

1 A bill to be entitled
2 An act relating to underground facility damage prevention
3 and safety; amending s. 556.101, F.S.; clarifying
4 legislative intent that the state has exclusive power to
5 regulate underground facilities; prohibiting
6 municipalities, counties, districts, and other local
7 governments from enacting ordinances or rules that
8 regulate the subject of underground facilities; amending
9 s. 556.102, F.S.; defining the terms "high-priority
10 subsurface installations" and "incident"; amending s.
11 556.103, F.S.; requiring that the board of directors of
12 Sunshine State One-Call of Florida, Inc., present to the
13 Governor and Legislature an annual report that includes a
14 summary of reports issued by the clerks of court; amending
15 s. 556.105, F.S.; requiring that an excavator provide the
16 Sunshine State One-Call of Florida, Inc., system with
17 certain specified information not less than 10 full
18 business days before beginning an excavation or demolition
19 beneath the waters of the state; prohibiting the use of
20 such information by member operators for sales or
21 marketing purposes; deleting obsolete provisions; removing
22 provisions requiring the premarking of certain proposed
23 excavation sites; providing that if an excavation is
24 proposed which is within 10 feet of a high-priority
25 subsurface installation and is identified as a high-
26 priority subsurface installation by the operator, the
27 operator must notify the excavator of the existence of the
28 high-priority subsurface installation and mark its

29 | location before the legal excavation start time; requiring
30 | a mutually agreed excavation plan for high-priority
31 | excavations; amending s. 556.106, F.S.; removing
32 | provisions that provide a limited waiver of sovereign
33 | immunity for the state and its agencies and subdivisions
34 | arising from matters involving underground facilities;
35 | amending s. 556.107, F.S.; providing penalties for
36 | noncriminal infractions of the Sunshine State One-Call of
37 | Florida, Inc., system; providing a civil penalty for each
38 | infraction; detailing procedures for citations; requiring
39 | each clerk of court to submit a report to Sunshine State
40 | One-Call of Florida, Inc., by a specified date listing
41 | each violation that has been filed in the county during
42 | the preceding calendar year; amending s. 556.109, F.S.;
43 | specifying circumstances under which an excavator need not
44 | notify the Sunshine State One-Call of Florida, Inc.,
45 | system that there is an emergency; amending s. 556.110,
46 | F.S.; deleting a provision that limits assessments against
47 | a member operator who receives fewer than 10 notifications
48 | in any month; creating s. 556.114, F.S.; providing
49 | requirements for low-impact marking practices; providing
50 | procedures and methods to mark areas of excavation;
51 | requiring Sunshine State One-Call of Florida, Inc., to
52 | establish an educational program for the purpose of
53 | informing excavators and member operators about low-impact
54 | marking practices; creating s. 556.115, F.S.; requiring
55 | Sunshine State One-Call of Florida, Inc., to create a
56 | voluntary alternative dispute resolution program that is

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57 open to all member operators, excavators, and other
58 stakeholders; requiring the voluntary users of the
59 alternative dispute resolution program to choose the form
60 of alternative dispute resolution to be used; requiring
61 that the costs of using the voluntary program be borne by
62 the users; providing that unless binding arbitration is
63 the chosen method of alternative dispute resolution, the
64 users or any one of such users may end the process at any
65 time and proceed in a court of competent jurisdiction or
66 before the Division of Administrative Hearings; providing
67 an effective date.

68
69 Be It Enacted by the Legislature of the State of Florida:

70
71 Section 1. Paragraph (d) of subsection (3) of section
72 556.101, Florida Statutes, is amended to read:

73 556.101 Short title; legislative intent.—

74 (3) It is the purpose of this chapter to:

75 (d) Reserve and preempt to the state the exclusive power
76 to regulate any subject matter specifically addressed in this
77 chapter. Municipalities, counties, districts, or other local
78 governments may not enact ordinances or rules or take other
79 actions that regulate any subject addressed in this chapter or
80 by Sunshine State One-Call of Florida, Inc., under this chapter,
81 including delegations of authority to Sunshine State One-Call of
82 Florida, Inc. Any ordinance or rule in existence on June 30,
83 2010, which is in conflict with this chapter is no longer valid
84 or enforceable on or after July 1, 2010.

