

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

29 | purpose, or have been impliedly repealed or superseded;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

39 |

40 | Be It Enacted by the Legislature of the State of Florida:

41 |

42 | Section 1. Section 7.06, Florida Statutes, as amended by
 43 | section 1 of chapter 2007-222, Laws of Florida, is amended to
 44 | read:

45 | 7.06 Broward County.—The boundary lines of Broward County
 46 | are as follows: Beginning on the east boundary of the State of
 47 | Florida at a point where the south boundary of township forty-
 48 | seven south of range forty-three east, produced easterly, would
 49 | intersect the same; thence westerly on said township boundary to
 50 | its intersection with the axis or center line of Hillsborough
 51 | State Drainage Canal, as at present located and constructed;
 52 | thence westerly along the center line of said canal to its
 53 | intersection with the range line dividing ranges forty and
 54 | forty-one east; thence south on the range line dividing ranges
 55 | forty and forty-one east, of township forty-seven south, to the
 56 | northeast corner of section twenty-five of township forty-seven,

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

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

97 | Reviser's note.—Amended to conform to the
 98 | redesignation of Dade County as Miami-Dade County by
 99 | s. 1-4.2 of the Miami-Dade County Code.

100 | Section 2. Subsection (1) of section 11.45, Florida
 101 | Statutes, is amended to read:

102 | 11.45 Definitions; duties; authorities; reports; rules.—

103 | (1) DEFINITIONS.—As used in ss. 11.40-11.513 ~~11.40-11.515~~,
 104 | the term:

105 | (a) "Audit" means a financial audit, operational audit, or
 106 | performance audit.

107 | (b) "County agency" means a board of county commissioners
 108 | or other legislative and governing body of a county, however
 109 | styled, including that of a consolidated or metropolitan
 110 | government, a clerk of the circuit court, a separate or ex
 111 | officio clerk of the county court, a sheriff, a property
 112 | appraiser, a tax collector, a supervisor of elections, or any

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113 other officer in whom any portion of the fiscal duties of the
114 above are under law separately placed.

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

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

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

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

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

141 financial records and reports, and safeguarding of assets.

142 (h) "Performance audit" means an examination of a program,
 143 activity, or function of a governmental entity, conducted in
 144 accordance with applicable government auditing standards or
 145 auditing and evaluation standards of other appropriate
 146 authoritative bodies. The term includes an examination of issues
 147 related to:

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

149 2. Structure or design of the program to accomplish its
 150 goals and objectives.

151 3. Adequacy of the program to meet the needs identified by
 152 the Legislature or governing body.

153 4. Alternative methods of providing program services or
 154 products.

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

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

159 7. Compliance of the program with appropriate policies,
 160 rules, or laws.

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

163 (i) "Political subdivision" means a separate agency or
 164 unit of local government created or established by law and
 165 includes, but is not limited to, the following and the officers
 166 thereof: authority, board, branch, bureau, city, commission,
 167 consolidated government, county, department, district,
 168 institution, metropolitan government, municipality, office,

169 officer, public corporation, town, or village.

170 (j) "State agency" means a separate agency or unit of
 171 state government created or established by law and includes, but
 172 is not limited to, the following and the officers thereof:
 173 authority, board, branch, bureau, commission, department,
 174 division, institution, office, officer, or public corporation,
 175 as the case may be, except any such agency or unit within the
 176 legislative branch of state government other than the Florida
 177 Public Service Commission.

178 Reviser's note.—Amended to conform to the repeal of s.
 179 11.515 by s. 3, ch. 2001-86, Laws of Florida.

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

182 17.0315 Financial and cash management system; task force.—

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

190 (a) Identifying problems and opportunities imposed by
 191 current law and the current administration with respect to
 192 existing state accounting and cash management systems;

193 (b) Providing developmental solutions to known failures,
 194 including, but not limited to, those identified by external
 195 review and audit reports;

196 (c) Recommending business processes, requirements, and

197 governance structure to support a standardized statewide
 198 accounting and cash management system;

199 (d) Evaluating alternative funding approaches to equitably
 200 distribute common accounting infrastructure costs across all
 201 participating users; and

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

205
 206 ~~The Chief Financial Officer shall submit the initial report,~~
 207 ~~along with draft legislation recommended to implement a~~
 208 ~~standardized statewide financial and cash management system, by~~
 209 ~~February 1, 2009.~~

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

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

214 Reviser's note.—Repealed to delete material relating
 215 to court fees and costs imposed on or before June 30,
 216 2004, and repealed effective July 1, 2004.

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

218 Reviser's note.—Repealed to delete material relating
 219 to court fees and costs imposed on or before June 30,
 220 2004, and repealed effective July 1, 2004.

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

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

225 Section 7. Section 112.354, Florida Statutes, is amended
 226 to read:

227 112.354 Eligibility for supplement.—Each retired member
 228 or, if applicable, a joint annuitant, except any person
 229 receiving survivor benefits under the teachers' retirement
 230 system of the state in accordance with s. 238.07(18) ~~238.07(16)~~,
 231 shall be entitled to receive a supplement computed in accordance
 232 with s. 112.355 upon:

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

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

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

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

247 112.361 Additional and updated supplemental retirement
 248 benefits.—

249 (4) ELIGIBILITY FOR SUPPLEMENT.—Each retired member or, if
 250 applicable, a joint annuitant, except any person receiving
 251 survivor's benefits under the Teachers' Retirement System of the
 252 state in accordance with s. 238.07(18) ~~238.07(16)~~, shall be

253 entitled to receive a supplement computed in accordance with
 254 subsection (5), upon:

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

259 (b) Filing written application with the department for
 260 such supplement.

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

266 Section 9. Paragraph (a) of subsection (2) of section
 267 112.363, Florida Statutes, is amended to read:

268 112.363 Retiree health insurance subsidy.—

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

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

279 Reviser's note.—Amended to confirm an editorial
 280 substitution made to conform to the editorial

281 redesignation of s. 238.07(15A) and (15B) as s.
 282 238.07(16) and (17), which necessitated the
 283 redesignation of s. 238.07(16) as s. 238.07(18).

284 Section 10. Section 120.52, Florida Statutes, is reenacted
 285 to read:

286 120.52 Definitions.—As used in this act:

287 (1) "Agency" means the following officers or governmental
 288 entities if acting pursuant to powers other than those derived
 289 from the constitution:

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

299 (b) Each officer and governmental entity in the state
 300 having statewide jurisdiction or jurisdiction in more than one
 301 county.

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

306
 307 This definition does not include any municipality or legal
 308 entity created solely by a municipality; any legal entity or

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309 agency created in whole or in part pursuant to part II of
310 chapter 361; any metropolitan planning organization created
311 pursuant to s. 339.175; any separate legal or administrative
312 entity created pursuant to s. 339.175 of which a metropolitan
313 planning organization is a member; an expressway authority
314 pursuant to chapter 348 or any transportation authority under
315 chapter 343 or chapter 349; or any legal or administrative
316 entity created by an interlocal agreement pursuant to s.
317 163.01(7), unless any party to such agreement is otherwise an
318 agency as defined in this subsection.

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

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

326 (4) "Committee" means the Administrative Procedures
327 Committee.

328 (5) "Division" means the Division of Administrative
329 Hearings.

