. Projected hurricane losses, if applicable, which must  
4027 be estimated using a model or method found to be acceptable or  
4028 reliable by the Florida Commission on Hurricane Loss Projection  
4029 Methodology, and as further provided in s. 627.0628.

4030           12. A reasonable margin for underwriting profit and  
4031 contingencies.

4032           13. The cost of medical services, if applicable.

4033           14. Other relevant factors which impact upon the frequency  
4034 or severity of claims or upon expenses.

4035           (c) In the case of fire insurance rates, consideration  
4036 shall be given to the availability of water supplies and the  
4037 experience of the fire insurance business during a period of not  
4038 less than the most recent 5-year period for which such  
4039 experience is available.

4040           (d) If conflagration or catastrophe hazards are given  
4041 consideration by an insurer in its rates or rating plan,  
4042 including surcharges and discounts, the insurer shall establish  
4043 a reserve for that portion of the premium allocated to such

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4044 hazard and shall maintain the premium in a catastrophe reserve.  
4045 Any removal of such premiums from the reserve for purposes other  
4046 than paying claims associated with a catastrophe or purchasing  
4047 reinsurance for catastrophes shall be subject to approval of the  
4048 office. Any ceding commission received by an insurer purchasing  
4049 reinsurance for catastrophes shall be placed in the catastrophe  
4050 reserve.

4051 (e) After consideration of the rate factors provided in  
4052 paragraphs (b), (c), and (d), a rate may be found by the office  
4053 to be excessive, inadequate, or unfairly discriminatory based  
4054 upon the following standards:

4055 1. Rates shall be deemed excessive if they are likely to  
4056 produce a profit from Florida business that is unreasonably high  
4057 in relation to the risk involved in the class of business or if  
4058 expenses are unreasonably high in relation to services rendered.

4059 2. Rates shall be deemed excessive if, among other things,  
4060 the rate structure established by a stock insurance company  
4061 provides for replenishment of surpluses from premiums, when the  
4062 replenishment is attributable to investment losses.

4063 3. Rates shall be deemed inadequate if they are clearly  
4064 insufficient, together with the investment income attributable  
4065 to them, to sustain projected losses and expenses in the class  
4066 of business to which they apply.

4067 4. A rating plan, including discounts, credits, or  
4068 surcharges, shall be deemed unfairly discriminatory if it fails  
4069 to clearly and equitably reflect consideration of the  
4070 policyholder's participation in a risk management program  
4071 adopted pursuant to s. 627.0625.

4072 5. A rate shall be deemed inadequate as to the premium

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4073 charged to a risk or group of risks if discounts or credits are  
4074 allowed which exceed a reasonable reflection of expense savings  
4075 and reasonably expected loss experience from the risk or group  
4076 of risks.

4077 6. A rate shall be deemed unfairly discriminatory as to a  
4078 risk or group of risks if the application of premium discounts,  
4079 credits, or surcharges among such risks does not bear a  
4080 reasonable relationship to the expected loss and expense  
4081 experience among the various risks.

4082 (f) In reviewing a rate filing, the office may require the  
4083 insurer to provide at the insurer's expense all information  
4084 necessary to evaluate the condition of the company and the  
4085 reasonableness of the filing according to the criteria  
4086 enumerated in this section.

4087 (g) The office may at any time review a rate, rating  
4088 schedule, rating manual, or rate change; the pertinent records  
4089 of the insurer; and market conditions. If the office finds on a  
4090 preliminary basis that a rate may be excessive, inadequate, or  
4091 unfairly discriminatory, the office shall initiate proceedings  
4092 to disapprove the rate and shall so notify the insurer. However,  
4093 the office may not disapprove as excessive any rate for which it  
4094 has given final approval or which has been deemed approved for a  
4095 period of 1 year after the effective date of the filing unless  
4096 the office finds that a material misrepresentation or material  
4097 error was made by the insurer or was contained in the filing.  
4098 Upon being so notified, the insurer or rating organization  
4099 shall, within 60 days, file with the office all information  
4100 which, in the belief of the insurer or organization, proves the  
4101 reasonableness, adequacy, and fairness of the rate or rate

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4102 change. The office shall issue a notice of intent to approve or  
4103 a notice of intent to disapprove pursuant to the procedures of  
4104 paragraph (a) within 90 days after receipt of the insurer's  
4105 initial response. In such instances and in any administrative  
4106 proceeding relating to the legality of the rate, the insurer or  
4107 rating organization shall carry the burden of proof by a  
4108 preponderance of the evidence to show that the rate is not  
4109 excessive, inadequate, or unfairly discriminatory. After the  
4110 office notifies an insurer that a rate may be excessive,  
4111 inadequate, or unfairly discriminatory, unless the office  
4112 withdraws the notification, the insurer shall not alter the rate  
4113 except to conform with the office's notice until the earlier of  
4114 120 days after the date the notification was provided or 180  
4115 days after the date of the implementation of the rate. The  
4116 office may, subject to chapter 120, disapprove without the 60-  
4117 day notification any rate increase filed by an insurer within  
4118 the prohibited time period or during the time that the legality  
4119 of the increased rate is being contested.

4120 (h) In the event the office finds that a rate or rate  
4121 change is excessive, inadequate, or unfairly discriminatory, the  
4122 office shall issue an order of disapproval specifying that a new  
4123 rate or rate schedule which responds to the findings of the  
4124 office be filed by the insurer. The office shall further order,  
4125 for any "use and file" filing made in accordance with  
4126 subparagraph (a)2., that premiums charged each policyholder  
4127 constituting the portion of the rate above that which was  
4128 actuarially justified be returned to such policyholder in the  
4129 form of a credit or refund. If the office finds that an  
4130 insurer's rate or rate change is inadequate, the new rate or



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4131 rate schedule filed with the office in response to such a  
4132 finding shall be applicable only to new or renewal business of  
4133 the insurer written on or after the effective date of the  
4134 responsive filing.

4135 (i) Except as otherwise specifically provided in this  
4136 chapter, the office shall not prohibit any insurer, including  
4137 any residual market plan or joint underwriting association, from  
4138 paying acquisition costs based on the full amount of premium, as  
4139 defined in s. 627.403, applicable to any policy, or prohibit any  
4140 such insurer from including the full amount of acquisition costs  
4141 in a rate filing.

4142 (j) With respect to residential property insurance rate  
4143 filings, the rate filing must account for mitigation measures  
4144 undertaken by policyholders to reduce hurricane losses.

4145 (k)1. An insurer may make a separate filing limited solely  
4146 to an adjustment of its rates for reinsurance or financing costs  
4147 incurred in the purchase of reinsurance or financing products to  
4148 replace or finance the payment of the amount covered by the  
4149 Temporary Increase in Coverage Limits (TICL) portion of the  
4150 Florida Hurricane Catastrophe Fund including replacement  
4151 reinsurance for the TICL reductions made pursuant to s.  
4152 215.555(17) (e); the actual cost paid due to the application of  
4153 the TICL premium factor pursuant to s. 215.555(17) (f); and the  
4154 actual cost paid due to the application of the cash build-up  
4155 factor pursuant to s. 215.555(5) (b) if the insurer:

4156 a. Elects to purchase financing products such as a  
4157 liquidity instrument or line of credit, in which case the cost  
4158 included in the filing for the liquidity instrument or line of  
4159 credit may not result in a premium increase exceeding 3 percent

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4160 for any individual policyholder. All costs contained in the  
4161 filing may not result in an overall premium increase of more  
4162 than 10 percent for any individual policyholder.

4163 b. Includes in the filing a copy of all of its reinsurance,  
4164 liquidity instrument, or line of credit contracts; proof of the  
4165 billing or payment for the contracts; and the calculation upon  
4166 which the proposed rate change is based demonstrates that the  
4167 costs meet the criteria of this section and are not loaded for  
4168 expenses or profit for the insurer making the filing.

4169 c. Includes no other changes to its rates in the filing.

4170 d. Has not implemented a rate increase within the 6 months  
4171 immediately preceding the filing.

4172 e. Does not file for a rate increase under any other  
4173 paragraph within 6 months after making a filing under this  
4174 paragraph.

4175 f. That purchases reinsurance or financing products from an  
4176 affiliated company in compliance with this paragraph does so  
4177 only if the costs for such reinsurance or financing products are  
4178 charged at or below charges made for comparable coverage by  
4179 nonaffiliated reinsurers or financial entities making such  
4180 coverage or financing products available in this state.

4181 2. An insurer may only make one filing in any 12-month  
4182 period under this paragraph.

4183 3. An insurer that elects to implement a rate change under  
4184 this paragraph must file its rate filing with the office at  
4185 least 45 days before the effective date of the rate change.  
4186 After an insurer submits a complete filing that meets all of the  
4187 requirements of this paragraph, the office has 45 days after the  
4188 date of the filing to review the rate filing and determine if

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4189 the rate is excessive, inadequate, or unfairly discriminatory.

4190  
4191 The provisions of this subsection shall not apply to workers'  
4192 compensation and employer's liability insurance and to motor  
4193 vehicle insurance.

4194 Reviser's note.—Amended to confirm an editorial  
4195 insertion made to improve clarity.

4196 Section 121. Paragraph (cc) of subsection (6) of section  
4197 627.351, Florida Statutes, is repealed, and paragraph (b) of  
4198 subsection (2) and paragraphs (b), (c), and (o) of subsection  
4199 (6) of that section are amended to read:

4200 627.351 Insurance risk apportionment plans.—

4201 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

4202 (b) The department shall require all insurers holding a  
4203 certificate of authority to transact property insurance on a  
4204 direct basis in this state, other than joint underwriting  
4205 associations and other entities formed pursuant to this section,  
4206 to provide windstorm coverage to applicants from areas  
4207 determined to be eligible pursuant to paragraph (c) who in good  
4208 faith are entitled to, but are unable to procure, such coverage  
4209 through ordinary means; or it shall adopt a reasonable plan or  
4210 plans for the equitable apportionment or sharing among such  
4211 insurers of windstorm coverage, which may include formation of  
4212 an association for this purpose. As used in this subsection, the  
4213 term "property insurance" means insurance on real or personal  
4214 property, as defined in s. 624.604, including insurance for  
4215 fire, industrial fire, allied lines, farmowners multiperil,  
4216 homeowners' multiperil, commercial multiperil, and mobile homes,  
4217 and including liability coverages on all such insurance, but

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4218 excluding inland marine as defined in s. 624.607(3) and  
4219 excluding vehicle insurance as defined in s. 624.605(1)(a) other  
4220 than insurance on mobile homes used as permanent dwellings. The  
4221 department shall adopt rules that provide a formula for the  
4222 recovery and repayment of any deferred assessments.

4223 1. For the purpose of this section, properties eligible for  
4224 such windstorm coverage are defined as dwellings, buildings, and  
4225 other structures, including mobile homes which are used as  
4226 dwellings and which are tied down in compliance with mobile home  
4227 tie-down requirements prescribed by the Department of Highway  
4228 Safety and Motor Vehicles pursuant to s. 320.8325, and the  
4229 contents of all such properties. An applicant or policyholder is  
4230 eligible for coverage only if an offer of coverage cannot be  
4231 obtained by or for the applicant or policyholder from an  
4232 admitted insurer at approved rates.