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85 Section 2. Present subsections (8) through (14) of section
 86 556.102, Florida Statutes, are renumbered as subsections (10)
 87 through (16), respectively, and new subsections (8) and (9) are
 88 added to that section, to read:

89 556.102 Definitions.—As used in this act:

90 (8) "High-priority subsurface installations" means certain
 91 gas transmission, gas distribution, gasoline, petroleum, and
 92 other flammable, explosive, or corrosive commodity pipelines
 93 that are deemed to be critical by the operators of those
 94 pipelines.

95 (9) "Incident" means an event that involves damage to an
 96 underground facility in a high-priority zone which results in
 97 death or personal injury that requires inpatient hospitalization
 98 or causes property damage, including service-restoration costs
 99 in an amount in excess of \$50,000 or interruption of service to
 100 more than 2,500 customers.

101 Section 3. Subsections (4) and (5) of section 556.103,
 102 Florida Statutes, are amended to read:

103 556.103 Creation of the corporation; establishment of the
 104 board of directors; authority of the board; annual report.—

105 (4) ~~Beginning in 1994,~~ The board of directors shall file
 106 with the Governor, not later than 60 days before the convening
 107 of each regular session of the Legislature, an annual progress
 108 report on the operation of the system, which must include a
 109 summary of the reports to the system from the clerks of court.

110 (5) ~~Beginning in 1998,~~ The board of directors shall submit
 111 to the President of the Senate, the Speaker of the House of
 112 Representatives, and the Governor, not later than 60 days before

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113 the convening of each regular session of the Legislature, an
114 annual progress report on the participation by municipalities
115 and counties in the one-call notification system created by this
116 chapter. The report must include a summary of the reports to the
117 system from the clerks of court.

118 Section 4. Paragraphs (a) and (d) of subsection (1),
119 subsections (5) and (6), paragraph (a) of subsection (7),
120 paragraph (a) of subsection (9), and subsection (11) of section
121 556.105, Florida Statutes, are amended to read:

122 556.105 Procedures.—

123 (1) (a) Not less than 2 full business days before beginning
124 any excavation or demolition that is not, ~~except an excavation~~
125 ~~beneath the waters of the state,~~ and not less than 10 full
126 business days before beginning any excavation or demolition that
127 is beneath the waters of the state, an excavator shall provide
128 the following information through the system:

129 1. The name of the individual who provided notification
130 and the name, address, including the street address, city,
131 state, zip code, and telephone number of her or his employer.

132 2. The name and telephone number of the representative for
133 the excavator, and a valid electronic address to facilitate a
134 positive response by the system should be provided, if
135 available.

136 3. The county, the city or closest city, and the street
137 address or the closest street, road, or intersection to the
138 location where the excavation or demolition is to be performed,
139 and the construction limits of the excavation or demolition.

140 4. The commencement date and anticipated duration of the

141 excavation or demolition.

142 5. Whether machinery will be used for the excavation or
143 demolition.

144 6. The person or entity for whom the work is to be done.

145 7. The type of work to be done.

146 8. The approximate depth of the excavation.

147 (d) Member operators shall use the information provided to
148 the system by other member operators only for the purposes
149 stated in this chapter and not for sales or marketing purposes.

150 ~~1. The system shall study the feasibility of the~~
151 ~~establishment or recognition of zones for the purpose of~~
152 ~~allowing excavation within such zones to be undertaken without~~
153 ~~notice to the system as now required by this chapter when such~~
154 ~~zones are:~~

155 ~~a. In areas within which no underground facilities are~~
156 ~~located.~~

157 ~~b. Where permanent markings, permit and mapping systems,~~
158 ~~and structural protection for underwater crossings are required~~
159 ~~or in place.~~

160 ~~e. For previously marked utilities on construction of one-~~
161 ~~or two-family dwellings where the contractor remains in custody~~
162 ~~and control of the building site for the duration of the~~
163 ~~building permit.~~

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

167 (5) All member operators within the defined area of a
168 proposed excavation or demolition shall be promptly notified

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169 through the system, except that member operators with state-
170 owned underground facilities located within the right-of-way of
171 a state highway need not be notified of excavation or demolition
172 activities and are under no obligation to mark or locate the
173 facilities.