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

334 (7) "Final order" means a written final decision which
335 results from a proceeding under s. 120.56, s. 120.565, s.
336 120.569, s. 120.57, s. 120.573, or s. 120.574 which is not a

337 rule, and which is not excepted from the definition of a rule,
338 and which has been filed with the agency clerk, and includes
339 final agency actions which are affirmative, negative,
340 injunctive, or declaratory in form. A final order includes all
341 materials explicitly adopted in it. The clerk shall indicate the
342 date of filing on the order.

343 (8) "Invalid exercise of delegated legislative authority"
344 means action that goes beyond the powers, functions, and duties
345 delegated by the Legislature. A proposed or existing rule is an
346 invalid exercise of delegated legislative authority if any one
347 of the following applies:

348 (a) The agency has materially failed to follow the
349 applicable rulemaking procedures or requirements set forth in
350 this chapter;

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

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

356 (d) The rule is vague, fails to establish adequate
357 standards for agency decisions, or vests unbridled discretion in
358 the agency;

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

363 (f) The rule imposes regulatory costs on the regulated
364 person, county, or city which could be reduced by the adoption

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365 of less costly alternatives that substantially accomplish the
366 statutory objectives.

367
368 A grant of rulemaking authority is necessary but not sufficient
369 to allow an agency to adopt a rule; a specific law to be
370 implemented is also required. An agency may adopt only rules
371 that implement or interpret the specific powers and duties
372 granted by the enabling statute. No agency shall have authority
373 to adopt a rule only because it is reasonably related to the
374 purpose of the enabling legislation and is not arbitrary and
375 capricious or is within the agency's class of powers and duties,
376 nor shall an agency have the authority to implement statutory
377 provisions setting forth general legislative intent or policy.
378 Statutory language granting rulemaking authority or generally
379 describing the powers and functions of an agency shall be
380 construed to extend no further than implementing or interpreting
381 the specific powers and duties conferred by the enabling
382 statute.

383 (9) "Law implemented" means the language of the enabling
384 statute being carried out or interpreted by an agency through
385 rulemaking.

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

391 (11) "Licensing" means the agency process respecting the
392 issuance, denial, renewal, revocation, suspension, annulment,

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393 withdrawal, or amendment of a license or imposition of terms for
394 the exercise of a license.

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

398 (13) "Party" means:

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

401 (b) Any other person who, as a matter of constitutional
402 right, provision of statute, or provision of agency regulation,
403 is entitled to participate in whole or in part in the
404 proceeding, or whose substantial interests will be affected by
405 proposed agency action, and who makes an appearance as a party.

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

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

421 interests are to be represented.

422

423 The term "party" does not include a member government of a
424 regional water supply authority or a governmental or quasi-
425 judicial board or commission established by local ordinance or
426 special or general law where the governing membership of such
427 board or commission is shared with, in whole or in part, or
428 appointed by a member government of a regional water supply
429 authority in proceedings under s. 120.569, s. 120.57, or s.
430 120.68, to the extent that an interlocal agreement under ss.
431 163.01 and 373.1962 exists in which the member government has
432 agreed that its substantial interests are not affected by the
433 proceedings or that it is to be bound by alternative dispute
434 resolution in lieu of participating in the proceedings. This
435 exclusion applies only to those particular types of disputes or
436 controversies, if any, identified in an interlocal agreement.

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

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

445 (16) "Rule" means each agency statement of general
446 applicability that implements, interprets, or prescribes law or
447 policy or describes the procedure or practice requirements of an
448 agency and includes any form which imposes any requirement or

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449 solicits any information not specifically required by statute or
450 by an existing rule. The term also includes the amendment or
451 repeal of a rule. The term does not include:

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

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

459 (c) The preparation or modification of:

460 1. Agency budgets.

461 2. Statements, memoranda, or instructions to state
462 agencies issued by the Chief Financial Officer or Comptroller as
463 chief fiscal officer of the state and relating or pertaining to
464 claims for payment submitted by state agencies to the Chief
465 Financial Officer or Comptroller.

466 3. Contractual provisions reached as a result of
467 collective bargaining.

468 4. Memoranda issued by the Executive Office of the
469 Governor relating to information resources management.

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

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

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

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

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

489 (22) "Waiver" means a decision by an agency not to apply
 490 all or part of a rule to a person who is subject to the rule.
 491 Any waiver shall conform to the standards for waivers outlined
 492 in this chapter and in the uniform rules adopted pursuant to s.
 493 120.54(5).

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

500 Section 11. Paragraph (a) of subsection (1) of section
 501 120.55, Florida Statutes, is amended to read:

502 120.55 Publication.—

503 (1) The Department of State shall:

504 (a)1. Through a continuous revision system, compile and

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

519 | 2. Rules general in form but applicable to only one school
520 | district, community college district, or county, or a part
521 | thereof, or state university rules relating to internal
522 | personnel or business and finance shall not be published in the
523 | Florida Administrative Code. Exclusion from publication in the
524 | Florida Administrative Code shall not affect the validity or
525 | effectiveness of such rules.

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

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

548 Reviser's note.—Amended to correct an apparent error
549 and conform to context. Prior to the amendment of s.
550 120.55 by ss. 8 and 9, ch. 2008-104, Laws of Florida,
551 the reference to history notes was cited at s.
552 120.545(9); s. 120.545(9) became s. 120.545(7) by s.
553 7, ch. 2008-104; current s. 120.545(7) references
554 history notes.

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

559 120.55 Publication.—

560 (1) The Department of State shall:

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

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

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

596 4. Forms shall not be published in the Florida
597 Administrative Code; but any form which an agency uses in its
598 dealings with the public, along with any accompanying
599 instructions, shall be filed with the committee before it is
600 used. Any form or instruction which meets the definition of
601 "rule" provided in s. 120.52 shall be incorporated by reference
602 into the appropriate rule. The reference shall specifically
603 state that the form is being incorporated by reference and shall
604 include the number, title, and effective date of the form and an
605 explanation of how the form may be obtained. Each form created
606 by an agency which is incorporated by reference in a rule notice
607 of which is given under s. 120.54(3)(a) after December 31, 2007,
608 must clearly display the number, title, and effective date of
609 the form and the number of the rule in which the form is
610 incorporated.

611 5. The department shall allow material incorporated by
612 reference to be filed in electronic form as prescribed by
613 department rule. When a rule is filed for adoption with
614 incorporated material in electronic form, the department's
615 publication of the Florida Administrative Code on its Internet
616 website must contain a hyperlink from the incorporating

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617 reference in the rule directly to that material. The department
618 may not allow hyperlinks from rules in the Florida
619 Administrative Code to any material other than that filed with
620 and maintained by the department, but may allow hyperlinks to
621 incorporated material maintained by the department from the
622 adopting agency's website or other sites.

623 Reviser's note.—Amended to correct an apparent error
624 and conform to context. Prior to the amendment of s.
625 120.55 by ss. 8 and 9, ch. 2008-104, Laws of Florida,
626 the reference to history notes was cited at s.
627 120.545(9); s. 120.545(9) became s. 120.545(7) by s.
628 7, ch. 2008-104; current s. 120.545(7) references
629 history notes.

630 Section 13. Subsection (2) and paragraph (b) of subsection
631 (3) of section 121.053, Florida Statutes, are amended to read:

632 121.053 Participation in the Elected Officers' Class for
633 retired members.—

634 (2) A retired member of the Florida Retirement System, or
635 an existing system as defined in s. 121.021, who, beginning July
636 1, 1990, through June 30, 2010, serves in an elective office
637 covered by the Elected Officers' Class shall be enrolled in the
638 appropriate subclass of the Elected Officers' Class of the
639 Florida Retirement System, and applicable contributions shall be
640 paid into the Florida Retirement System Trust Fund as provided
641 in s. 121.052(7).