4233 2.a.(I) All insurers required to be members of such  
4234 association shall participate in its writings, expenses, and  
4235 losses. Surplus of the association shall be retained for the  
4236 payment of claims and shall not be distributed to the member  
4237 insurers. Such participation by member insurers shall be in the  
4238 proportion that the net direct premiums of each member insurer  
4239 written for property insurance in this state during the  
4240 preceding calendar year bear to the aggregate net direct  
4241 premiums for property insurance of all member insurers, as  
4242 reduced by any credits for voluntary writings, in this state  
4243 during the preceding calendar year. For the purposes of this  
4244 subsection, the term "net direct premiums" means direct written  
4245 premiums for property insurance, reduced by premium for  
4246 liability coverage and for the following if included in allied

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4247 lines: rain and hail on growing crops; livestock; association  
4248 direct premiums booked; National Flood Insurance Program direct  
4249 premiums; and similar deductions specifically authorized by the  
4250 plan of operation and approved by the department. A member's  
4251 participation shall begin on the first day of the calendar year  
4252 following the year in which it is issued a certificate of  
4253 authority to transact property insurance in the state and shall  
4254 terminate 1 year after the end of the calendar year during which  
4255 it no longer holds a certificate of authority to transact  
4256 property insurance in the state. The commissioner, after review  
4257 of annual statements, other reports, and any other statistics  
4258 that the commissioner deems necessary, shall certify to the  
4259 association the aggregate direct premiums written for property  
4260 insurance in this state by all member insurers.

4261 (II) Effective July 1, 2002, the association shall operate  
4262 subject to the supervision and approval of a board of governors  
4263 who are the same individuals that have been appointed by the  
4264 Treasurer to serve on the board of governors of the Citizens  
4265 Property Insurance Corporation.

4266 (III) The plan of operation shall provide a formula whereby  
4267 a company voluntarily providing windstorm coverage in affected  
4268 areas will be relieved wholly or partially from apportionment of  
4269 a regular assessment pursuant to sub-sub-subparagraph d.(I) or  
4270 sub-sub-subparagraph d.(II).

4271 (IV) A company which is a member of a group of companies  
4272 under common management may elect to have its credits applied on  
4273 a group basis, and any company or group may elect to have its  
4274 credits applied to any other company or group.

4275 (V) There shall be no credits or relief from apportionment

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4276 to a company for emergency assessments collected from its  
4277 policyholders under sub-sub-subparagraph d.(III).

4278 (VI) The plan of operation may also provide for the award  
4279 of credits, for a period not to exceed 3 years, from a regular  
4280 assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-  
4281 subparagraph d.(II) as an incentive for taking policies out of  
4282 the Residential Property and Casualty Joint Underwriting  
4283 Association. In order to qualify for the exemption under this  
4284 sub-sub-subparagraph, the take-out plan must provide that at  
4285 least 40 percent of the policies removed from the Residential  
4286 Property and Casualty Joint Underwriting Association cover risks  
4287 located in Miami-Dade, Broward, and Palm Beach Counties or at  
4288 least 30 percent of the policies so removed cover risks located  
4289 in Miami-Dade, Broward, and Palm Beach Counties and an  
4290 additional 50 percent of the policies so removed cover risks  
4291 located in other coastal counties, and must also provide that no  
4292 more than 15 percent of the policies so removed may exclude  
4293 windstorm coverage. With the approval of the department, the  
4294 association may waive these geographic criteria for a take-out  
4295 plan that removes at least the lesser of 100,000 Residential  
4296 Property and Casualty Joint Underwriting Association policies or  
4297 15 percent of the total number of Residential Property and  
4298 Casualty Joint Underwriting Association policies, provided the  
4299 governing board of the Residential Property and Casualty Joint  
4300 Underwriting Association certifies that the take-out plan will  
4301 materially reduce the Residential Property and Casualty Joint  
4302 Underwriting Association's 100-year probable maximum loss from  
4303 hurricanes. With the approval of the department, the board may  
4304 extend such credits for an additional year if the insurer

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4305 guarantees an additional year of renewability for all policies  
4306 removed from the Residential Property and Casualty Joint  
4307 Underwriting Association, or for 2 additional years if the  
4308 insurer guarantees 2 additional years of renewability for all  
4309 policies removed from the Residential Property and Casualty  
4310 Joint Underwriting Association.

4311 b. Assessments to pay deficits in the association under  
4312 this subparagraph shall be included as an appropriate factor in  
4313 the making of rates as provided in s. 627.3512.

4314 c. The Legislature finds that the potential for unlimited  
4315 deficit assessments under this subparagraph may induce insurers  
4316 to attempt to reduce their writings in the voluntary market, and  
4317 that such actions would worsen the availability problems that  
4318 the association was created to remedy. It is the intent of the  
4319 Legislature that insurers remain fully responsible for paying  
4320 regular assessments and collecting emergency assessments for any  
4321 deficits of the association; however, it is also the intent of  
4322 the Legislature to provide a means by which assessment  
4323 liabilities may be amortized over a period of years.

4324 d.(I) When the deficit incurred in a particular calendar  
4325 year is 10 percent or less of the aggregate statewide direct  
4326 written premium for property insurance for the prior calendar  
4327 year for all member insurers, the association shall levy an  
4328 assessment on member insurers in an amount equal to the deficit.

4329 (II) When the deficit incurred in a particular calendar  
4330 year exceeds 10 percent of the aggregate statewide direct  
4331 written premium for property insurance for the prior calendar  
4332 year for all member insurers, the association shall levy an  
4333 assessment on member insurers in an amount equal to the greater

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4334 of 10 percent of the deficit or 10 percent of the aggregate  
4335 statewide direct written premium for property insurance for the  
4336 prior calendar year for member insurers. Any remaining deficit  
4337 shall be recovered through emergency assessments under sub-sub-  
4338 subparagraph (III).

4339 (III) Upon a determination by the board of directors that a  
4340 deficit exceeds the amount that will be recovered through  
4341 regular assessments on member insurers, pursuant to sub-sub-  
4342 subparagraph (I) or sub-sub-subparagraph (II), the board shall  
4343 levy, after verification by the department, emergency  
4344 assessments to be collected by member insurers and by  
4345 underwriting associations created pursuant to this section which  
4346 write property insurance, upon issuance or renewal of property  
4347 insurance policies other than National Flood Insurance policies  
4348 in the year or years following levy of the regular assessments.  
4349 The amount of the emergency assessment collected in a particular  
4350 year shall be a uniform percentage of that year's direct written  
4351 premium for property insurance for all member insurers and  
4352 underwriting associations, excluding National Flood Insurance  
4353 policy premiums, as annually determined by the board and  
4354 verified by the department. The department shall verify the  
4355 arithmetic calculations involved in the board's determination  
4356 within 30 days after receipt of the information on which the  
4357 determination was based. Notwithstanding any other provision of  
4358 law, each member insurer and each underwriting association  
4359 created pursuant to this section shall collect emergency  
4360 assessments from its policyholders without such obligation being  
4361 affected by any credit, limitation, exemption, or deferment. The  
4362 emergency assessments so collected shall be transferred directly



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4363 to the association on a periodic basis as determined by the  
4364 association. The aggregate amount of emergency assessments  
4365 levied under this sub-sub-subparagraph in any calendar year may  
4366 not exceed the greater of 10 percent of the amount needed to  
4367 cover the original deficit, plus interest, fees, commissions,  
4368 required reserves, and other costs associated with financing of  
4369 the original deficit, or 10 percent of the aggregate statewide  
4370 direct written premium for property insurance written by member  
4371 insurers and underwriting associations for the prior year, plus  
4372 interest, fees, commissions, required reserves, and other costs  
4373 associated with financing the original deficit. The board may  
4374 pledge the proceeds of the emergency assessments under this sub-  
4375 sub-subparagraph as the source of revenue for bonds, to retire  
4376 any other debt incurred as a result of the deficit or events  
4377 giving rise to the deficit, or in any other way that the board  
4378 determines will efficiently recover the deficit. The emergency  
4379 assessments under this sub-sub-subparagraph shall continue as  
4380 long as any bonds issued or other indebtedness incurred with  
4381 respect to a deficit for which the assessment was imposed remain  
4382 outstanding, unless adequate provision has been made for the  
4383 payment of such bonds or other indebtedness pursuant to the  
4384 document governing such bonds or other indebtedness. Emergency  
4385 assessments collected under this sub-sub-subparagraph are not  
4386 part of an insurer's rates, are not premium, and are not subject  
4387 to premium tax, fees, or commissions; however, failure to pay  
4388 the emergency assessment shall be treated as failure to pay  
4389 premium.

4390 (IV) Each member insurer's share of the total regular  
4391 assessments under sub-sub-subparagraph (I) or sub-sub-

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4392 subparagraph (II) shall be in the proportion that the insurer's  
4393 net direct premium for property insurance in this state, for the  
4394 year preceding the assessment bears to the aggregate statewide  
4395 net direct premium for property insurance of all member  
4396 insurers, as reduced by any credits for voluntary writings for  
4397 that year.

4398 (V) If regular deficit assessments are made under sub-sub-  
4399 subparagraph (I) or sub-sub-subparagraph (II), or by the  
4400 Residential Property and Casualty Joint Underwriting Association  
4401 under sub-subparagraph (6) (b)3.a. or sub-subparagraph  
4402 (6) (b)3.b., the association shall levy upon the association's  
4403 policyholders, as part of its next rate filing, or by a separate  
4404 rate filing solely for this purpose, a market equalization  
4405 surcharge in a percentage equal to the total amount of such  
4406 regular assessments divided by the aggregate statewide direct  
4407 written premium for property insurance for member insurers for  
4408 the prior calendar year. Market equalization surcharges under  
4409 this sub-sub-subparagraph are not considered premium and are not  
4410 subject to commissions, fees, or premium taxes; however, failure  
4411 to pay a market equalization surcharge shall be treated as  
4412 failure to pay premium.

4413 e. The governing body of any unit of local government, any  
4414 residents of which are insured under the plan, may issue bonds  
4415 as defined in s. 125.013 or s. 166.101 to fund an assistance  
4416 program, in conjunction with the association, for the purpose of  
4417 defraying deficits of the association. In order to avoid  
4418 needless and indiscriminate proliferation, duplication, and  
4419 fragmentation of such assistance programs, any unit of local  
4420 government, any residents of which are insured by the

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4421 association, may provide for the payment of losses, regardless  
4422 of whether or not the losses occurred within or outside of the  
4423 territorial jurisdiction of the local government. Revenue bonds  
4424 may not be issued until validated pursuant to chapter 75, unless  
4425 a state of emergency is declared by executive order or  
4426 proclamation of the Governor pursuant to s. 252.36 making such  
4427 findings as are necessary to determine that it is in the best  
4428 interests of, and necessary for, the protection of the public  
4429 health, safety, and general welfare of residents of this state  
4430 and the protection and preservation of the economic stability of  
4431 insurers operating in this state, and declaring it an essential  
4432 public purpose to permit certain municipalities or counties to  
4433 issue bonds as will provide relief to claimants and  
4434 policyholders of the association and insurers responsible for  
4435 apportionment of plan losses. Any such unit of local government  
4436 may enter into such contracts with the association and with any  
4437 other entity created pursuant to this subsection as are  
4438 necessary to carry out this paragraph. Any bonds issued under  
4439 this sub-subparagraph shall be payable from and secured by  
4440 moneys received by the association from assessments under this  
4441 subparagraph, and assigned and pledged to or on behalf of the  
4442 unit of local government for the benefit of the holders of such  
4443 bonds. The funds, credit, property, and taxing power of the  
4444 state or of the unit of local government shall not be pledged  
4445 for the payment of such bonds. If any of the bonds remain unsold  
4446 60 days after issuance, the department shall require all  
4447 insurers subject to assessment to purchase the bonds, which  
4448 shall be treated as admitted assets; each insurer shall be  
4449 required to purchase that percentage of the unsold portion of

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4450 the bond issue that equals the insurer's relative share of  
4451 assessment liability under this subsection. An insurer shall not  
4452 be required to purchase the bonds to the extent that the  
4453 department determines that the purchase would endanger or impair  
4454 the solvency of the insurer. The authority granted by this sub-  
4455 subparagraph is additional to any bonding authority granted by  
4456 subparagraph 6.