174 ~~(a) When an excavation site cannot be described in~~
175 ~~information provided under subparagraph (1)(a)3. with sufficient~~
176 ~~particularity to enable the member operator to ascertain the~~
177 ~~excavation site, and if the excavator and member operator have~~
178 ~~not mutually agreed otherwise, the excavator shall premark the~~
179 ~~proposed area of the excavation before a member operator is~~
180 ~~required to identify the horizontal route of its underground~~
181 ~~facilities in the proximity of any excavation. However,~~
182 ~~premarking is not required for any excavation that is over 500~~
183 ~~feet in length and is not required where the premarking could~~
184 ~~reasonably interfere with traffic or pedestrian control.~~

185 (a) ~~(b)~~ If a member operator determines that a proposed
186 excavation or demolition is in proximity to or in conflict with
187 an underground facility of the member operator, except a
188 facility beneath the waters of the state, which is governed by
189 paragraph (b) ~~(e)~~, the member operator shall identify the
190 horizontal route by marking to within 24 inches from the outer
191 edge of either side of the underground facility by the use of
192 stakes, paint, flags, or other suitable means within 2 full
193 business days after the time the notification is received under
194 subsection (1). If the member operator is unable to respond
195 within such time, the member operator shall communicate with the
196 person making the request and negotiate a new schedule and time

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197 that is agreeable to, and should not unreasonably delay, the
198 excavator.

199 ~~(b)-(e)~~ If a member operator determines that a proposed
200 excavation is in proximity to or in conflict with an underground
201 facility of the member operator beneath the waters of the state,
202 the member operator shall identify the estimated horizontal
203 route of the underground facility, within 10 business days,
204 using marking buoys or other suitable devices, unless directed
205 otherwise by an agency having jurisdiction over the waters of
206 the state under which the member operator's underground facility
207 is located.

208 ~~(c)-(d)~~ When excavation is to take place within a tolerance
209 zone, an excavator shall use increased caution to protect
210 underground facilities. The protection requires hand digging,
211 pot holing, soft digging, vacuum excavation methods, or other
212 similar procedures to identify underground facilities. Any use
213 of mechanized equipment within the tolerance zone must be
214 supervised by the excavator.

215 (d) If an excavation is proposed which is within 10 feet
216 of a high-priority subsurface installation and is identified as
217 a high-priority subsurface installation by the operator, the
218 operator shall notify the excavator of the existence of the
219 high-priority subsurface installation and shall mark its
220 location before the legal excavation start time, as set forth in
221 paragraphs (a) and (b). After receiving notice of the existence
222 of a high-priority subsurface installation, an excavator shall
223 provide notice to the operator of the planned excavation start
224 date and time. Before excavation begins, the excavator and

225 operator shall communicate in order to establish a mutually
226 agreed-upon excavation plan.

227 (6) (a) An excavator shall avoid excavation in the area
228 described in the notice given under subsection (1) until each
229 member operator underground facility has been marked and located
230 or until the excavator has been notified that no member operator
231 has underground facilities in the area described in the notice,
232 or for the time allowed for markings set forth in paragraphs
233 (5) (a) and (b) ~~(5) (b) and (c)~~, whichever occurs first. If a
234 member operator has not located and marked its underground
235 facilities within the time allowed for marking set forth in
236 paragraphs (5) (a) and (b) ~~(5) (b) and (c)~~, the excavator may
237 proceed with the excavation, if the excavator does so with
238 reasonable care and if detection equipment or other acceptable
239 means to locate underground facilities are used.

240 (b) An excavator may not demolish in the area described in
241 the notice given under subsection (1) until all member operator
242 underground facilities have been marked and located or removed.