642 (a) The member may continue to receive retirement benefits
643 as well as compensation for the elected officer service if he or
644 she remains in an elective office covered by the Elected

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645 Officers' Class.

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

650 (c) The member is entitled to purchase additional
651 retirement credit in the Elected Officers' Class for any
652 postretirement service performed in an elected position eligible
653 for the Elected Officers' Class before July 1, 1990, or in the
654 Regular Class for any postretirement service performed in any
655 other regularly established position before July 1, 1991, by
656 paying the applicable Elected Officers' Class or Regular Class
657 employee and employer contributions for the period being
658 claimed, plus 4 percent interest compounded annually from the
659 first year of service claimed until July 1, 1975, and 6.5
660 percent interest compounded thereafter, until full payment is
661 made to the Florida Retirement System Trust Fund. The
662 contribution for postretirement Regular Class service between
663 July 1, 1985, and July 1, 1991, for which the reemployed retiree
664 contribution was paid, is the difference between the
665 contribution and the total applicable contribution for the
666 period being claimed, plus interest. The employer may pay the
667 applicable employer contribution in lieu of the member. If a
668 member does not wish to claim credit for all of the
669 postretirement service for which he or she is eligible, the
670 service the member claims must be the most recent service. Any
671 retiree who served in an elective office before July 1, 1990,
672 suspended his or her retirement benefits, and had his or her

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673 Florida Retirement System membership reinstated shall, upon
674 retirement from such office, have his or her retirement benefit
675 recalculated to include the additional service and compensation
676 earned.

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

685
686 However, an officer electing to participate in the Deferred
687 Retirement Option Program on or before June 30, 2002, is not
688 required to terminate and remains subject to the provisions of
689 this subsection ~~paragraph~~ as adopted in s. 1, chapter 2001-235,
690 Laws of Florida.

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

692 (b) An elected officer who is elected or appointed to an
693 elective office and is participating in the Deferred Retirement
694 Option Program is subject to termination as defined in s.
695 121.021 upon completion of his or her DROP participation period.
696 An elected official may defer termination as provided in
697 subsection (7) ~~paragraph (2)(e)~~.

698 Reviser's note.—Subsection (2) is amended to confirm
699 an editorial substitution made to conform to the
700 compilation of the 2009 Florida Statutes. Paragraph

701 (3) (b) is amended to correct an erroneous reference
 702 and conform to context; paragraph (2) (e) does not
 703 exist, and subsection (7) relates to deferral of
 704 termination for elected officials.

705 Section 14. Paragraph (b) of subsection (1) of section
 706 121.081, Florida Statutes, is amended to read:

707 121.081 Past service; prior service; contributions.—
 708 Conditions under which past service or prior service may be
 709 claimed and credited are:

710 (1)

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

726 Reviser's note.—Amended to confirm an editorial
 727 deletion made to improve clarity and facilitate
 728 correct interpretation.

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

732 121.091 Benefits payable under the system.—Benefits may
733 not be paid under this section unless the member has terminated
734 employment as provided in s. 121.021(39) (a) or begun
735 participation in the Deferred Retirement Option Program as
736 provided in subsection (13), and a proper application has been
737 filed in the manner prescribed by the department. The department
738 may cancel an application for retirement benefits when the
739 member or beneficiary fails to timely provide the information
740 and documents required by this chapter and the department's
741 rules. The department shall adopt rules establishing procedures
742 for application for retirement benefits and for the cancellation
743 of such application when the required information or documents
744 are not received.

745 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

746 (b) Any person whose retirement is effective before July
747 1, 2010, or whose participation in the Deferred Retirement
748 Option Program terminates before July 1, 2010, except under the
749 disability retirement provisions of subsection (4) or as
750 provided in s. 121.053, may be reemployed by an employer that
751 participates in a state-administered retirement system and
752 receive retirement benefits and compensation from that employer,
753 except that the person may not be reemployed by an employer
754 participating in the Florida Retirement System before meeting
755 the definition of termination in s. 121.021 and may not receive
756 both a salary from the employer and retirement benefits for 12

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757 calendar months immediately subsequent to the date of
758 retirement. However, a DROP participant shall continue
759 employment and receive a salary during the period of
760 participation in the Deferred Retirement Option Program, as
761 provided in subsection (13).

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

780 a. A district school board may reemploy a retiree as a
781 substitute or hourly teacher, education paraprofessional,
782 transportation assistant, bus driver, or food service worker on
783 a noncontractual basis after he or she has been retired for 1
784 calendar month. A district school board may reemploy a retiree

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

793 b. A community college board of trustees may reemploy a
794 retiree as an adjunct instructor or as a participant in a phased
795 retirement program within the Florida Community College System,
796 after he or she has been retired for 1 calendar month. A member
797 who is reemployed within 1 calendar month after retirement shall
798 void his or her application for retirement benefits. Boards of
799 trustees reemploying such instructors are subject to the
800 retirement contribution required in subparagraph 2. A retiree
801 may be reemployed as an adjunct instructor for no more than 780
802 hours during the first 12 months of retirement. A retiree
803 reemployed for more than 780 hours during the first 12 months of
804 retirement must give timely notice in writing to the employer
805 and to the Division of Retirement or the state board of the date
806 he or she will exceed the limitation. The division shall suspend
807 his or her retirement benefits for the remainder of the 12
808 months of retirement. Any retiree employed in violation of this
809 sub-subparagraph and any employer who employs or appoints such
810 person without notifying the division to suspend retirement
811 benefits are jointly and severally liable for any benefits paid
812 during the reemployment limitation period. The employer must

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813 have a written statement from the retiree that he or she is not
814 retired from a state-administered retirement system. Any
815 retirement benefits received by the retiree while reemployed in
816 excess of 780 hours during the first 12 months of retirement
817 must be repaid to the Florida Retirement System Trust Fund, and
818 retirement benefits shall remain suspended until repayment is
819 made. Benefits suspended beyond the end of the retiree's first
820 12 months of retirement shall apply toward repayment of benefits
821 received in violation of the 780-hour reemployment limitation.

822 c. The State University System may reemploy a retiree as
823 an adjunct faculty member or as a participant in a phased
824 retirement program within the State University System after the
825 retiree has been retired for 1 calendar month. A member who is
826 reemployed within 1 calendar month after retirement shall void
827 his or her application for retirement benefits. The State
828 University System is subject to the retired contribution
829 required in subparagraph 2., as appropriate. A retiree may be
830 reemployed as an adjunct faculty member or a participant in a
831 phased retirement program for no more than 780 hours during the
832 first 12 months of his or her retirement. A retiree reemployed
833 for more than 780 hours during the first 12 months of retirement
834 must give timely notice in writing to the employer and to the
835 Division of Retirement or the state board of the date he or she
836 will exceed the limitation. The division shall suspend his or
837 her retirement benefits for the remainder of the 12 months. Any
838 retiree employed in violation of this sub-subparagraph and any
839 employer who employs or appoints such person without notifying
840 the division to suspend retirement benefits are jointly and

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841 severally liable for any benefits paid during the reemployment
842 limitation period. The employer must have a written statement
843 from the retiree that he or she is not retired from a state-
844 administered retirement system. Any retirement benefits received
845 by the retiree while reemployed in excess of 780 hours during
846 the first 12 months of retirement must be repaid to the Florida
847 Retirement System Trust Fund, and retirement benefits shall
848 remain suspended until repayment is made. Benefits suspended
849 beyond the end of the retiree's first 12 months of retirement
850 shall apply toward repayment of benefits received in violation
851 of the 780-hour reemployment limitation.