4457         3. The plan shall also provide that any member with a  
4458 surplus as to policyholders of \$20 million or less writing 25  
4459 percent or more of its total countrywide property insurance  
4460 premiums in this state may petition the department, within the  
4461 first 90 days of each calendar year, to qualify as a limited  
4462 apportionment company. The apportionment of such a member  
4463 company in any calendar year for which it is qualified shall not  
4464 exceed its gross participation, which shall not be affected by  
4465 the formula for voluntary writings. In no event shall a limited  
4466 apportionment company be required to participate in any  
4467 apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)  
4468 or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds  
4469 \$50 million after payment of available plan funds in any  
4470 calendar year. However, a limited apportionment company shall  
4471 collect from its policyholders any emergency assessment imposed  
4472 under sub-sub-subparagraph 2.d.(III). The plan shall provide  
4473 that, if the department determines that any regular assessment  
4474 will result in an impairment of the surplus of a limited  
4475 apportionment company, the department may direct that all or  
4476 part of such assessment be deferred. However, there shall be no  
4477 limitation or deferment of an emergency assessment to be  
4478 collected from policyholders under sub-sub-subparagraph

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4479 2.d.(III).

4480 4. The plan shall provide for the deferment, in whole or in  
4481 part, of a regular assessment of a member insurer under sub-sub-  
4482 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but not  
4483 for an emergency assessment collected from policyholders under  
4484 sub-sub-subparagraph 2.d.(III), if, in the opinion of the  
4485 commissioner, payment of such regular assessment would endanger  
4486 or impair the solvency of the member insurer. In the event a  
4487 regular assessment against a member insurer is deferred in whole  
4488 or in part, the amount by which such assessment is deferred may  
4489 be assessed against the other member insurers in a manner  
4490 consistent with the basis for assessments set forth in sub-sub-  
4491 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

4492 5.a. The plan of operation may include deductibles and  
4493 rules for classification of risks and rate modifications  
4494 consistent with the objective of providing and maintaining funds  
4495 sufficient to pay catastrophe losses.

4496 b. It is the intent of the Legislature that the rates for  
4497 coverage provided by the association be actuarially sound and  
4498 not competitive with approved rates charged in the admitted  
4499 voluntary market such that the association functions as a  
4500 residual market mechanism to provide insurance only when the  
4501 insurance cannot be procured in the voluntary market. The plan  
4502 of operation shall provide a mechanism to assure that, beginning  
4503 no later than January 1, 1999, the rates charged by the  
4504 association for each line of business are reflective of approved  
4505 rates in the voluntary market for hurricane coverage for each  
4506 line of business in the various areas eligible for association  
4507 coverage.

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4508 c. The association shall provide for windstorm coverage on  
4509 residential properties in limits up to \$10 million for  
4510 commercial lines residential risks and up to \$1 million for  
4511 personal lines residential risks. If coverage with the  
4512 association is sought for a residential risk valued in excess of  
4513 these limits, coverage shall be available to the risk up to the  
4514 replacement cost or actual cash value of the property, at the  
4515 option of the insured, if coverage for the risk cannot be  
4516 located in the authorized market. The association must accept a  
4517 commercial lines residential risk with limits above \$10 million  
4518 or a personal lines residential risk with limits above \$1  
4519 million if coverage is not available in the authorized market.  
4520 The association may write coverage above the limits specified in  
4521 this subparagraph with or without facultative or other  
4522 reinsurance coverage, as the association determines appropriate.

4523 d. The plan of operation must provide objective criteria  
4524 and procedures, approved by the department, to be uniformly  
4525 applied for all applicants in determining whether an individual  
4526 risk is so hazardous as to be uninsurable. In making this  
4527 determination and in establishing the criteria and procedures,  
4528 the following shall be considered:

4529 (I) Whether the likelihood of a loss for the individual  
4530 risk is substantially higher than for other risks of the same  
4531 class; and

4532 (II) Whether the uncertainty associated with the individual  
4533 risk is such that an appropriate premium cannot be determined.

4534

4535 The acceptance or rejection of a risk by the association  
4536 pursuant to such criteria and procedures must be construed as

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4537 the private placement of insurance, and the provisions of  
4538 chapter 120 do not apply.

4539 e. If the risk accepts an offer of coverage through the  
4540 market assistance program or through a mechanism established by  
4541 the association, either before the policy is issued by the  
4542 association or during the first 30 days of coverage by the  
4543 association, and the producing agent who submitted the  
4544 application to the association is not currently appointed by the  
4545 insurer, the insurer shall:

4546 (I) Pay to the producing agent of record of the policy, for  
4547 the first year, an amount that is the greater of the insurer's  
4548 usual and customary commission for the type of policy written or  
4549 a fee equal to the usual and customary commission of the  
4550 association; or

4551 (II) Offer to allow the producing agent of record of the  
4552 policy to continue servicing the policy for a period of not less  
4553 than 1 year and offer to pay the agent the greater of the  
4554 insurer's or the association's usual and customary commission  
4555 for the type of policy written.

4556  
4557 If the producing agent is unwilling or unable to accept  
4558 appointment, the new insurer shall pay the agent in accordance  
4559 with sub-sub-subparagraph (I). Subject to the provisions of s.  
4560 627.3517, the policies issued by the association must provide  
4561 that if the association obtains an offer from an authorized  
4562 insurer to cover the risk at its approved rates under either a  
4563 standard policy including wind coverage or, if consistent with  
4564 the insurer's underwriting rules as filed with the department, a  
4565 basic policy including wind coverage, the risk is no longer

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4566 eligible for coverage through the association. Upon termination  
4567 of eligibility, the association shall provide written notice to  
4568 the policyholder and agent of record stating that the  
4569 association policy must be canceled as of 60 days after the date  
4570 of the notice because of the offer of coverage from an  
4571 authorized insurer. Other provisions of the insurance code  
4572 relating to cancellation and notice of cancellation do not apply  
4573 to actions under this sub-subparagraph.

4574 f. When the association enters into a contractual agreement  
4575 for a take-out plan, the producing agent of record of the  
4576 association policy is entitled to retain any unearned commission  
4577 on the policy, and the insurer shall:

4578 (I) Pay to the producing agent of record of the association  
4579 policy, for the first year, an amount that is the greater of the  
4580 insurer's usual and customary commission for the type of policy  
4581 written or a fee equal to the usual and customary commission of  
4582 the association; or

4583 (II) Offer to allow the producing agent of record of the  
4584 association policy to continue servicing the policy for a period  
4585 of not less than 1 year and offer to pay the agent the greater  
4586 of the insurer's or the association's usual and customary  
4587 commission for the type of policy written.

4588  
4589 If the producing agent is unwilling or unable to accept  
4590 appointment, the new insurer shall pay the agent in accordance  
4591 with sub-sub-subparagraph (I).

4592 6.a. The plan of operation may authorize the formation of a  
4593 private nonprofit corporation, a private nonprofit  
4594 unincorporated association, a partnership, a trust, a limited



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4595 liability company, or a nonprofit mutual company which may be  
4596 empowered, among other things, to borrow money by issuing bonds  
4597 or by incurring other indebtedness and to accumulate reserves or  
4598 funds to be used for the payment of insured catastrophe losses.  
4599 The plan may authorize all actions necessary to facilitate the  
4600 issuance of bonds, including the pledging of assessments or  
4601 other revenues.

4602       b. Any entity created under this subsection, or any entity  
4603 formed for the purposes of this subsection, may sue and be sued,  
4604 may borrow money; issue bonds, notes, or debt instruments;  
4605 pledge or sell assessments, market equalization surcharges and  
4606 other surcharges, rights, premiums, contractual rights,  
4607 projected recoveries from the Florida Hurricane Catastrophe  
4608 Fund, other reinsurance recoverables, and other assets as  
4609 security for such bonds, notes, or debt instruments; enter into  
4610 any contracts or agreements necessary or proper to accomplish  
4611 such borrowings; and take other actions necessary to carry out  
4612 the purposes of this subsection. The association may issue bonds  
4613 or incur other indebtedness, or have bonds issued on its behalf  
4614 by a unit of local government pursuant to subparagraph (6)(q)2.  
4615 ~~(6)(p)2.~~, in the absence of a hurricane or other weather-related  
4616 event, upon a determination by the association subject to  
4617 approval by the department that such action would enable it to  
4618 efficiently meet the financial obligations of the association  
4619 and that such financings are reasonably necessary to effectuate  
4620 the requirements of this subsection. Any such entity may  
4621 accumulate reserves and retain surpluses as of the end of any  
4622 association year to provide for the payment of losses incurred  
4623 by the association during that year or any future year. The

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4624 association shall incorporate and continue the plan of operation  
4625 and articles of agreement in effect on the effective date of  
4626 chapter 76-96, Laws of Florida, to the extent that it is not  
4627 inconsistent with chapter 76-96, and as subsequently modified  
4628 consistent with chapter 76-96. The board of directors and  
4629 officers currently serving shall continue to serve until their  
4630 successors are duly qualified as provided under the plan. The  
4631 assets and obligations of the plan in effect immediately prior  
4632 to the effective date of chapter 76-96 shall be construed to be  
4633 the assets and obligations of the successor plan created herein.

4634 c. In recognition of s. 10, Art. I of the State  
4635 Constitution, prohibiting the impairment of obligations of  
4636 contracts, it is the intent of the Legislature that no action be  
4637 taken whose purpose is to impair any bond indenture or financing  
4638 agreement or any revenue source committed by contract to such  
4639 bond or other indebtedness issued or incurred by the association  
4640 or any other entity created under this subsection.

4641 7. On such coverage, an agent's remuneration shall be that  
4642 amount of money payable to the agent by the terms of his or her  
4643 contract with the company with which the business is placed.  
4644 However, no commission will be paid on that portion of the  
4645 premium which is in excess of the standard premium of that  
4646 company.

4647 8. Subject to approval by the department, the association  
4648 may establish different eligibility requirements and operational  
4649 procedures for any line or type of coverage for any specified  
4650 eligible area or portion of an eligible area if the board  
4651 determines that such changes to the eligibility requirements and  
4652 operational procedures are justified due to the voluntary market

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4653 being sufficiently stable and competitive in such area or for  
4654 such line or type of coverage and that consumers who, in good  
4655 faith, are unable to obtain insurance through the voluntary  
4656 market through ordinary methods would continue to have access to  
4657 coverage from the association. When coverage is sought in  
4658 connection with a real property transfer, such requirements and  
4659 procedures shall not provide for an effective date of coverage  
4660 later than the date of the closing of the transfer as  
4661 established by the transferor, the transferee, and, if  
4662 applicable, the lender.

4663 9. Notwithstanding any other provision of law:

4664 a. The pledge or sale of, the lien upon, and the security  
4665 interest in any rights, revenues, or other assets of the  
4666 association created or purported to be created pursuant to any  
4667 financing documents to secure any bonds or other indebtedness of  
4668 the association shall be and remain valid and enforceable,  
4669 notwithstanding the commencement of and during the continuation  
4670 of, and after, any rehabilitation, insolvency, liquidation,  
4671 bankruptcy, receivership, conservatorship, reorganization, or  
4672 similar proceeding against the association under the laws of  
4673 this state or any other applicable laws.