243 (7) (a) A member operator that states that it does not have
244 accurate information concerning the exact location of its
245 underground facilities is exempt from the requirements of
246 paragraphs (5) (a) and (b) ~~(5) (b) and (c)~~, but shall provide the
247 best available information to the excavator in order to comply
248 with the requirements of this section. An excavator is not
249 liable for any damage to an underground facility under the
250 exemption in this subsection if the excavation or demolition is
251 performed with reasonable care and detection equipment or other
252 acceptable means to locate underground facilities are used.

253 (9) (a) After receiving notification from the system, a
 254 member operator shall provide a positive response to the system
 255 within 2 full business days, or 10 such days for an underwater
 256 excavation or demolition, indicating the status of operations to
 257 protect the facility.

258 (11) Before or during excavation or demolition, if the
 259 marking of the horizontal route of any facility is removed or is
 260 no longer visible, or, in the case of an underwater facility, is
 261 inadequately documented, the excavator shall stop excavation or
 262 demolition activities in the vicinity of the facility and shall
 263 notify the system to have the route remarked or adequately
 264 documented.

265 Section 5. Paragraph (a) of subsection (2) and subsections
 266 (3) and (7) of section 556.106, Florida Statutes, are amended to
 267 read:

268 556.106 Liability of the member operator, excavator, and
 269 system.—

270 (2) (a) If a person violates s. 556.105(1) or (6), and
 271 subsequently, whether by himself or herself or through the
 272 person's employees, contractors, subcontractors, or agents,
 273 performs an excavation or demolition that damages an underground
 274 facility of a member operator, it is rebuttably presumed that
 275 the person was negligent. The person, if found liable, is liable
 276 for the total sum of the losses to all member operators involved
 277 as those costs are normally computed. Any damage for loss of
 278 revenue and loss of use may not exceed \$500,000 per affected
 279 underground facility, except that revenues lost by a
 280 governmental member operator whose revenues are used to support

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281 | payments on principal and interest on bonds may not be limited.
 282 | ~~Any liability of the state and its agencies and its subdivisions~~
 283 | ~~which arises out of this chapter is subject to the provisions of~~
 284 | ~~s. 768.28.~~

285 | (3) If, after receiving proper notice, a member operator
 286 | fails to discharge a duty imposed by ~~the provisions of~~ this act
 287 | and an underground facility of a ~~such~~ member operator is damaged
 288 | by an excavator who has complied with ~~the provisions of~~ this
 289 | act, as a proximate result of the member operator's failure to
 290 | discharge such duty, the ~~such~~ excavator is ~~shall~~ not be liable
 291 | for such damage and the member operator, if found liable, is
 292 | ~~shall be~~ liable to such person for the total cost of any loss or
 293 | injury to any person or damage to equipment resulting from the
 294 | member operator's failure to comply with this act. Any damage
 295 | for loss of revenue and loss of use shall not exceed \$500,000
 296 | per affected underground facility, except that revenues lost by
 297 | a governmental member operator, which revenues are used to
 298 | support payments on principal and interest on bonds, shall not
 299 | be limited. ~~The liability of governmental member operators shall~~
 300 | ~~be subject to limitations provided in chapter 768.~~

301 | (7) An excavator or a member operator who performs any
 302 | excavation with hand tools under s. 556.108(4)(c) or (5) is
 303 | liable for any damage to any operator's underground facilities
 304 | damaged during such excavation.

305 | Section 6. Section 556.107, Florida Statutes, is amended
 306 | to read:

307 | 556.107 Violations.—

308 | (1) NONCRIMINAL INFRACTIONS.—

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309 (a) Violations of the following provisions are noncriminal
310 infractions:

311 1. Section 556.105(1), relating to providing required
312 information.

313 2. Section 556.105(6), relating to the avoidance of
314 excavation.

315 3. Section 556.105(11), relating to the need to stop
316 excavation or demolition because marks are no longer visible,
317 or, in the case of underwater facilities, are inadequately
318 documented.

319 4. Section 556.105(12), relating to the need to cease
320 excavation or demolition activities because of contact or damage
321 to an underground facility.