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

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

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869 calendar month after retirement. Any member who is reemployed
870 within 1 calendar month voids his or her application for
871 retirement benefits. A developmental research school that
872 reemploys retired teachers and education paraprofessionals is
873 subject to the retirement contribution required by subparagraph
874 2.

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

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

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897 subsection (13), for DROP participants.

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

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

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925 Participation in DROP by an eligible member beyond the initial
926 60-month period as authorized in this subsection shall be on an
927 annual contractual basis for all participants.

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

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

942 2. Except as provided in subparagraph 6., election to
943 participate is made within 12 months immediately following the
944 date on which the member first reaches normal retirement date,
945 or, for a member who reaches normal retirement date based on
946 service before he or she reaches age 62, or age 55 for Special
947 Risk Class members, election to participate may be deferred to
948 the 12 months immediately following the date the member attains
949 age 57, or age 52 for Special Risk Class members. A member who
950 delays DROP participation during the 12-month period immediately
951 following his or her maximum DROP deferral date, except as
952 provided in subparagraph 6., loses a month of DROP participation

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953 for each month delayed. A member who fails to make an election
954 within the 12-month limitation period forfeits all rights to
955 participate in DROP. The member shall advise his or her employer
956 and the division in writing of the date DROP begins. The
957 beginning date may be subsequent to the 12-month election period
958 but must be within the original 60-month participation period
959 provided in subparagraph (b)1. When establishing eligibility of
960 the member to participate in DROP, the member may elect to
961 include or exclude any optional service credit purchased by the
962 member from the total service used to establish the normal
963 retirement date. A member who has dual normal retirement dates
964 is eligible to elect to participate in DROP after attaining
965 normal retirement date in either class.

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

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

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

979 a. A change of employment must take place without a break
980 in service so that the member receives salary for each month of

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981 continuous DROP participation. If a member receives no salary
982 during a month, DROP participation shall cease unless the
983 employer verifies a continuation of the employment relationship
984 for such participant pursuant to s. 121.021(39)(b).

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

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

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

1007 Reviser's note.—Amended to confirm editorial
1008 insertions made to improve clarity and facilitate

1009 correct interpretation.

1010 Section 16. Subsection (6) of section 163.31771, Florida
 1011 Statutes, is repealed.

1012 Reviser's note.—Repealed to delete a provision
 1013 relating to a report due January 1, 2007, on the
 1014 effectiveness of using accessory dwelling units to
 1015 address a local government's shortage of affordable
 1016 housing.

1017 Section 17. Paragraph (e) of subsection (15) of section
 1018 163.3180, Florida Statutes, is repealed, and paragraph (e) of
 1019 subsection (5) of that section is amended to read:

1020 163.3180 Concurrency.—

1021 (5)

1022 (e) Before designating a concurrency exception area
 1023 pursuant to subparagraph (b)7. ~~(b)6.~~, the state land planning
 1024 agency and the Department of Transportation shall be consulted
 1025 by the local government to assess the impact that the proposed
 1026 exception area is expected to have on the adopted level-of-
 1027 service standards established for regional transportation
 1028 facilities identified pursuant to s. 186.507, including the
 1029 Strategic Intermodal System and roadway facilities funded in
 1030 accordance with s. 339.2819. Further, the local government shall
 1031 provide a plan for the mitigation of impacts to the Strategic
 1032 Intermodal System, including, if appropriate, access management,
 1033 parallel reliever roads, transportation demand management, and
 1034 other measures.

1035 Reviser's note.—Paragraph (5) (e) is amended to confirm
 1036 an editorial substitution made to conform to context

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1037 and correct an apparent error. Paragraph (15) (e) is
 1038 repealed to delete a provision relating to a pilot
 1039 project to study the benefits of and barriers to
 1040 establishing a regional multimodal transportation
 1041 concurrency district and requiring the Department of
 1042 Transportation, in consultation with the state land
 1043 planning agency, to submit a report by March 1, 2009,
 1044 on the status of the pilot project.

1045 Section 18. Subsection (8) of section 175.071, Florida
 1046 Statutes, is amended to read:

1047 175.071 General powers and duties of board of trustees.—
 1048 For any municipality, special fire control district, chapter
 1049 plan, local law municipality, local law special fire control
 1050 district, or local law plan under this chapter:

1051 (8) Notwithstanding paragraph (1) (b) and as provided in s.
 1052 215.473, the board of trustees must identify and publicly report
 1053 any direct or indirect holdings it may have in any scrutinized
 1054 company, as defined in that section, and proceed to sell,
 1055 redeem, divest, or withdraw all publicly traded securities it
 1056 may have in that company beginning January 1, 2010. The
 1057 divestiture of any such security must be completed by September
 1058 30, 2010. The board and its named officers or investment
 1059 advisors may not be deemed to have breached their fiduciary duty
 1060 in any action taken to dispose of any such security, and the
 1061 board shall have satisfactorily discharged the fiduciary duties
 1062 of loyalty, prudence, and sole and exclusive benefit to the
 1063 participants of the pension fund and their beneficiaries if the
 1064 actions it takes are consistent with the duties imposed by s.

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1065 215.473, and the manner of the disposition, if any, is
 1066 reasonable as to the means chosen. For the purposes of effecting
 1067 compliance with that section, the pension fund shall designate
 1068 terror-free plans that allocate their funds among securities not
 1069 subject to divestiture. No person may bring any civil, criminal,
 1070 or administrative action against the board of trustees or any
 1071 employee, officer, director, or advisor of such pension fund
 1072 based upon the divestiture of any security pursuant to this
 1073 subsection ~~paragraph~~.

1074 Reviser's note.—Amended to confirm an editorial
 1075 substitution made to conform to context.

1076 Section 19. Subsection (7) of section 185.06, Florida
 1077 Statutes, is amended to read:

1078 185.06 General powers and duties of board of trustees.—For
 1079 any municipality, chapter plan, local law municipality, or local
 1080 law plan under this chapter:

1081 (7) Notwithstanding paragraph (1)(b) and as provided in s.
 1082 215.473, the board of trustees must identify and publicly report
 1083 any direct or indirect holdings it may have in any scrutinized
 1084 company, as defined in that section, and proceed to sell,
 1085 redeem, divest, or withdraw all publicly traded securities it
 1086 may have in that company beginning January 1, 2010. The
 1087 divestiture of any such security must be completed by September
 1088 10, 2010. The board and its named officers or investment
 1089 advisors may not be deemed to have breached their fiduciary duty
 1090 in any action taken to dispose of any such security, and the
 1091 board shall have satisfactorily discharged the fiduciary duties
 1092 of loyalty, prudence, and sole and exclusive benefit to the

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1093 participants of the pension fund and their beneficiaries if the
 1094 actions it takes are consistent with the duties imposed by s.
 1095 215.473, and the manner of the disposition, if any, is
 1096 reasonable as to the means chosen. For the purposes of effecting
 1097 compliance with that section, the pension fund shall designate
 1098 terror-free plans that allocate their funds among securities not
 1099 subject to divestiture. No person may bring any civil, criminal,
 1100 or administrative action against the board of trustees or any
 1101 employee, officer, director, or advisor of such pension fund
 1102 based upon the divestiture of any security pursuant to this
 1103 subsection ~~paragraph~~.