4674 b. No such proceeding shall relieve the association of its  
4675 obligation, or otherwise affect its ability to perform its  
4676 obligation, to continue to collect, or levy and collect,  
4677 assessments, market equalization or other surcharges, projected  
4678 recoveries from the Florida Hurricane Catastrophe Fund,  
4679 reinsurance recoverables, or any other rights, revenues, or  
4680 other assets of the association pledged.

4681 c. Each such pledge or sale of, lien upon, and security

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4682 interest in, including the priority of such pledge, lien, or  
4683 security interest, any such assessments, emergency assessments,  
4684 market equalization or renewal surcharges, projected recoveries  
4685 from the Florida Hurricane Catastrophe Fund, reinsurance  
4686 recoverables, or other rights, revenues, or other assets which  
4687 are collected, or levied and collected, after the commencement  
4688 of and during the pendency of or after any such proceeding shall  
4689 continue unaffected by such proceeding.

4690 d. As used in this subsection, the term "financing  
4691 documents" means any agreement, instrument, or other document  
4692 now existing or hereafter created evidencing any bonds or other  
4693 indebtedness of the association or pursuant to which any such  
4694 bonds or other indebtedness has been or may be issued and  
4695 pursuant to which any rights, revenues, or other assets of the  
4696 association are pledged or sold to secure the repayment of such  
4697 bonds or indebtedness, together with the payment of interest on  
4698 such bonds or such indebtedness, or the payment of any other  
4699 obligation of the association related to such bonds or  
4700 indebtedness.

4701 e. Any such pledge or sale of assessments, revenues,  
4702 contract rights or other rights or assets of the association  
4703 shall constitute a lien and security interest, or sale, as the  
4704 case may be, that is immediately effective and attaches to such  
4705 assessments, revenues, contract, or other rights or assets,  
4706 whether or not imposed or collected at the time the pledge or  
4707 sale is made. Any such pledge or sale is effective, valid,  
4708 binding, and enforceable against the association or other entity  
4709 making such pledge or sale, and valid and binding against and  
4710 superior to any competing claims or obligations owed to any

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4711 other person or entity, including policyholders in this state,  
4712 asserting rights in any such assessments, revenues, contract, or  
4713 other rights or assets to the extent set forth in and in  
4714 accordance with the terms of the pledge or sale contained in the  
4715 applicable financing documents, whether or not any such person  
4716 or entity has notice of such pledge or sale and without the need  
4717 for any physical delivery, recordation, filing, or other action.

4718 f. There shall be no liability on the part of, and no cause  
4719 of action of any nature shall arise against, any member insurer  
4720 or its agents or employees, agents or employees of the  
4721 association, members of the board of directors of the  
4722 association, or the department or its representatives, for any  
4723 action taken by them in the performance of their duties or  
4724 responsibilities under this subsection. Such immunity does not  
4725 apply to actions for breach of any contract or agreement  
4726 pertaining to insurance, or any willful tort.

4727 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

4728 (b)1. All insurers authorized to write one or more subject  
4729 lines of business in this state are subject to assessment by the  
4730 corporation and, for the purposes of this subsection, are  
4731 referred to collectively as "assessable insurers." Insurers  
4732 writing one or more subject lines of business in this state  
4733 pursuant to part VIII of chapter 626 are not assessable  
4734 insurers, but insureds who procure one or more subject lines of  
4735 business in this state pursuant to part VIII of chapter 626 are  
4736 subject to assessment by the corporation and are referred to  
4737 collectively as "assessable insureds." An authorized insurer's  
4738 assessment liability shall begin on the first day of the  
4739 calendar year following the year in which the insurer was issued

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4740 a certificate of authority to transact insurance for subject  
4741 lines of business in this state and shall terminate 1 year after  
4742 the end of the first calendar year during which the insurer no  
4743 longer holds a certificate of authority to transact insurance  
4744 for subject lines of business in this state.

4745 2.a. All revenues, assets, liabilities, losses, and  
4746 expenses of the corporation shall be divided into three separate  
4747 accounts as follows:

4748 (I) A personal lines account for personal residential  
4749 policies issued by the corporation or issued by the Residential  
4750 Property and Casualty Joint Underwriting Association and renewed  
4751 by the corporation that provide comprehensive, multiperil  
4752 coverage on risks that are not located in areas eligible for  
4753 coverage in the Florida Windstorm Underwriting Association as  
4754 those areas were defined on January 1, 2002, and for such  
4755 policies that do not provide coverage for the peril of wind on  
4756 risks that are located in such areas;

4757 (II) A commercial lines account for commercial residential  
4758 and commercial nonresidential policies issued by the corporation  
4759 or issued by the Residential Property and Casualty Joint  
4760 Underwriting Association and renewed by the corporation that  
4761 provide coverage for basic property perils on risks that are not  
4762 located in areas eligible for coverage in the Florida Windstorm  
4763 Underwriting Association as those areas were defined on January  
4764 1, 2002, and for such policies that do not provide coverage for  
4765 the peril of wind on risks that are located in such areas; and

4766 (III) A high-risk account for personal residential policies  
4767 and commercial residential and commercial nonresidential  
4768 property policies issued by the corporation or transferred to

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4769 the corporation that provide coverage for the peril of wind on  
4770 risks that are located in areas eligible for coverage in the  
4771 Florida Windstorm Underwriting Association as those areas were  
4772 defined on January 1, 2002. The corporation may offer policies  
4773 that provide multiperil coverage and the corporation shall  
4774 continue to offer policies that provide coverage only for the  
4775 peril of wind for risks located in areas eligible for coverage  
4776 in the high-risk account. In issuing multiperil coverage, the  
4777 corporation may use its approved policy forms and rates for the  
4778 personal lines account. An applicant or insured who is eligible  
4779 to purchase a multiperil policy from the corporation may  
4780 purchase a multiperil policy from an authorized insurer without  
4781 prejudice to the applicant's or insured's eligibility to  
4782 prospectively purchase a policy that provides coverage only for  
4783 the peril of wind from the corporation. An applicant or insured  
4784 who is eligible for a corporation policy that provides coverage  
4785 only for the peril of wind may elect to purchase or retain such  
4786 policy and also purchase or retain coverage excluding wind from  
4787 an authorized insurer without prejudice to the applicant's or  
4788 insured's eligibility to prospectively purchase a policy that  
4789 provides multiperil coverage from the corporation. It is the  
4790 goal of the Legislature that there would be an overall average  
4791 savings of 10 percent or more for a policyholder who currently  
4792 has a wind-only policy with the corporation, and an ex-wind  
4793 policy with a voluntary insurer or the corporation, and who then  
4794 obtains a multiperil policy from the corporation. It is the  
4795 intent of the Legislature that the offer of multiperil coverage  
4796 in the high-risk account be made and implemented in a manner  
4797 that does not adversely affect the tax-exempt status of the

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4798 corporation or creditworthiness of or security for currently  
4799 outstanding financing obligations or credit facilities of the  
4800 high-risk account, the personal lines account, or the commercial  
4801 lines account. The high-risk account must also include quota  
4802 share primary insurance under subparagraph (c)2. The area  
4803 eligible for coverage under the high-risk account also includes  
4804 the area within Port Canaveral, which is bordered on the south  
4805 by the City of Cape Canaveral, bordered on the west by the  
4806 Banana River, and bordered on the north by Federal Government  
4807 property.

4808       b. The three separate accounts must be maintained as long  
4809 as financing obligations entered into by the Florida Windstorm  
4810 Underwriting Association or Residential Property and Casualty  
4811 Joint Underwriting Association are outstanding, in accordance  
4812 with the terms of the corresponding financing documents. When  
4813 the financing obligations are no longer outstanding, in  
4814 accordance with the terms of the corresponding financing  
4815 documents, the corporation may use a single account for all  
4816 revenues, assets, liabilities, losses, and expenses of the  
4817 corporation. Consistent with the requirement of this  
4818 subparagraph and prudent investment policies that minimize the  
4819 cost of carrying debt, the board shall exercise its best efforts  
4820 to retire existing debt or to obtain approval of necessary  
4821 parties to amend the terms of existing debt, so as to structure  
4822 the most efficient plan to consolidate the three separate  
4823 accounts into a single account. ~~By February 1, 2007, the board~~  
4824 ~~shall submit a report to the Financial Services Commission, the~~  
4825 ~~President of the Senate, and the Speaker of the House of~~  
4826 ~~Representatives which includes an analysis of consolidating the~~



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4827 ~~accounts, the actions the board has taken to minimize the cost~~  
4828 ~~of carrying debt, and its recommendations for executing the most~~  
4829 ~~efficient plan.~~

4830 c. Creditors of the Residential Property and Casualty Joint  
4831 Underwriting Association and of the accounts specified in sub-  
4832 sub-subparagraphs a.(I) and (II) may have a claim against, and  
4833 recourse to, the accounts referred to in sub-sub-subparagraphs  
4834 a.(I) and (II) and shall have no claim against, or recourse to,  
4835 the account referred to in sub-sub-subparagraph a.(III).  
4836 Creditors of the Florida Windstorm Underwriting Association  
4837 shall have a claim against, and recourse to, the account  
4838 referred to in sub-sub-subparagraph a.(III) and shall have no  
4839 claim against, or recourse to, the accounts referred to in sub-  
4840 sub-subparagraphs a.(I) and (II).

4841 d. Revenues, assets, liabilities, losses, and expenses not  
4842 attributable to particular accounts shall be prorated among the  
4843 accounts.

4844 e. The Legislature finds that the revenues of the  
4845 corporation are revenues that are necessary to meet the  
4846 requirements set forth in documents authorizing the issuance of  
4847 bonds under this subsection.

4848 f. No part of the income of the corporation may inure to  
4849 the benefit of any private person.

4850 3. With respect to a deficit in an account:

4851 a. After accounting for the Citizens policyholder surcharge  
4852 imposed under sub-subparagraph i., when the remaining projected  
4853 deficit incurred in a particular calendar year is not greater  
4854 than 6 percent of the aggregate statewide direct written premium  
4855 for the subject lines of business for the prior calendar year,

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4856 the entire deficit shall be recovered through regular  
4857 assessments of assessable insurers under paragraph (q) ~~(p)~~ and  
4858 assessable insureds.

4859       b. After accounting for the Citizens policyholder surcharge  
4860 imposed under sub-subparagraph i., when the remaining projected  
4861 deficit incurred in a particular calendar year exceeds 6 percent  
4862 of the aggregate statewide direct written premium for the  
4863 subject lines of business for the prior calendar year, the  
4864 corporation shall levy regular assessments on assessable  
4865 insurers under paragraph (q) ~~(p)~~ and on assessable insureds in  
4866 an amount equal to the greater of 6 percent of the deficit or 6  
4867 percent of the aggregate statewide direct written premium for  
4868 the subject lines of business for the prior calendar year. Any  
4869 remaining deficit shall be recovered through emergency  
4870 assessments under sub-subparagraph d.