322 5. Section 556.105(5)(a) and (b), ~~556.105(5)(b) and (c)~~
323 relating to identification of underground facilities, if a
324 member operator does not mark an underground facility, but not
325 if a member operator marks an underground facility incorrectly.

326 6. Section 556.109(2), relating to falsely notifying the
327 system of an emergency situation or condition.

328 7. Section 556.114(1), (2), (3), and (4), relating to a
329 failure to follow low-impact marking practices, as defined
330 therein.

331 (b) Any excavator or member operator who commits a
332 noncriminal infraction under paragraph (a) may be issued a
333 citation by any local or state law enforcement officer,
334 government code inspector, or code enforcement officer, and the
335 issuer of a citation may require an excavator to cease work on
336 any excavation or not start a proposed excavation until there

337 has been compliance with the provisions of this chapter.
 338 Citations shall be hand delivered to any employee of the
 339 excavator or member operator who is involved in the noncriminal
 340 infraction. The citation shall be issued in the name of the
 341 excavator or member operator, whichever is applicable.

342 (c) Any excavator or member operator who commits a
 343 noncriminal infraction under paragraph (a) may be required to
 344 pay a ~~appear before the county court.~~ The civil penalty for each
 345 ~~any such~~ infraction, which is \$500 ~~\$250~~ plus court costs, ~~except~~
 346 ~~as otherwise provided in this section.~~ If a citation is issued
 347 by a local law enforcement officer, a local government code
 348 inspector, or a code enforcement officer, 80 percent of the
 349 civil penalty collected by the clerk of the court shall be
 350 distributed to the local governmental entity whose employee
 351 issued the citation and 20 percent of the penalty shall be
 352 retained by the clerk to cover administrative costs, in addition
 353 to other court costs. If a citation is issued by a state law
 354 enforcement officer, the civil penalty collected by the clerk
 355 shall be retained by the clerk for deposit into the fine and
 356 forfeiture fund established pursuant to s. 142.01. Any person
 357 who fails to ~~appear or otherwise~~ properly respond to a citation
 358 issued pursuant to paragraph (b) ~~(d)~~ shall, in addition to the
 359 citation, be charged with the offense of failing to respond to
 360 the ~~such~~ citation and, upon conviction, commits a misdemeanor of
 361 the second degree, punishable as provided in s. 775.082 or s.
 362 775.083. A written warning to this effect must ~~shall~~ be provided
 363 at the time any citation is issued pursuant to paragraph (b).

364 (d) Any person cited for an infraction under paragraph

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365 (a), ~~unless required to appear before the county court,~~ may:
 366 1. ~~post a bond, which shall be equal in amount to the~~
 367 ~~applicable civil penalty plus court costs;~~ ~~or~~
 368 2. ~~Sign and accept a citation indicating a promise to~~
 369 ~~appear before the county court.~~

370
 371 ~~The person issuing the citation may indicate on the citation the~~
 372 ~~time and location of the scheduled hearing and shall indicate~~
 373 ~~the applicable civil penalty.~~

374 (e) A ~~Any~~ person charged with a noncriminal infraction
 375 under paragraph (a), ~~unless required to appear before the county~~
 376 ~~court,~~ may:

377 1. ~~pay the civil penalty plus court costs,~~ ~~in lieu of~~
 378 ~~appearance, either~~ by mail or in person, within 30 days after
 379 the date of receiving the citation; ~~or~~
 380 2. ~~Forfeit bond, if a bond has been posted, by not~~
 381 ~~appearing at the designated time and location.~~

382
 383 If the person cited pays the civil penalty ~~follows either of the~~
 384 ~~above procedures,~~ she or he is deemed to have admitted to
 385 committing the infraction and to have waived the right to a
 386 hearing on the issue of commission of the infraction. The
 387 admission may be used as evidence in any other proceeding under
 388 this chapter.