1104 Reviser's note.—Amended to confirm an editorial
 1105 substitution made to conform to context.

1106 Section 20. Subsection (2) of section 192.001, Florida
 1107 Statutes, is amended to read:

1108 192.001 Definitions.—All definitions set out in chapters 1
 1109 and 200 that are applicable to this chapter are included herein.
 1110 In addition, the following definitions shall apply in the
 1111 imposition of ad valorem taxes:

1112 (2) "Assessed value of property" means an annual
 1113 determination of the just or fair market value of an item or
 1114 property or the value of the homestead property as limited
 1115 pursuant to s. 4(d) ~~4(e)~~, Art. VII of the State Constitution or,
 1116 if a property is assessed solely on the basis of character or
 1117 use or at a specified percentage of its value, pursuant to s.
 1118 4(a) or 4(c) ~~(b)~~, Art. VII of the State Constitution, its
 1119 classified use value or fractional value.

1120 Reviser's note.—Amended to conform to the addition of

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1121 a new s. 4(b), Art. VII of the State Constitution
 1122 pursuant to adoption of the constitutional amendment
 1123 by the Taxation and Budget Reform Commission, Revision
 1124 No. 4, in 2008.

1125 Section 21. Paragraph (a) of subsection (1) of section
 1126 192.0105, Florida Statutes, is amended to read:

1127 192.0105 Taxpayer rights.—There is created a Florida
 1128 Taxpayer's Bill of Rights for property taxes and assessments to
 1129 guarantee that the rights, privacy, and property of the
 1130 taxpayers of this state are adequately safeguarded and protected
 1131 during tax levy, assessment, collection, and enforcement
 1132 processes administered under the revenue laws of this state. The
 1133 Taxpayer's Bill of Rights compiles, in one document, brief but
 1134 comprehensive statements that summarize the rights and
 1135 obligations of the property appraisers, tax collectors, clerks
 1136 of the court, local governing boards, the Department of Revenue,
 1137 and taxpayers. Additional rights afforded to payors of taxes and
 1138 assessments imposed under the revenue laws of this state are
 1139 provided in s. 213.015. The rights afforded taxpayers to assure
 1140 that their privacy and property are safeguarded and protected
 1141 during tax levy, assessment, and collection are available only
 1142 insofar as they are implemented in other parts of the Florida
 1143 Statutes or rules of the Department of Revenue. The rights so
 1144 guaranteed to state taxpayers in the Florida Statutes and the
 1145 departmental rules include:

1146 (1) THE RIGHT TO KNOW.—

1147 (a) The right to be mailed notice of proposed property
 1148 taxes and proposed or adopted non-ad valorem assessments (see

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1149 ss. 194.011(1), 200.065(2)(b) and (d) and (13)(a), and 200.069).
 1150 The notice must also inform the taxpayer that the final tax bill
 1151 may contain additional non-ad valorem assessments (see s.
 1152 200.069(9) ~~200.069(10)~~).

1153 Reviser's note.—Amended to conform to the
 1154 redesignation of s. 200.069(10) as s. 200.069(9) by s.
 1155 1, ch. 2009-165, Laws of Florida.

1156 Section 22. Paragraph (a) of subsection (1) of section
 1157 193.1555, Florida Statutes, is amended to read:

1158 193.1555 Assessment of certain residential and
 1159 nonresidential real property.—

1160 (1) As used in this section, the term:

1161 (a) "Nonresidential real property" means real property
 1162 that is not subject to the assessment limitations set forth in
 1163 s. 4(a), (c), (d), or (g) ~~4(a)-(e) or s. 4(f)~~, Art. VII of the
 1164 State Constitution.

1165 Reviser's note.—Amended to conform to the addition of
 1166 a new s. 4(b), Art. VII of the State Constitution
 1167 pursuant to adoption of the constitutional amendment
 1168 by the Taxation and Budget Reform Commission, Revision
 1169 No. 4, in 2008.

1170 Section 23. Subsection (1) of section 193.503, Florida
 1171 Statutes, is amended to read:

1172 193.503 Classification and assessment of historic property
 1173 used for commercial or certain nonprofit purposes.—

1174 (1) Pursuant to s. 4(e) ~~4(d)~~, Art. VII of the State
 1175 Constitution, the board of county commissioners of a county or
 1176 the governing authority of a municipality may adopt an ordinance

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

1190 Reviser's note.—Amended to conform to the addition of
1191 a new s. 4(b), Art. VII of the State Constitution
1192 pursuant to adoption of the constitutional amendment
1193 by the Taxation and Budget Reform Commission, Revision
1194 No. 4, in 2008.

1195 Section 24. Subsection (1) of section 193.703, Florida
1196 Statutes, is amended to read:

1197 193.703 Reduction in assessment for living quarters of
1198 parents or grandparents.—

1199 (1) In accordance with s. 4(f) ~~4(e)~~, Art. VII of the State
1200 Constitution, a county may provide for a reduction in the
1201 assessed value of homestead property which results from the
1202 construction or reconstruction of the property for the purpose
1203 of providing living quarters for one or more natural or adoptive
1204 parents or grandparents of the owner of the property or of the

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1205 owner's spouse if at least one of the parents or grandparents
 1206 for whom the living quarters are provided is at least 62 years
 1207 of age.

1208 Reviser's note.—Amended to conform to the addition of
 1209 a new s. 4(b), Art. VII of the State Constitution
 1210 pursuant to adoption of the constitutional amendment
 1211 by the Taxation and Budget Reform Commission, Revision
 1212 No. 4, in 2008.

1213 Section 25. Paragraph (c) of subsection (9) of section
 1214 196.011, Florida Statutes, is amended to read:

1215 196.011 Annual application required for exemption.—
 1216 (9)

1217 (c) A county may, at the request of the property appraiser
 1218 and by a majority vote of its governing body, waive the
 1219 requirement that an annual application be made for the veteran's
 1220 disability discount granted pursuant to s. 6(e) ~~6(g)~~, Art. VII
 1221 of the State Constitution after an initial application is made
 1222 and the discount granted. The disabled veteran receiving a
 1223 discount for which annual application has been waived shall
 1224 notify the property appraiser promptly whenever the use of the
 1225 property or the percentage of disability to which the veteran is
 1226 entitled changes. If a disabled veteran fails to notify the
 1227 property appraiser and the property appraiser determines that
 1228 for any year within the prior 10 years the veteran was not
 1229 entitled to receive all or a portion of such discount, the
 1230 penalties and processes in paragraph (a) relating to the failure
 1231 to notify the property appraiser of ineligibility for an
 1232 exemption shall apply.

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1233 Reviser's note.—Amended to conform to the deletion of
 1234 former s. 6(c) and (d), Art. VII of the State
 1235 Constitution pursuant to adoption of the
 1236 constitutional amendment by C.S. for S.J.R. 2-D (2007)
 1237 in 2008.

1238 Section 26. Subsection (2) of section 196.075, Florida
 1239 Statutes, is amended to read:

1240 196.075 Additional homestead exemption for persons 65 and
 1241 older.—

1242 (2) In accordance with s. 6(d) ~~6(f)~~, Art. VII of the State
 1243 Constitution, the board of county commissioners of any county or
 1244 the governing authority of any municipality may adopt an
 1245 ordinance to allow an additional homestead exemption of up to
 1246 \$50,000 for any person who has the legal or equitable title to
 1247 real estate and maintains thereon the permanent residence of the
 1248 owner, who has attained age 65, and whose household income does
 1249 not exceed \$20,000.