4871       c. Each assessable insurer's share of the amount being  
4872 assessed under sub-subparagraph a. or sub-subparagraph b. shall  
4873 be in the proportion that the assessable insurer's direct  
4874 written premium for the subject lines of business for the year  
4875 preceding the assessment bears to the aggregate statewide direct  
4876 written premium for the subject lines of business for that year.  
4877 The assessment percentage applicable to each assessable insured  
4878 is the ratio of the amount being assessed under sub-subparagraph  
4879 a. or sub-subparagraph b. to the aggregate statewide direct  
4880 written premium for the subject lines of business for the prior  
4881 year. Assessments levied by the corporation on assessable  
4882 insurers under sub-subparagraphs a. and b. shall be paid as  
4883 required by the corporation's plan of operation and paragraph  
4884 (q) ~~(p)~~. Assessments levied by the corporation on assessable

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4885 insureds under sub-subparagraphs a. and b. shall be collected by  
4886 the surplus lines agent at the time the surplus lines agent  
4887 collects the surplus lines tax required by s. 626.932 and shall  
4888 be paid to the Florida Surplus Lines Service Office at the time  
4889 the surplus lines agent pays the surplus lines tax to the  
4890 Florida Surplus Lines Service Office. Upon receipt of regular  
4891 assessments from surplus lines agents, the Florida Surplus Lines  
4892 Service Office shall transfer the assessments directly to the  
4893 corporation as determined by the corporation.

4894 d. Upon a determination by the board of governors that a  
4895 deficit in an account exceeds the amount that will be recovered  
4896 through regular assessments under sub-subparagraph a. or sub-  
4897 subparagraph b., plus the amount that is expected to be  
4898 recovered through surcharges under sub-subparagraph i., as to  
4899 the remaining projected deficit the board shall levy, after  
4900 verification by the office, emergency assessments, for as many  
4901 years as necessary to cover the deficits, to be collected by  
4902 assessable insurers and the corporation and collected from  
4903 assessable insureds upon issuance or renewal of policies for  
4904 subject lines of business, excluding National Flood Insurance  
4905 policies. The amount of the emergency assessment collected in a  
4906 particular year shall be a uniform percentage of that year's  
4907 direct written premium for subject lines of business and all  
4908 accounts of the corporation, excluding National Flood Insurance  
4909 Program policy premiums, as annually determined by the board and  
4910 verified by the office. The office shall verify the arithmetic  
4911 calculations involved in the board's determination within 30  
4912 days after receipt of the information on which the determination  
4913 was based. Notwithstanding any other provision of law, the

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4914 corporation and each assessable insurer that writes subject  
4915 lines of business shall collect emergency assessments from its  
4916 policyholders without such obligation being affected by any  
4917 credit, limitation, exemption, or deferment. Emergency  
4918 assessments levied by the corporation on assessable insureds  
4919 shall be collected by the surplus lines agent at the time the  
4920 surplus lines agent collects the surplus lines tax required by  
4921 s. 626.932 and shall be paid to the Florida Surplus Lines  
4922 Service Office at the time the surplus lines agent pays the  
4923 surplus lines tax to the Florida Surplus Lines Service Office.  
4924 The emergency assessments so collected shall be transferred  
4925 directly to the corporation on a periodic basis as determined by  
4926 the corporation and shall be held by the corporation solely in  
4927 the applicable account. The aggregate amount of emergency  
4928 assessments levied for an account under this sub-subparagraph in  
4929 any calendar year may, at the discretion of the board of  
4930 governors, be less than but may not exceed the greater of 10  
4931 percent of the amount needed to cover the deficit, plus  
4932 interest, fees, commissions, required reserves, and other costs  
4933 associated with financing of the original deficit, or 10 percent  
4934 of the aggregate statewide direct written premium for subject  
4935 lines of business and for all accounts of the corporation for  
4936 the prior year, plus interest, fees, commissions, required  
4937 reserves, and other costs associated with financing the deficit.

4938 e. The corporation may pledge the proceeds of assessments,  
4939 projected recoveries from the Florida Hurricane Catastrophe  
4940 Fund, other insurance and reinsurance recoverables, policyholder  
4941 surcharges and other surcharges, and other funds available to  
4942 the corporation as the source of revenue for and to secure bonds

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4943 issued under paragraph (q) ~~(p)~~, bonds or other indebtedness  
4944 issued under subparagraph (c)3., or lines of credit or other  
4945 financing mechanisms issued or created under this subsection, or  
4946 to retire any other debt incurred as a result of deficits or  
4947 events giving rise to deficits, or in any other way that the  
4948 board determines will efficiently recover such deficits. The  
4949 purpose of the lines of credit or other financing mechanisms is  
4950 to provide additional resources to assist the corporation in  
4951 covering claims and expenses attributable to a catastrophe. As  
4952 used in this subsection, the term "assessments" includes regular  
4953 assessments under sub-subparagraph a., sub-subparagraph b., or  
4954 subparagraph (q)1. ~~(p)1.~~ and emergency assessments under sub-  
4955 subparagraph d. Emergency assessments collected under sub-  
4956 subparagraph d. are not part of an insurer's rates, are not  
4957 premium, and are not subject to premium tax, fees, or  
4958 commissions; however, failure to pay the emergency assessment  
4959 shall be treated as failure to pay premium. The emergency  
4960 assessments under sub-subparagraph d. shall continue as long as  
4961 any bonds issued or other indebtedness incurred with respect to  
4962 a deficit for which the assessment was imposed remain  
4963 outstanding, unless adequate provision has been made for the  
4964 payment of such bonds or other indebtedness pursuant to the  
4965 documents governing such bonds or other indebtedness.

4966 f. As used in this subsection for purposes of any deficit  
4967 incurred on or after January 25, 2007, the term "subject lines  
4968 of business" means insurance written by assessable insurers or  
4969 procured by assessable insureds for all property and casualty  
4970 lines of business in this state, but not including workers'  
4971 compensation or medical malpractice. As used in the sub-

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4972 subparagraph, the term "property and casualty lines of business"  
4973 includes all lines of business identified on Form 2, Exhibit of  
4974 Premiums and Losses, in the annual statement required of  
4975 authorized insurers by s. 624.424 and any rule adopted under  
4976 this section, except for those lines identified as accident and  
4977 health insurance and except for policies written under the  
4978 National Flood Insurance Program or the Federal Crop Insurance  
4979 Program. For purposes of this sub-subparagraph, the term  
4980 "workers' compensation" includes both workers' compensation  
4981 insurance and excess workers' compensation insurance.

4982 g. The Florida Surplus Lines Service Office shall determine  
4983 annually the aggregate statewide written premium in subject  
4984 lines of business procured by assessable insureds and shall  
4985 report that information to the corporation in a form and at a  
4986 time the corporation specifies to ensure that the corporation  
4987 can meet the requirements of this subsection and the  
4988 corporation's financing obligations.

4989 h. The Florida Surplus Lines Service Office shall verify  
4990 the proper application by surplus lines agents of assessment  
4991 percentages for regular assessments and emergency assessments  
4992 levied under this subparagraph on assessable insureds and shall  
4993 assist the corporation in ensuring the accurate, timely  
4994 collection and payment of assessments by surplus lines agents as  
4995 required by the corporation.

4996 i. If a deficit is incurred in any account in 2008 or  
4997 thereafter, the board of governors shall levy a Citizens  
4998 policyholder surcharge against all policyholders of the  
4999 corporation for a 12-month period, which shall be collected at  
5000 the time of issuance or renewal of a policy, as a uniform

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5001 percentage of the premium for the policy of up to 15 percent of  
5002 such premium, which funds shall be used to offset the deficit.  
5003 Citizens policyholder surcharges under this sub-subparagraph are  
5004 not considered premium and are not subject to commissions, fees,  
5005 or premium taxes. However, failure to pay such surcharges shall  
5006 be treated as failure to pay premium.

5007       j. If the amount of any assessments or surcharges collected  
5008 from corporation policyholders, assessable insurers or their  
5009 policyholders, or assessable insureds exceeds the amount of the  
5010 deficits, such excess amounts shall be remitted to and retained  
5011 by the corporation in a reserve to be used by the corporation,  
5012 as determined by the board of governors and approved by the  
5013 office, to pay claims or reduce any past, present, or future  
5014 plan-year deficits or to reduce outstanding debt.

5015       (c) The plan of operation of the corporation:

5016       1. Must provide for adoption of residential property and  
5017 casualty insurance policy forms and commercial residential and  
5018 nonresidential property insurance forms, which forms must be  
5019 approved by the office prior to use. The corporation shall adopt  
5020 the following policy forms:

5021       a. Standard personal lines policy forms that are  
5022 comprehensive multiperil policies providing full coverage of a  
5023 residential property equivalent to the coverage provided in the  
5024 private insurance market under an HO-3, HO-4, or HO-6 policy.

5025       b. Basic personal lines policy forms that are policies  
5026 similar to an HO-8 policy or a dwelling fire policy that provide  
5027 coverage meeting the requirements of the secondary mortgage  
5028 market, but which coverage is more limited than the coverage  
5029 under a standard policy.

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5030 c. Commercial lines residential and nonresidential policy  
5031 forms that are generally similar to the basic perils of full  
5032 coverage obtainable for commercial residential structures and  
5033 commercial nonresidential structures in the admitted voluntary  
5034 market.

5035 d. Personal lines and commercial lines residential property  
5036 insurance forms that cover the peril of wind only. The forms are  
5037 applicable only to residential properties located in areas  
5038 eligible for coverage under the high-risk account referred to in  
5039 sub-subparagraph (b)2.a.

5040 e. Commercial lines nonresidential property insurance forms  
5041 that cover the peril of wind only. The forms are applicable only  
5042 to nonresidential properties located in areas eligible for  
5043 coverage under the high-risk account referred to in sub-  
5044 subparagraph (b)2.a.

5045 f. The corporation may adopt variations of the policy forms  
5046 listed in sub-subparagraphs a.-e. that contain more restrictive  
5047 coverage.

5048 2.a. Must provide that the corporation adopt a program in  
5049 which the corporation and authorized insurers enter into quota  
5050 share primary insurance agreements for hurricane coverage, as  
5051 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
5052 property insurance forms for eligible risks which cover the  
5053 peril of wind only. As used in this subsection, the term:

5054 (I) "Quota share primary insurance" means an arrangement in  
5055 which the primary hurricane coverage of an eligible risk is  
5056 provided in specified percentages by the corporation and an  
5057 authorized insurer. The corporation and authorized insurer are  
5058 each solely responsible for a specified percentage of hurricane



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5059 coverage of an eligible risk as set forth in a quota share  
5060 primary insurance agreement between the corporation and an  
5061 authorized insurer and the insurance contract. The  
5062 responsibility of the corporation or authorized insurer to pay  
5063 its specified percentage of hurricane losses of an eligible  
5064 risk, as set forth in the quota share primary insurance  
5065 agreement, may not be altered by the inability of the other  
5066 party to the agreement to pay its specified percentage of  
5067 hurricane losses. Eligible risks that are provided hurricane  
5068 coverage through a quota share primary insurance arrangement  
5069 must be provided policy forms that set forth the obligations of  
5070 the corporation and authorized insurer under the arrangement,  
5071 clearly specify the percentages of quota share primary insurance  
5072 provided by the corporation and authorized insurer, and  
5073 conspicuously and clearly state that neither the authorized  
5074 insurer nor the corporation may be held responsible beyond its  
5075 specified percentage of coverage of hurricane losses.

5076 (II) "Eligible risks" means personal lines residential and  
5077 commercial lines residential risks that meet the underwriting  
5078 criteria of the corporation and are located in areas that were  
5079 eligible for coverage by the Florida Windstorm Underwriting  
5080 Association on January 1, 2002.