389 (f) Any person may elect ~~electing~~ to appear before the
 390 county court and if so electing ~~or who is required to appear~~
 391 ~~shall be~~ deemed to have waived the limitations on the civil
 392 penalty specified in paragraph (c). The court, after a hearing,

393 shall make a determination as to whether an infraction has been
 394 committed. If the commission of an infraction has been proven,
 395 the court may impose a civil penalty not to exceed \$5,000 plus
 396 court costs. In determining the amount of the civil penalty, the
 397 court may consider previous noncriminal infractions committed.

398 (g) At a court hearing or a hearing before the Division of
 399 Administrative Hearings under this chapter, the commission of a
 400 charged infraction must be proven by a preponderance of the
 401 evidence.

402 (h) If a person is found by a judge or the hearing
 403 official to have committed an infraction, the person may appeal
 404 that finding to the circuit court.

405 (i) Sunshine State One-Call of Florida, Inc., may, at its
 406 own cost, retain an attorney to assist in the presentation of
 407 relevant facts and law in the county court or administrative
 408 proceeding pertaining to the citation issued under this section
 409 or to any alleged violation that may have contributed to an
 410 alleged incident. The corporation may also appear in any case
 411 appealed to the circuit court if a county court judge or
 412 administrative hearing officer finds that an infraction of the
 413 chapter was committed. An appellant in the circuit court
 414 proceeding shall timely notify the corporation of any appeal
 415 under this section.

416 (j)1. Violation of any of the infractions listed in
 417 paragraph (a) which may constitute an incident must be reported
 418 to the system by an excavator or a member operator within 24
 419 hours after learning that the threshold for an incident has been
 420 met.

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421 2. Upon receipt of information that an incident has
422 occurred, the system shall contract with the Division of
423 Administrative Hearings to conduct a hearing to determine
424 whether there have been any violations of paragraph (a) which
425 were a proximate cause of the incident.

426 3. The division has jurisdiction in a proceeding under
427 this paragraph to determine the facts and law surrounding any
428 incident and to impose a fine against any violator in an amount
429 that may not exceed \$50,000 for any violation of paragraph (a)
430 which was a proximate cause of the incident.

431 4. Any fine imposed by the division must be in addition to
432 any amount payable as a result of a citation relating to the
433 incident.

434 5. A fine against an excavator or a member operator levied
435 under this paragraph must be paid to the system, which shall use
436 the proceeds of the fines exclusively for damage-prevention
437 education.

438 (2) REPORT OF INFRACTIONS.—By March 31 of each year, each
439 clerk of court shall submit a report to Sunshine State One-Call
440 of Florida, Inc., listing each violation notice written under
441 paragraph (1) (a) which has been filed in that county during the
442 preceding calendar year. The report must state the name and
443 address of the member or excavator who committed each infraction
444 and indicate whether or not the civil penalty for the infraction
445 was paid.

446 (3) ~~(2)~~ MISDEMEANORS.—Any person who knowingly and
447 willfully removes or otherwise destroys the valid stakes or
448 other valid physical markings described in s. 556.105(5) (a) and

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449 (b) ~~s. 556.105(5)(b) and (c)~~ used to mark the horizontal route
450 of an underground facility commits a misdemeanor of the second
451 degree, punishable as provided in s. 775.082 or s. 775.083. For
452 purposes of this subsection, stakes or other nonpermanent
453 physical markings are considered valid for 30 calendar days
454 after information is provided to the system under s.
455 556.105(1)(a) ~~s. 556.105(1)(c)~~.

456 Section 7. Section 556.109, Florida Statutes, is amended
457 to read:

458 556.109 Emergency excavations or demolitions attempted;
459 exception.—

460 (1) ~~The provisions of~~ This act does ~~de~~ not apply to making
461 an excavation or demolition during an emergency if, ~~provided~~ the
462 system or the member operator was notified at the earliest
463 opportunity and all reasonable precautions had been taken to
464 protect any underground facility. For the purposes of this act,
465 "emergency" means any condition constituting a clear and present
466 danger to life or property; a situation caused by the escape of
467 any substance transported by means of an underground facility;
468 any interruption of vital public service or communication caused
469 by any break or defect in a member operator's underground
470 facility; or, in the case of the State Highway System or streets
471 or roads maintained by a political subdivision or underground
472 facilities owned, operated, or maintained by a political
473 subdivision, if the use of such highways, streets, roads, or
474 underground facilities is, in the sole judgment of the
475 Department of Highway Safety and Motor Vehicles, the Department
476 of Transportation, or such political subdivision, impaired by an

477 unforeseen occurrence that ~~which~~ necessitates repair beginning
 478 immediately after such occurrence.