1250 Reviser's note.—Amended to conform to the deletion of
 1251 former s. 6(c) and (d), Art. VII of the State
 1252 Constitution pursuant to adoption of the
 1253 constitutional amendment by C.S. for S.J.R. 2-D (2007)
 1254 in 2008.

1255 Section 27. Subsection (7) of section 196.1975, Florida
 1256 Statutes, is amended to read:

1257 196.1975 Exemption for property used by nonprofit homes
 1258 for the aged.—Nonprofit homes for the aged are exempt to the
 1259 extent that they meet the following criteria:

1260 (7) It is declared to be the intent of the Legislature

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1261 that subsection (3) implements the ad valorem tax exemption
 1262 authorized in the third sentence of s. 3(a), Art. VII, State
 1263 Constitution, and the remaining subsections implement s. 6(c)
 1264 ~~6(e)~~, Art. VII, State Constitution, for purposes of granting
 1265 such exemption to homes for the aged.

1266 Reviser's note.—Amended to conform to the deletion of
 1267 former s. 6(c) and (d), Art. VII of the State
 1268 Constitution pursuant to adoption of the
 1269 constitutional amendment by C.S. for S.J.R. 2-D (2007)
 1270 in 2008.

1271 Section 28. Subsection (5) of section 196.1977, Florida
 1272 Statutes, is amended to read:

1273 196.1977 Exemption for property used by proprietary
 1274 continuing care facilities.—

1275 (5) It is the intent of the Legislature that this section
 1276 implements s. 6(c) ~~6(e)~~, Art. VII of the State Constitution.

1277 Reviser's note.—Amended to conform to the deletion of
 1278 former s. 6(c) and (d), Art. VII of the State
 1279 Constitution pursuant to adoption of the
 1280 constitutional amendment by C.S. for S.J.R. 2-D (2007)
 1281 in 2008.

1282 Section 29. Subsection (5) of section 197.402, Florida
 1283 Statutes, is repealed.

1284 Reviser's note.—Repeals material requiring Lake,
 1285 Marion, Seminole, and Sumter Counties to enter into a
 1286 2-year pilot program regarding advertising and payment
 1287 of delinquent property taxes and, by October 1, 2007,
 1288 each county's tax collector to submit a report to the

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1289 President of the Senate and the Speaker of the House
1290 of Representatives.

1291 Section 30. Paragraph (a) of subsection (2), paragraph (f)
1292 of subsection (4), and paragraph (b) of subsection (10) of
1293 section 200.069, Florida Statutes, are amended to read:

1294 200.069 Notice of proposed property taxes and non-ad
1295 valorem assessments.—Pursuant to s. 200.065(2)(b), the property
1296 appraiser, in the name of the taxing authorities and local
1297 governing boards levying non-ad valorem assessments within his
1298 or her jurisdiction and at the expense of the county, shall
1299 prepare and deliver by first-class mail to each taxpayer to be
1300 listed on the current year's assessment roll a notice of
1301 proposed property taxes, which notice shall contain the elements
1302 and use the format provided in the following form.

1303 Notwithstanding the provisions of s. 195.022, no county officer
1304 shall use a form other than that provided herein. The Department
1305 of Revenue may adjust the spacing and placement on the form of
1306 the elements listed in this section as it considers necessary
1307 based on changes in conditions necessitated by various taxing
1308 authorities. If the elements are in the order listed, the
1309 placement of the listed columns may be varied at the discretion
1310 and expense of the property appraiser, and the property
1311 appraiser may use printing technology and devices to complete
1312 the form, the spacing, and the placement of the information in
1313 the columns. A county officer may use a form other than that
1314 provided by the department for purposes of this part, but only
1315 if his or her office pays the related expenses and he or she
1316 obtains prior written permission from the executive director of

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1317 the department; however, a county officer may not use a form the
 1318 substantive content of which is at variance with the form
 1319 prescribed by the department. The county officer may continue to
 1320 use such an approved form until the law that specifies the form
 1321 is amended or repealed or until the officer receives written
 1322 disapproval from the executive director.

1323 (2) (a) The notice shall include a brief legal description
 1324 of the property, the name and mailing address of the owner of
 1325 record, and the tax information applicable to the specific
 1326 parcel in question. The information shall be in columnar form.
 1327 There shall be seven column headings which shall read: "Taxing
 1328 Authority," "Your Property Taxes Last Year," "Last Year's
 1329 Adjusted Tax Rate (Millage)," "Your Taxes This Year IF NO Budget
 1330 Change Is Adopted," "Tax Rate This Year IF PROPOSED Budget Is
 1331 Adopted (Millage)," "Your Taxes This Year IF PROPOSED Budget
 1332 Change Is Adopted," and "A Public Hearing on the Proposed Taxes
 1333 and Budget Will Be Held:."

1334 (4) For each entry listed in subsection (3), there shall
 1335 appear on the notice the following:

1336 (f) In the sixth column, the gross amount of ad valorem
 1337 taxes that must be levied in the current year if the proposed
 1338 budget is adopted.

1339 (10)

1340 (b) If the notice includes all adopted non-ad valorem
 1341 assessments, the provisions contained in subsection (9) ~~(10)~~
 1342 shall not be placed on the notice.

1343 Reviser's note.—Paragraphs (2) (a) and (4) (f) are
 1344 amended to confirm editorial insertions made to

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1345 improve clarity and facilitate correct interpretation.
 1346 Paragraph (10) (b) is amended to conform to the
 1347 redesignation of former subsection (10) as subsection
 1348 (9) by s. 1, ch. 2009-165, Laws of Florida.

1349 Section 31. Subsection (1) of section 210.1801, Florida
 1350 Statutes, is amended to read:

1351 210.1801 Exempt cigarettes for members of recognized
 1352 Indian tribes.—

1353 (1) Notwithstanding any provision of this chapter to the
 1354 contrary, a member of an Indian tribe recognized in this state
 1355 who purchases cigarettes on an Indian reservation for his or her
 1356 own use is exempt from paying a cigarette tax and surcharge.
 1357 However, such member purchasing cigarettes outside of an Indian
 1358 reservation or a nontribal member purchasing cigarettes on an
 1359 Indian reservation is not exempt from paying the cigarette tax
 1360 or surcharge when purchasing cigarettes within this state.
 1361 Accordingly, the tax and surcharge shall apply to all cigarettes
 1362 sold on an Indian reservation to a nontribal member, and
 1363 evidence of such tax or surcharge shall be by means of an
 1364 affixed cigarette tax and surcharge stamp.

1365 Reviser's note.—Amended to confirm an editorial
 1366 insertion made to improve clarity.

1367 Section 32. Subsection (2) of section 211.06, Florida
 1368 Statutes, is amended to read:

1369 211.06 Oil and Gas Tax Trust Fund; distribution of tax
 1370 proceeds.—All taxes, interest, and penalties imposed under this
 1371 part shall be collected by the department and placed in a
 1372 special fund designated the "Oil and Gas Tax Trust Fund."

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1373 (2) Beginning July 1, 1995, the remaining proceeds in the
1374 Oil and Gas Tax Trust Fund shall be distributed monthly by the
1375 department and shall be paid into the State Treasury as follows:

1376 (a) To the credit of the General Revenue Fund of the
1377 state:

1378 1. Seventy-five percent of the proceeds from the oil
1379 production tax imposed under s. 211.02(1)(c) ~~211.02(1)(b)~~.