5081 b. The corporation may enter into quota share primary  
5082 insurance agreements with authorized insurers at corporation  
5083 coverage levels of 90 percent and 50 percent.

5084 c. If the corporation determines that additional coverage  
5085 levels are necessary to maximize participation in quota share  
5086 primary insurance agreements by authorized insurers, the  
5087 corporation may establish additional coverage levels. However,

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5088 the corporation's quota share primary insurance coverage level  
5089 may not exceed 90 percent.

5090 d. Any quota share primary insurance agreement entered into  
5091 between an authorized insurer and the corporation must provide  
5092 for a uniform specified percentage of coverage of hurricane  
5093 losses, by county or territory as set forth by the corporation  
5094 board, for all eligible risks of the authorized insurer covered  
5095 under the quota share primary insurance agreement.

5096 e. Any quota share primary insurance agreement entered into  
5097 between an authorized insurer and the corporation is subject to  
5098 review and approval by the office. However, such agreement shall  
5099 be authorized only as to insurance contracts entered into  
5100 between an authorized insurer and an insured who is already  
5101 insured by the corporation for wind coverage.

5102 f. For all eligible risks covered under quota share primary  
5103 insurance agreements, the exposure and coverage levels for both  
5104 the corporation and authorized insurers shall be reported by the  
5105 corporation to the Florida Hurricane Catastrophe Fund. For all  
5106 policies of eligible risks covered under quota share primary  
5107 insurance agreements, the corporation and the authorized insurer  
5108 shall maintain complete and accurate records for the purpose of  
5109 exposure and loss reimbursement audits as required by Florida  
5110 Hurricane Catastrophe Fund rules. The corporation and the  
5111 authorized insurer shall each maintain duplicate copies of  
5112 policy declaration pages and supporting claims documents.

5113 g. The corporation board shall establish in its plan of  
5114 operation standards for quota share agreements which ensure that  
5115 there is no discriminatory application among insurers as to the  
5116 terms of quota share agreements, pricing of quota share

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5117 agreements, incentive provisions if any, and consideration paid  
5118 for servicing policies or adjusting claims.

5119 h. The quota share primary insurance agreement between the  
5120 corporation and an authorized insurer must set forth the  
5121 specific terms under which coverage is provided, including, but  
5122 not limited to, the sale and servicing of policies issued under  
5123 the agreement by the insurance agent of the authorized insurer  
5124 producing the business, the reporting of information concerning  
5125 eligible risks, the payment of premium to the corporation, and  
5126 arrangements for the adjustment and payment of hurricane claims  
5127 incurred on eligible risks by the claims adjuster and personnel  
5128 of the authorized insurer. Entering into a quota sharing  
5129 insurance agreement between the corporation and an authorized  
5130 insurer shall be voluntary and at the discretion of the  
5131 authorized insurer.

5132 3. May provide that the corporation may employ or otherwise  
5133 contract with individuals or other entities to provide  
5134 administrative or professional services that may be appropriate  
5135 to effectuate the plan. The corporation shall have the power to  
5136 borrow funds, by issuing bonds or by incurring other  
5137 indebtedness, and shall have other powers reasonably necessary  
5138 to effectuate the requirements of this subsection, including,  
5139 without limitation, the power to issue bonds and incur other  
5140 indebtedness in order to refinance outstanding bonds or other  
5141 indebtedness. The corporation may, but is not required to, seek  
5142 judicial validation of its bonds or other indebtedness under  
5143 chapter 75. The corporation may issue bonds or incur other  
5144 indebtedness, or have bonds issued on its behalf by a unit of  
5145 local government pursuant to subparagraph (q) 2. ~~(p) 2.~~, in the

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5146 absence of a hurricane or other weather-related event, upon a  
5147 determination by the corporation, subject to approval by the  
5148 office, that such action would enable it to efficiently meet the  
5149 financial obligations of the corporation and that such  
5150 financings are reasonably necessary to effectuate the  
5151 requirements of this subsection. The corporation is authorized  
5152 to take all actions needed to facilitate tax-free status for any  
5153 such bonds or indebtedness, including formation of trusts or  
5154 other affiliated entities. The corporation shall have the  
5155 authority to pledge assessments, projected recoveries from the  
5156 Florida Hurricane Catastrophe Fund, other reinsurance  
5157 recoverables, market equalization and other surcharges, and  
5158 other funds available to the corporation as security for bonds  
5159 or other indebtedness. In recognition of s. 10, Art. I of the  
5160 State Constitution, prohibiting the impairment of obligations of  
5161 contracts, it is the intent of the Legislature that no action be  
5162 taken whose purpose is to impair any bond indenture or financing  
5163 agreement or any revenue source committed by contract to such  
5164 bond or other indebtedness.

5165 4.a. Must require that the corporation operate subject to  
5166 the supervision and approval of a board of governors consisting  
5167 of eight individuals who are residents of this state, from  
5168 different geographical areas of this state. The Governor, the  
5169 Chief Financial Officer, the President of the Senate, and the  
5170 Speaker of the House of Representatives shall each appoint two  
5171 members of the board. At least one of the two members appointed  
5172 by each appointing officer must have demonstrated expertise in  
5173 insurance. The Chief Financial Officer shall designate one of  
5174 the appointees as chair. All board members serve at the pleasure

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5175 of the appointing officer. All members of the board of governors  
5176 are subject to removal at will by the officers who appointed  
5177 them. All board members, including the chair, must be appointed  
5178 to serve for 3-year terms beginning annually on a date  
5179 designated by the plan. However, for the first term beginning on  
5180 or after July 1, 2009, each appointing officer shall appoint one  
5181 member of the board for a 2-year term and one member for a 3-  
5182 year term. Any board vacancy shall be filled for the unexpired  
5183 term by the appointing officer. The Chief Financial Officer  
5184 shall appoint a technical advisory group to provide information  
5185 and advice to the board of governors in connection with the  
5186 board's duties under this subsection. The executive director and  
5187 senior managers of the corporation shall be engaged by the board  
5188 and serve at the pleasure of the board. Any executive director  
5189 appointed on or after July 1, 2006, is subject to confirmation  
5190 by the Senate. The executive director is responsible for  
5191 employing other staff as the corporation may require, subject to  
5192 review and concurrence by the board.

5193       b. The board shall create a Market Accountability Advisory  
5194 Committee to assist the corporation in developing awareness of  
5195 its rates and its customer and agent service levels in  
5196 relationship to the voluntary market insurers writing similar  
5197 coverage. The members of the advisory committee shall consist of  
5198 the following 11 persons, one of whom must be elected chair by  
5199 the members of the committee: four representatives, one  
5200 appointed by the Florida Association of Insurance Agents, one by  
5201 the Florida Association of Insurance and Financial Advisors, one  
5202 by the Professional Insurance Agents of Florida, and one by the  
5203 Latin American Association of Insurance Agencies; three

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5204 representatives appointed by the insurers with the three highest  
5205 voluntary market share of residential property insurance  
5206 business in the state; one representative from the Office of  
5207 Insurance Regulation; one consumer appointed by the board who is  
5208 insured by the corporation at the time of appointment to the  
5209 committee; one representative appointed by the Florida  
5210 Association of Realtors; and one representative appointed by the  
5211 Florida Bankers Association. All members must serve for 3-year  
5212 terms and may serve for consecutive terms. The committee shall  
5213 report to the corporation at each board meeting on insurance  
5214 market issues which may include rates and rate competition with  
5215 the voluntary market; service, including policy issuance, claims  
5216 processing, and general responsiveness to policyholders,  
5217 applicants, and agents; and matters relating to depopulation.

5218 5. Must provide a procedure for determining the eligibility  
5219 of a risk for coverage, as follows:

5220 a. Subject to the provisions of s. 627.3517, with respect  
5221 to personal lines residential risks, if the risk is offered  
5222 coverage from an authorized insurer at the insurer's approved  
5223 rate under either a standard policy including wind coverage or,  
5224 if consistent with the insurer's underwriting rules as filed  
5225 with the office, a basic policy including wind coverage, for a  
5226 new application to the corporation for coverage, the risk is not  
5227 eligible for any policy issued by the corporation unless the  
5228 premium for coverage from the authorized insurer is more than 15  
5229 percent greater than the premium for comparable coverage from  
5230 the corporation. If the risk is not able to obtain any such  
5231 offer, the risk is eligible for either a standard policy  
5232 including wind coverage or a basic policy including wind

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5233 coverage issued by the corporation; however, if the risk could  
5234 not be insured under a standard policy including wind coverage  
5235 regardless of market conditions, the risk shall be eligible for  
5236 a basic policy including wind coverage unless rejected under  
5237 subparagraph 8. However, with regard to a policyholder of the  
5238 corporation or a policyholder removed from the corporation  
5239 through an assumption agreement until the end of the assumption  
5240 period, the policyholder remains eligible for coverage from the  
5241 corporation regardless of any offer of coverage from an  
5242 authorized insurer or surplus lines insurer. The corporation  
5243 shall determine the type of policy to be provided on the basis  
5244 of objective standards specified in the underwriting manual and  
5245 based on generally accepted underwriting practices.

5246 (I) If the risk accepts an offer of coverage through the  
5247 market assistance plan or an offer of coverage through a  
5248 mechanism established by the corporation before a policy is  
5249 issued to the risk by the corporation or during the first 30  
5250 days of coverage by the corporation, and the producing agent who  
5251 submitted the application to the plan or to the corporation is  
5252 not currently appointed by the insurer, the insurer shall:

5253 (A) Pay to the producing agent of record of the policy, for  
5254 the first year, an amount that is the greater of the insurer's  
5255 usual and customary commission for the type of policy written or  
5256 a fee equal to the usual and customary commission of the  
5257 corporation; or

5258 (B) Offer to allow the producing agent of record of the  
5259 policy to continue servicing the policy for a period of not less  
5260 than 1 year and offer to pay the agent the greater of the  
5261 insurer's or the corporation's usual and customary commission

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5262 for the type of policy written.

5263

5264 If the producing agent is unwilling or unable to accept  
5265 appointment, the new insurer shall pay the agent in accordance  
5266 with sub-sub-sub-subparagraph (A).

5267 (II) When the corporation enters into a contractual  
5268 agreement for a take-out plan, the producing agent of record of  
5269 the corporation policy is entitled to retain any unearned  
5270 commission on the policy, and the insurer shall:

5271 (A) Pay to the producing agent of record of the corporation  
5272 policy, for the first year, an amount that is the greater of the  
5273 insurer's usual and customary commission for the type of policy  
5274 written or a fee equal to the usual and customary commission of  
5275 the corporation; or

5276 (B) Offer to allow the producing agent of record of the  
5277 corporation policy to continue servicing the policy for a period  
5278 of not less than 1 year and offer to pay the agent the greater  
5279 of the insurer's or the corporation's usual and customary  
5280 commission for the type of policy written.

5281

5282 If the producing agent is unwilling or unable to accept  
5283 appointment, the new insurer shall pay the agent in accordance  
5284 with sub-sub-sub-subparagraph (A).

5285 b. With respect to commercial lines residential risks, for  
5286 a new application to the corporation for coverage, if the risk  
5287 is offered coverage under a policy including wind coverage from  
5288 an authorized insurer at its approved rate, the risk is not  
5289 eligible for any policy issued by the corporation unless the  
5290 premium for coverage from the authorized insurer is more than 15



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5291 percent greater than the premium for comparable coverage from  
5292 the corporation. If the risk is not able to obtain any such  
5293 offer, the risk is eligible for a policy including wind coverage  
5294 issued by the corporation. However, with regard to a  
5295 policyholder of the corporation or a policyholder removed from  
5296 the corporation through an assumption agreement until the end of  
5297 the assumption period, the policyholder remains eligible for  
5298 coverage from the corporation regardless of any offer of  
5299 coverage from an authorized insurer or surplus lines insurer.