479 (2) An excavator need not notify the system that there is
 480 an emergency unless the excavator reasonably believes that the
 481 intended excavation or demolition is due to a situation or
 482 condition as defined in subsection (1).

483 Section 8. Section 556.110, Florida Statutes, is amended
 484 to read:

485 556.110 Costs assessed among member operators.—Member
 486 operators shall proportionately share in the cost of operating
 487 the system through monthly assessments made upon each member
 488 operator. ~~However, any member that receives fewer than 10~~
 489 ~~notifications in any month shall not be assessed for such month.~~

490 Section 9. Section 556.114, Florida Statutes, is created
 491 to read:

492 556.114 Low-impact marking practices.—

493 (1) An excavator providing notice under s. 556.105(1)(a)
 494 shall identify in its notice only the area that will be
 495 excavated during the period that the information in such notice
 496 is considered valid under s. 556.105(1)(c).

497 (2) When an excavator has not completed an excavation
 498 noticed under s. 556.105(1)(a) within the period that the
 499 information in the notice is considered valid under s.
 500 556.105(1)(c), the excavator must provide a subsequent notice to
 501 the system under s. 556.105(1)(a) to continue with the
 502 excavation, and such subsequent notice shall identify only the
 503 remaining area to be excavated.

504 (3) When an excavation site cannot be described in

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505 information provided under s. 556.105(1)(a) with sufficient
506 particularity to enable the member operator to ascertain the
507 excavation site, and if the excavator and member operator have
508 not mutually agreed otherwise, the excavator shall premark the
509 proposed area of the excavation before a member operator is
510 required to identify the horizontal route of its underground
511 facilities in the proximity of any excavation. However,
512 premarking is not required when the premarking could reasonably
513 interfere with traffic or pedestrian control.

514 (4) Member operators shall mark the area described or
515 premarked by the excavator using temporary, nonpermanent paint,
516 flags, stakes, and other acceptable means.

517 (5) Any horizontal route-identification marker must be in
518 a color identified in the Uniform Color Code for Utilities.

519 (6) Sunshine State One-Call of Florida, Inc., shall
520 establish an educational program for the purpose of informing
521 excavators and member operators about low-impact marking
522 practices.

523 Section 10. Section 556.115, Florida Statutes, is created
524 to read:

525 556.115 Alternative dispute resolution.—

526 (1) Sunshine State One-Call of Florida, Inc., shall create
527 a voluntary alternative dispute resolution program. The program
528 shall be available to all member operators, excavators, and
529 other stakeholders, such as locators, utility service users, and
530 governmental or quasi-governmental entities, for purposes of
531 resolving disputes arising from excavation activities,
532 including, but not limited to, loss of services, down time,

533 delays, loss of use of facilities during restoration or
534 replacement, and similar economic disruptions, exclusive of
535 penalties imposed under other provisions of this act.

536 (2) The alternative dispute resolution program created by
537 Sunshine State One-Call of Florida, Inc., shall include
538 mediation, arbitration, or other appropriate processes,
539 including the use of the services of the Division of
540 Administrative Hearings.

541 (3) The costs of using the program shall be borne by the
542 voluntary users, and the voluntary users shall choose the form
543 of alternative dispute resolution to be used. If arbitration is
544 used, the users shall decide whether the arbitration will be
545 binding.

546 (4) Unless binding arbitration is the chosen method of
547 alternative dispute resolution, the users or any one of such
548 users may end the process at any time and exercise the right to
549 proceed in a court of competent jurisdiction or before the
550 Division of Administrative Hearings.

551 (5) This section does not change the basis for civil
552 liability for damages.

553 Section 11. This act shall take effect July 1, 2010.