1380 2. Sixty-seven and one-half percent of the proceeds from
1381 the tax on small well oil and tertiary oil imposed under s.
1382 211.02(1)(a).

1383 3. Sixty-seven and one-half percent of the proceeds from
1384 the tax on gas imposed under s. 211.025.

1385 4. Sixty-seven and one-half percent of the proceeds of the
1386 tax on sulfur imposed under s. 211.026.

1387 (b) To the credit of the general revenue fund of the board
1388 of county commissioners of the county where produced, subject to
1389 the service charge imposed under chapter 215:

1390 1. Twelve and one-half percent of the proceeds from the
1391 tax on oil imposed under s. 211.02(1)(c) ~~211.02(1)(b)~~.

1392 2. Twenty percent of the proceeds from the tax on small
1393 well oil and tertiary oil imposed under s. 211.02(1)(a).

1394 3. Twenty percent of the proceeds from the tax on gas
1395 imposed under s. 211.025.

1396 4. Twenty percent of the proceeds from the tax on sulfur
1397 imposed under s. 211.026.

1398 (c) To the credit of the Minerals Trust Fund:

1399 1. Twelve and one-half percent of the proceeds from the
1400 tax on oil imposed under s. 211.02(1)(c) ~~211.02(1)(b)~~.

1401 2. Twelve and one-half percent of the proceeds from the
 1402 tax on small well and tertiary oil imposed under s.
 1403 211.02(1)(a).

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

1406 4. Twelve and one-half percent of the proceeds from the
 1407 tax 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
 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

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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
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:

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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,
1470 and

1471 2. Any social security benefits that the member is
1472 eligible to receive by reason of his or her own right or through
1473 his or her spouse.

1474 (b) No payment shall be made to a member of the Teachers'
1475 Retirement System under this act, until the department has
1476 determined the social security status of such member.

1477 (c) Eligibility of a member of the Teachers' Retirement
1478 System shall be determined under the social security laws and
1479 regulations; provided, however, that a member shall be
1480 considered eligible if the member or the member's spouse has
1481 reached 65 years of age and would draw social security if the
1482 member or the member's spouse were not engaged in activity that
1483 results in the member or the member's spouse receiving income
1484 that would make him or her ineligible to receive social security

1485 benefits. A member of the Teachers' Retirement System shall be
 1486 deemed to be eligible for social security benefits if the member
 1487 has this eligibility in his or her own right or through his or
 1488 her spouse.

1489 (d) The department shall review, at least annually, the
 1490 social security status of all members of the Teachers'
 1491 Retirement System receiving payment under this act and shall
 1492 increase or decrease payments to such members as shall be
 1493 necessary to carry out the intent of this act.

1494 (e) No member of the Teachers' Retirement System shall
 1495 have his or her retirement allowance reduced or any of his or
 1496 her rights impaired by reason of this act.

1497 (f) This subsection shall take effect on January 1, 1962.

1498 (17)~~(15B)~~ If the member recovers from disability, has his
 1499 or her disability benefit terminated, reenters covered
 1500 employment, and is continuously employed for a minimum of 1 year
 1501 of creditable service, he or she may claim as creditable service
 1502 the months during which he or she was receiving a disability
 1503 benefit, upon payment of the required contributions.

1504 Contributions shall equal the total required employee and
 1505 employer contribution rate during the period the retiree
 1506 received retirement benefits, multiplied times his or her rate
 1507 of monthly compensation prior to the commencement of disability
 1508 retirement for each month of the period claimed, plus 4 percent
 1509 interest until July 1, 1975, and 6.5 percent interest thereafter
 1510 on such contributions, compounded annually each June 30 to the
 1511 date of payment. If the member does not claim credit for all of
 1512 the months he or she received disability benefits, the months

1513 | claimed must be his or her most recent months of retirement.

1514 | (18)~~(16)~~(a) Definitions under survivor benefits are:

1515 | 1. A dependent is a child, widow, widower, or parent of
1516 | the deceased member who was receiving not less than one-half of
1517 | his or her support from the deceased member at the time of the
1518 | death of such member.

1519 | 2. A child is a natural or legally adopted child of a
1520 | member, who:

1521 | a. Is under 18 years of age, or

1522 | b. Is over 18 years of age but not over 22 years of age
1523 | and is enrolled as a student in an accredited educational
1524 | institution, or

1525 | c. Is 18 years of age or older and is physically or
1526 | mentally incapable of self-support, when such mental and
1527 | physical incapacity occurred prior to such child obtaining the
1528 | age of 18 years. Such person shall cease to be regarded as a
1529 | child upon the termination of such physical or mental
1530 | disability. The determination as to such physical or mental
1531 | incapability shall be vested in the department.

1532 |
1533 | No person shall be considered a child who has married or, except
1534 | as provided in sub-subparagraph 2.b. or as to a child who is
1535 | physically or mentally incapable of self-support as hereinbefore
1536 | set forth, has become 18 years of age.

1537 | 3. A parent is a natural parent of a member and includes a
1538 | lawful spouse of a natural parent.

1539 | 4. A beneficiary is a person who is entitled to benefits
1540 | under this subsection by reason of his or her relation to a

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1550

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.

1551

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

1552

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

1553

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.

1554

1555 Beginning on July 1, 1971, the lump-sum death benefit, provided

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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

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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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1607 member receiving a disability benefit at the time of his or her
 1608 death.

1609 (19)~~(17)~~ Any person who hereafter elects to receive
 1610 retirement benefits under s. 112.05 shall not be entitled to the
 1611 retirement benefits of this chapter except for the refund of his
 1612 or her accumulated contributions as provided in subsection (13);
 1613 likewise any person who elects to receive retirement benefits
 1614 under this chapter shall thereby become ineligible to receive
 1615 retirement benefits under s. 112.05.

1616 Reviser's note.—Amended to confirm the editorial
 1617 redesignation of subsections (15A) and (15B) as
 1618 subsections (16) and (17), which necessitated the
 1619 redesignation of subsections (16) and (17) as
 1620 subsections (18) and (19).

1621 Section 36. Section 238.071, Florida Statutes, is amended
 1622 to read:

1623 238.071 Social security benefits; determination of
 1624 retirement allowance.—Any member of the Teachers' Retirement
 1625 System who has heretofore or who hereafter retires and has his
 1626 or her retirement allowance redetermined under the provisions of
 1627 s. 238.07(16) ~~238.07(15A)~~, shall not after July 1, 1969, have
 1628 the amount of the redetermined retirement allowance reduced
 1629 because of social security benefits received by the member or
 1630 his or her spouse.

1631 Reviser's note.—Amended to confirm an editorial
 1632 substitution made to conform to the editorial
 1633 redesignation of s. 238.07(15A) as s. 238.07(16).

1634 Section 37. Paragraphs (a) and (d) of subsection (5) of

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1635 section 238.09, Florida Statutes, are amended to read:

1636 238.09 Method of financing.—All of the assets of the
1637 retirement system shall be credited, according to the purposes
1638 for which they are held, to one of four funds; namely, the
1639 Annuity Savings Trust Fund, the Pension Accumulation Trust Fund,
1640 the Expense Trust Fund, and the Survivors' Benefit Trust Fund.