5300 (I) If the risk accepts an offer of coverage through the  
5301 market assistance plan or an offer of coverage through a  
5302 mechanism established by the corporation before a policy is  
5303 issued to the risk by the corporation or during the first 30  
5304 days of coverage by the corporation, and the producing agent who  
5305 submitted the application to the plan or the corporation is not  
5306 currently appointed by the insurer, the insurer shall:

5307 (A) Pay to the producing agent of record of the policy, for  
5308 the first year, an amount that is the greater of the insurer's  
5309 usual and customary commission for the type of policy written or  
5310 a fee equal to the usual and customary commission of the  
5311 corporation; or

5312 (B) Offer to allow the producing agent of record of the  
5313 policy to continue servicing the policy for a period of not less  
5314 than 1 year and offer to pay the agent the greater of the  
5315 insurer's or the corporation's usual and customary commission  
5316 for the type of policy written.

5317  
5318 If the producing agent is unwilling or unable to accept  
5319 appointment, the new insurer shall pay the agent in accordance

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5320 with sub-sub-sub-subparagraph (A).

5321 (II) When the corporation enters into a contractual  
5322 agreement for a take-out plan, the producing agent of record of  
5323 the corporation policy is entitled to retain any unearned  
5324 commission on the policy, and the insurer shall:

5325 (A) Pay to the producing agent of record of the corporation  
5326 policy, for the first year, an amount that is the greater of the  
5327 insurer's usual and customary commission for the type of policy  
5328 written or a fee equal to the usual and customary commission of  
5329 the corporation; or

5330 (B) Offer to allow the producing agent of record of the  
5331 corporation policy to continue servicing the policy for a period  
5332 of not less than 1 year and offer to pay the agent the greater  
5333 of the insurer's or the corporation's usual and customary  
5334 commission for the type of policy written.

5335  
5336 If the producing agent is unwilling or unable to accept  
5337 appointment, the new insurer shall pay the agent in accordance  
5338 with sub-sub-sub-subparagraph (A).

5339 c. For purposes of determining comparable coverage under  
5340 sub-subparagraphs a. and b., the comparison shall be based on  
5341 those forms and coverages that are reasonably comparable. The  
5342 corporation may rely on a determination of comparable coverage  
5343 and premium made by the producing agent who submits the  
5344 application to the corporation, made in the agent's capacity as  
5345 the corporation's agent. A comparison may be made solely of the  
5346 premium with respect to the main building or structure only on  
5347 the following basis: the same coverage A or other building  
5348 limits; the same percentage hurricane deductible that applies on

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5349 an annual basis or that applies to each hurricane for commercial  
5350 residential property; the same percentage of ordinance and law  
5351 coverage, if the same limit is offered by both the corporation  
5352 and the authorized insurer; the same mitigation credits, to the  
5353 extent the same types of credits are offered both by the  
5354 corporation and the authorized insurer; the same method for loss  
5355 payment, such as replacement cost or actual cash value, if the  
5356 same method is offered both by the corporation and the  
5357 authorized insurer in accordance with underwriting rules; and  
5358 any other form or coverage that is reasonably comparable as  
5359 determined by the board. If an application is submitted to the  
5360 corporation for wind-only coverage in the high-risk account, the  
5361 premium for the corporation's wind-only policy plus the premium  
5362 for the ex-wind policy that is offered by an authorized insurer  
5363 to the applicant shall be compared to the premium for multiperil  
5364 coverage offered by an authorized insurer, subject to the  
5365 standards for comparison specified in this subparagraph. If the  
5366 corporation or the applicant requests from the authorized  
5367 insurer a breakdown of the premium of the offer by types of  
5368 coverage so that a comparison may be made by the corporation or  
5369 its agent and the authorized insurer refuses or is unable to  
5370 provide such information, the corporation may treat the offer as  
5371 not being an offer of coverage from an authorized insurer at the  
5372 insurer's approved rate.

5373         6. Must include rules for classifications of risks and  
5374 rates therefor.

5375         7. Must provide that if premium and investment income for  
5376 an account attributable to a particular calendar year are in  
5377 excess of projected losses and expenses for the account

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5378 attributable to that year, such excess shall be held in surplus  
5379 in the account. Such surplus shall be available to defray  
5380 deficits in that account as to future years and shall be used  
5381 for that purpose prior to assessing assessable insurers and  
5382 assessable insureds as to any calendar year.

5383 8. Must provide objective criteria and procedures to be  
5384 uniformly applied for all applicants in determining whether an  
5385 individual risk is so hazardous as to be uninsurable. In making  
5386 this determination and in establishing the criteria and  
5387 procedures, the following shall be considered:

5388 a. Whether the likelihood of a loss for the individual risk  
5389 is substantially higher than for other risks of the same class;  
5390 and

5391 b. Whether the uncertainty associated with the individual  
5392 risk is such that an appropriate premium cannot be determined.

5393  
5394 The acceptance or rejection of a risk by the corporation shall  
5395 be construed as the private placement of insurance, and the  
5396 provisions of chapter 120 shall not apply.

5397 9. Must provide that the corporation shall make its best  
5398 efforts to procure catastrophe reinsurance at reasonable rates,  
5399 to cover its projected 100-year probable maximum loss as  
5400 determined by the board of governors.

5401 10. The policies issued by the corporation must provide  
5402 that, if the corporation or the market assistance plan obtains  
5403 an offer from an authorized insurer to cover the risk at its  
5404 approved rates, the risk is no longer eligible for renewal  
5405 through the corporation, except as otherwise provided in this  
5406 subsection.

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5407           11. Corporation policies and applications must include a  
5408 notice that the corporation policy could, under this section, be  
5409 replaced with a policy issued by an authorized insurer that does  
5410 not provide coverage identical to the coverage provided by the  
5411 corporation. The notice shall also specify that acceptance of  
5412 corporation coverage creates a conclusive presumption that the  
5413 applicant or policyholder is aware of this potential.

5414           12. May establish, subject to approval by the office,  
5415 different eligibility requirements and operational procedures  
5416 for any line or type of coverage for any specified county or  
5417 area if the board determines that such changes to the  
5418 eligibility requirements and operational procedures are  
5419 justified due to the voluntary market being sufficiently stable  
5420 and competitive in such area or for such line or type of  
5421 coverage and that consumers who, in good faith, are unable to  
5422 obtain insurance through the voluntary market through ordinary  
5423 methods would continue to have access to coverage from the  
5424 corporation. When coverage is sought in connection with a real  
5425 property transfer, such requirements and procedures shall not  
5426 provide for an effective date of coverage later than the date of  
5427 the closing of the transfer as established by the transferor,  
5428 the transferee, and, if applicable, the lender.

5429           13. Must provide that, with respect to the high-risk  
5430 account, any assessable insurer with a surplus as to  
5431 policyholders of \$25 million or less writing 25 percent or more  
5432 of its total countrywide property insurance premiums in this  
5433 state may petition the office, within the first 90 days of each  
5434 calendar year, to qualify as a limited apportionment company. A  
5435 regular assessment levied by the corporation on a limited

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5436 apportionment company for a deficit incurred by the corporation  
5437 for the high-risk account in 2006 or thereafter may be paid to  
5438 the corporation on a monthly basis as the assessments are  
5439 collected by the limited apportionment company from its insureds  
5440 pursuant to s. 627.3512, but the regular assessment must be paid  
5441 in full within 12 months after being levied by the corporation.  
5442 A limited apportionment company shall collect from its  
5443 policyholders any emergency assessment imposed under sub-  
5444 subparagraph (b)3.d. The plan shall provide that, if the office  
5445 determines that any regular assessment will result in an  
5446 impairment of the surplus of a limited apportionment company,  
5447 the office may direct that all or part of such assessment be  
5448 deferred as provided in subparagraph (q)4. ~~(p)4.~~ However, there  
5449 shall be no limitation or deferment of an emergency assessment  
5450 to be collected from policyholders under sub-subparagraph  
5451 (b)3.d.

5452 14. Must provide that the corporation appoint as its  
5453 licensed agents only those agents who also hold an appointment  
5454 as defined in s. 626.015(3) with an insurer who at the time of  
5455 the agent's initial appointment by the corporation is authorized  
5456 to write and is actually writing personal lines residential  
5457 property coverage, commercial residential property coverage, or  
5458 commercial nonresidential property coverage within the state.

5459 15. Must provide, by July 1, 2007, a premium payment plan  
5460 option to its policyholders which allows at a minimum for  
5461 quarterly and semiannual payment of premiums. A monthly payment  
5462 plan may, but is not required to, be offered.

5463 16. Must limit coverage on mobile homes or manufactured  
5464 homes built prior to 1994 to actual cash value of the dwelling

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5465 rather than replacement costs of the dwelling.

5466 17. May provide such limits of coverage as the board  
5467 determines, consistent with the requirements of this subsection.

5468 18. May require commercial property to meet specified  
5469 hurricane mitigation construction features as a condition of  
5470 eligibility for coverage.

5471 (o) If coverage in an account is deactivated pursuant to  
5472 paragraph (p) ~~(o)~~, coverage through the corporation shall be  
5473 reactivated by order of the office only under one of the  
5474 following circumstances:

5475 1. If the market assistance plan receives a minimum of 100  
5476 applications for coverage within a 3-month period, or 200  
5477 applications for coverage within a 1-year period or less for  
5478 residential coverage, unless the market assistance plan provides  
5479 a quotation from admitted carriers at their filed rates for at  
5480 least 90 percent of such applicants. Any market assistance plan  
5481 application that is rejected because an individual risk is so  
5482 hazardous as to be uninsurable using the criteria specified in  
5483 subparagraph (c)8. shall not be included in the minimum  
5484 percentage calculation provided herein. In the event that there  
5485 is a legal or administrative challenge to a determination by the  
5486 office that the conditions of this subparagraph have been met  
5487 for eligibility for coverage in the corporation, any eligible  
5488 risk may obtain coverage during the pendency of such challenge.

5489 2. In response to a state of emergency declared by the  
5490 Governor under s. 252.36, the office may activate coverage by  
5491 order for the period of the emergency upon a finding by the  
5492 office that the emergency significantly affects the availability  
5493 of residential property insurance.

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5494 Reviser's note.—Paragraphs (2) (b) and (6) (b), (c), and  
5495 (o) are amended to conform to the addition of a new  
5496 paragraph (6) (f) by s. 4, ch. 2009-77, Laws of  
5497 Florida. Paragraph (6) (b) is amended and paragraph  
5498 (6) (cc) is repealed to delete references to reports  
5499 that were due February 1, 2007.

5500 Section 122. Paragraph (c) of subsection (5) of section  
5501 733.817, Florida Statutes, is amended to read:

5502 733.817 Apportionment of estate taxes.—

5503 (5) Except as provided above or as otherwise directed by  
5504 the governing instrument, the net tax attributable to each  
5505 interest shall be apportioned as follows:

5506 (c) The net tax attributable to an interest in protected  
5507 homestead shall be apportioned against the recipients of other  
5508 interests in the estate or passing under any revocable trust in  
5509 the following order:

5510 1. Class I: Recipients of interests not disposed of by the  
5511 decedent's will or revocable trust that are included in the  
5512 measure of the federal estate tax.

5513 2. Class II: Recipients of residuary devises and residuary  
5514 interests that are included in the measure of the federal estate  
5515 tax.

5516 3. Class III: Recipients of nonresiduary devises and  
5517 nonresiduary interests that are included in the measure of the  
5518 federal estate tax.

5519  
5520 The net tax apportioned to a class, if any, pursuant to this  
5521 paragraph shall be apportioned among the recipients in the class  
5522 in the proportion that the value of the interest of each bears



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5523 to the total value of all interests included in that class.

5524 Reviser's note.—Amended to conform to context.

5525 Section 123. Paragraph (a) of subsection (1) of section  
5526 817.36, Florida Statutes, is amended to read:

5527 817.36 Resale of tickets.—

5528 (1) A person or entity that offers for resale or resells  
5529 any ticket may charge only \$1 above the admission price charged  
5530 therefor by the original ticket seller of the ticket for the  
5531 following transactions:

5532 (a) Passage or accommodations on any common carrier in this  
5533 state. However, this paragraph does not apply to travel agencies  
5534 that have an established place of business in this state and are  
5535 ~~is~~ required to pay state, county, and city occupational  
5536 license taxes.

5537 Reviser's note.—Amended to confirm an editorial  
5538 substitution made to improve clarity and correct  
5539 sentence structure.

5540 Section 124. Paragraph (a) of subsection (4) of section  
5541 921.002, Florida Statutes, is amended to read:

5542 921.002 The Criminal Punishment Code.—The Criminal  
5543 Punishment Code shall apply to all felony offenses, except  
5544 capital felonies, committed on or after October 1, 1998.

5545 (4) (a) The Department of Corrections shall report on trends  
5546 in sentencing practices and sentencing score thresholds and  
5547 provide an analysis on the sentencing factors considered by the  
5548 courts and shall submit this information to the Legislature by  
5549 October 1 of each year, ~~beginning in 1999~~.

5550 Reviser's note.—Amended to delete language that has  
5551 served its purpose.

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5552 Section 125. Subsection (11) of section 934.02, Florida  
5553 Statutes, is amended to read:

5554 934.02 Definitions.—As used in this chapter:

5555 (11) "Communication common carrier" shall have the same  
5556 meaning which is given the term "common carrier" in 47 U.S.C. s.  
5557 153(10) ~~153(h)~~.

5558 Reviser's note.—Amended to confirm an editorial  
5559 substitution; 47 U.S.C. s. 153(10) defines the term  
5560 "common carrier," and 47 U.S.C. s. 153(h) does not  
5561 exist.

5562 Section 126. Paragraph (a) of subsection (7) of section  
5563 1002.335, Florida Statutes, is amended to read:

5564 1002.335 Florida Schools of Excellence Commission.—

5565 (7) COSPONSOR AGREEMENT.—

5566 (a) Upon approval of a cosponsor, the commission and the  
5567 cosponsor shall enter into an agreement that defines the  
5568 cosponsor's rights and obligations and includes the following:

5569 1. An explanation of the personnel, contractual and  
5570 interagency relationships, and potential revenue sources  
5571 referenced in the application as required in paragraph (6)(c).

5572 2. Incorporation of the requirements of equal access for  
5573 all students, including any plans to provide food service or  
5574 transportation reasonably necessary to provide access to as many  
5575 students as possible.

5576 3. Incorporation of the requirement to serve low-income,  
5577 low-performing, gifted, or underserved student populations.

5578 4. An explanation of the academic and financial goals and  
5579 expected outcomes for the cosponsor's charter schools and the  
5580 method and plans by which they will be measured and achieved as

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5581 referenced in the application.

5582 5. The conflict-of-interest policies referenced in the  
5583 application.

5584 6. An explanation of the disposition of facilities and  
5585 assets upon termination and dissolution of a charter school  
5586 approved by the cosponsor.

5587 7. A provision requiring the cosponsor to annually appear  
5588 before the commission and provide a report as to the information  
5589 provided pursuant to s. 1002.33(9)(k) ~~1002.33(9)(1)~~ for each of  
5590 its charter schools.

5591 8. A provision requiring that the cosponsor report the  
5592 student enrollment in each of its sponsored charter schools to  
5593 the district school board of the county in which the school is  
5594 located.

5595 9. A provision requiring that the cosponsor work with the  
5596 commission to provide the necessary reports to the State Board  
5597 of Education.

5598 10. Any other reasonable terms deemed appropriate by the  
5599 commission given the unique characteristics of the cosponsor.

5600 Reviser's note.—Amended to conform to the

5601 redesignation of paragraphs within s. 1002.33(9) by s.

5602 7, ch. 2009-214, Laws of Florida.

5603 Section 127. Paragraph (c) of subsection (3) of section  
5604 1003.57, Florida Statutes, is amended to read:

5605 1003.57 Exceptional students instruction.—

5606 (3)

5607 (c) Within 10 business days after receiving the  
5608 notification, the receiving school district must review the  
5609 student's individual educational plan (IEP) to determine if the

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5610 student's IEP can be implemented by the receiving school  
5611 district or by a provider or facility under contract with the  
5612 receiving school district. The receiving school district shall:

- 5613 1. Provide educational instruction to the student;
- 5614 2. Contract with another provider or facility to provide  
5615 the educational instruction;
- 5616 3. Contract with the private residential care facility in  
5617 which the student resides to provide the educational  
5618 instruction; or
- 5619 4. Decline to provide or contract for educational  
5620 instruction.

5621  
5622 If the receiving school district declines to provide or contract  
5623 for the educational instruction, the school district in which  
5624 the legal residence of the student is located shall provide or  
5625 contract for the educational instruction to the student. The  
5626 school district that provides educational instruction or  
5627 contracts to provide educational instruction shall report the  
5628 student for funding purposes pursuant to s. 1011.62.

5629  
5630 The requirements of paragraphs (c) and (d) do not apply to  
5631 written agreements among school districts which specify each  
5632 school district's responsibility for providing and paying for  
5633 educational services to an exceptional student in a residential  
5634 care facility. However, each agreement must require a school  
5635 district to review the student's IEP within 10 business days  
5636 after receiving the notification required under paragraph (b).

5637 Reviser's note.—Amended to confirm an editorial  
5638 insertion made to provide clarity.

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5639           Section 128. Paragraph (a) of subsection (2) and subsection  
5640 (7) of section 1004.87, Florida Statutes, are repealed.

5641           Reviser's note.—Paragraph (2) (a) is repealed to delete  
5642 material relating to appointment of initial members of  
5643 the Florida College System Task Force on or before  
5644 August 31, 2008, and holding of the first task force  
5645 meeting on or before September 15, 2008. Subsection  
5646 (7) is repealed to delete material relating to  
5647 submittal of a report and recommendations by March 2,  
5648 2009.

5649           Section 129. Subsection (6) of section 1011.71, Florida  
5650 Statutes, is amended to read:

5651           1011.71 District school tax.—

5652           (6) Violations of the expenditure provisions in subsection  
5653 (2) or subsection (5) ~~(4)~~ shall result in an equal dollar  
5654 reduction in the Florida Education Finance Program (FEFP) funds  
5655 for the violating district in the fiscal year following the  
5656 audit citation.

5657           Reviser's note.—Amended to conform to the  
5658 redesignation of subsection (4) as subsection (5) by  
5659 s. 33, ch. 2009-59, Laws of Florida.

5660           Section 130. Subsection (2) of section 1011.73, Florida  
5661 Statutes, is amended to read:

5662           1011.73 District millage elections.—

5663           (2) MILLAGE AUTHORIZED NOT TO EXCEED 4 YEARS.—The district  
5664 school board, pursuant to resolution adopted at a regular  
5665 meeting, shall direct the county commissioners to call an  
5666 election at which the electors within the school district may  
5667 approve an ad valorem tax millage as authorized under s.

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5668 1011.71(9) ~~1011.71(8)~~. Such election may be held at any time,  
5669 except that not more than one such election shall be held during  
5670 any 12-month period. Any millage so authorized shall be levied  
5671 for a period not in excess of 4 years or until changed by  
5672 another millage election, whichever is earlier. If any such  
5673 election is invalidated by a court of competent jurisdiction,  
5674 such invalidated election shall be considered not to have been  
5675 held.

5676 Reviser's note.—Amended to conform to the  
5677 redesignation of subsections within s. 1011.71 by s.  
5678 33, ch. 2009-59, Laws of Florida.

5679 Section 131. Subsection (1) of section 1013.45, Florida  
5680 Statutes, is reenacted to read:

5681 1013.45 Educational facilities contracting and construction  
5682 techniques.—

5683 (1) Boards may employ procedures to contract for  
5684 construction of new facilities, or for additions, remodeling,  
5685 renovation, maintenance, or repairs to existing facilities, that  
5686 will include, but not be limited to:

5687 (a) Competitive bids.

5688 (b) Design-build pursuant to s. 287.055.

5689 (c) Selecting a construction management entity, pursuant to  
5690 s. 255.103 or the process provided by s. 287.055, that would be  
5691 responsible for all scheduling and coordination in both design  
5692 and construction phases and is generally responsible for the  
5693 successful, timely, and economical completion of the  
5694 construction project. The construction management entity must  
5695 consist of or contract with licensed or registered professionals  
5696 for the specific fields or areas of construction to be

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5697 performed, as required by law. At the option of the board, the  
5698 construction management entity, after having been selected, may  
5699 be required to offer a guaranteed maximum price or a guaranteed  
5700 completion date; in which case, the construction management  
5701 entity must secure an appropriate surety bond pursuant to s.  
5702 255.05 and must hold construction subcontracts. The criteria for  
5703 selecting a construction management entity shall not unfairly  
5704 penalize an entity that has relevant experience in the delivery  
5705 of construction projects of similar size and complexity by  
5706 methods of delivery other than construction management.

5707 (d) Selecting a program management entity, pursuant to s.  
5708 255.103 or the process provided by s. 287.055, that would act as  
5709 the agent of the board and would be responsible for schedule  
5710 control, cost control, and coordination in providing or  
5711 procuring planning, design, and construction services. The  
5712 program management entity must consist of or contract with  
5713 licensed or registered professionals for the specific areas of  
5714 design or construction to be performed as required by law. The  
5715 program management entity may retain necessary design  
5716 professionals selected under the process provided in s. 287.055.  
5717 At the option of the board, the program management entity, after  
5718 having been selected, may be required to offer a guaranteed  
5719 maximum price or a guaranteed completion date, in which case the  
5720 program management entity must secure an appropriate surety bond  
5721 pursuant to s. 255.05 and must hold design and construction  
5722 subcontracts. The criteria for selecting a program management  
5723 entity shall not unfairly penalize an entity that has relevant  
5724 experience in the delivery of construction programs of similar  
5725 size and complexity by methods of delivery other than program

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5726 management.

5727 (e) Day-labor contracts not exceeding \$280,000 for  
5728 construction, renovation, remodeling, or maintenance of existing  
5729 facilities. Beginning January 2009, this amount shall be  
5730 adjusted annually based upon changes in the Consumer Price  
5731 Index.

5732 Reviser's note.—Section 5, ch. 2009-227, Laws of  
5733 Florida, amended subsection (1) without publishing  
5734 paragraph (e). Absent affirmative evidence of  
5735 legislative intent to repeal paragraph (e), subsection  
5736 (1) is reenacted to confirm that the omission was not  
5737 intended.

5738 Section 132. This act shall take effect on the 60th day  
5739 after adjournment sine die of the session of the Legislature in  
5740 which enacted.