1641 (5) (a) The survivors' benefit fund shall be the fund in
1642 which shall be accumulated all reserves for the payment of all
1643 survivor benefits provided for in s. 238.07(18) ~~238.07(16)~~,
1644 except refund of accumulated contributions. There shall be paid
1645 into this fund:

1646 1. All contributions by members based on the rate of
1647 twenty-five-hundredths percent of their salary as set out in
1648 paragraph (b) of this subsection.

1649 2. All contributions by the state to the Survivors'
1650 Benefit Trust Fund.

1651 3. All transfers from other funds as required by this
1652 subsection.

1653 (d) A member who makes contributions to the Survivors'
1654 Benefit Trust Fund shall not thereby obtain, prior to July 1,
1655 1959, any vested interest or right to the benefits under s.
1656 238.07(18) ~~238.07(16)~~, and these benefits may be altered,
1657 changed or repealed by the Legislature at its 1959 session,
1658 provided that the beneficiaries of members whose deaths occur
1659 prior to July 1, 1959, shall have a vested interest in the
1660 benefits accruing to such beneficiaries under s. 238.07(18)
1661 ~~238.07(16)~~, and these rights may not be altered, changed nor
1662 repealed by the Legislature.

1663 Reviser's note.—Amended to confirm editorial
 1664 substitutions made to conform to the editorial
 1665 redesignation of s. 238.07(15A) and (15B) as s.
 1666 238.07(16) and (17), which necessitated the
 1667 redesignation of s. 238.07(16) as s. 238.07(18).
 1668 Section 38. Subsection (2) of section 255.043, Florida
 1669 Statutes, is amended to read:
 1670 255.043 Art in state buildings.—
 1671 (2) The Department of Management Services or other state
 1672 agencies receiving appropriations for original constructions
 1673 shall notify the Florida ~~Arts~~ Council on Arts and Culture and
 1674 the user agency of any construction project which is eligible
 1675 under the provisions of this section. The Department of
 1676 Management Services or other state agency shall determine the
 1677 amount to be made available for purchase or commission of works
 1678 of art for each project and shall report these amounts to the
 1679 Florida ~~Arts~~ Council on Arts and Culture and the user agency.
 1680 Payments therefor shall be made from funds appropriated for
 1681 fixed capital outlay according to law.

1682 Reviser's note.—Amended to conform to the council's
 1683 name change by s. 7, ch. 2009-72, Laws of Florida.
 1684 Section 39. Subsection (2) of section 260.019, Florida
 1685 Statutes, is amended to read:
 1686 260.019 Florida Circumnavigation Saltwater Paddling
 1687 Trail.—
 1688 (2) The department shall establish the initial starting
 1689 and ending points by latitude and longitude for the trail
 1690 segments described in subsection (3) within 180 days after the

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1691 effective date of this act. Except for the Big Bend Historic
 1692 Saltwater Paddling Trail, segment 6, the department has the
 1693 exclusive authority to officially name and locate the remaining
 1694 25 trail segments. The department shall name and locate the
 1695 segments based on logical geographical boundaries, safety to
 1696 trail users, ease of management, desires of local communities
 1697 and user groups, and other factors that assist in the overall
 1698 success of the trail system. The department may adjust the
 1699 location of any trail segment; give official recognition to
 1700 specific sites along the trail route; publish official trail
 1701 guides and literature in cooperation with other governmental and
 1702 private entities; and resolve conflicts that may arise between
 1703 competing and conflicting parties over trail issues. The Florida
 1704 Greenways and Trails Council may advise the department on all
 1705 matters relating to the paddling trail. ~~By January 1, 2008, the~~
 1706 ~~department shall prepare and submit a report setting forth the~~
 1707 ~~names and locations adopted for each trail segment to the~~
 1708 ~~Governor, the President of the Senate, and the Speaker of the~~
 1709 ~~House of 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

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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
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

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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,
 1752 the local sponsoring organization shall meet all of the
 1753 following criteria:

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

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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
 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

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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
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
 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
 1869 without competitive bidding or procurement, to make available,
 1870 on a 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
 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
 1907 Development, in connection with the establishment, operation,
 1908 and management of any of its offices located in a foreign
 1909 country, is exempt from the provisions of ss. 255.21, 255.25,
 1910 and 255.254 relating to leasing of buildings; ss. 283.33 and
 1911 283.35 relating to bids for printing; ss. 287.001-287.20
 1912 relating to purchasing and motor vehicles; and ss. 282.003-
 1913 282.0056 and 282.702-282.7101 ~~282.003-282.111~~ relating to
 1914 communications, and from all statutory provisions relating to

1915 state employment.

1916 (a) The Office of Tourism, Trade, and Economic Development
 1917 may exercise such exemptions only upon prior approval of the
 1918 Governor.

1919 (b) If approval for an exemption under this section is
 1920 granted as an integral part of a plan of operation for a
 1921 specified foreign office, such action shall constitute
 1922 continuing authority for the Office of Tourism, Trade, and
 1923 Economic Development to exercise the exemption, but only in the
 1924 context and upon the terms originally granted. Any modification
 1925 of the approved plan of operation with respect to an exemption
 1926 contained therein must be resubmitted to the Governor for his or
 1927 her approval. An approval granted to exercise an exemption in
 1928 any other context shall be restricted to the specific instance
 1929 for which the exemption is to be exercised.

1930 (c) As used in this subsection, the term "plan of
 1931 operation" means the plan developed pursuant to subsection (2).

1932 (d) Upon final action by the Governor with respect to a
 1933 request to exercise the exemption authorized in this subsection,
 1934 the Office of Tourism, Trade, and Economic Development shall
 1935 report such action, along with the original request and any
 1936 modifications thereto, to the President of the Senate and the
 1937 Speaker of the House of Representatives within 30 days.

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

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1943 Statutes.

1944 Section 50. Subsection (2) of section 288.021, Florida

1945 Statutes, is amended to read:

1946 288.021 Economic development liaison.—

1947 (2) ~~Within 30 days of April 17, 1992, and~~ Whenever it is

1948 necessary to change the designee, the head of each agency shall

1949 notify the Governor in writing of the person designated as the

1950 economic development liaison for such agency.

1951 Reviser's note.—Amended to delete obsolete language.

1952 Section 51. Paragraph (e) of subsection (2) of section

1953 288.0656, Florida Statutes, is amended to read:

1954 288.0656 Rural Economic Development Initiative.—

1955 (2) As used in this section, the term:

1956 (e) "Rural community" means:

1957 1. A county with a population of 75,000 or fewer ~~less~~.

1958 2. A county with a population of 125,000 or fewer which is

1959 contiguous to a county with a population of 75,000 or fewer.

1960 3. A municipality within a county described in

1961 subparagraph 1. or subparagraph 2.

1962 4. An unincorporated federal enterprise community or an

1963 incorporated rural city with a population of 25,000 or fewer

1964 ~~less~~ and an employment base focused on traditional agricultural

1965 or resource-based industries, located in a county not defined as

1966 rural, which has at least three or more of the economic distress

1967 factors identified in paragraph (c) and verified by the Office

1968 of Tourism, Trade, and Economic Development.

1969

1970 For purposes of this paragraph, population shall be determined

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1971 in accordance with the most recent official estimate pursuant to
 1972 s. 186.901.

1973 Reviser's note.—Amended to provide contextual
 1974 consistency within the paragraph.

1975 Section 52. Paragraph (d) of subsection (5) of section
 1976 288.1081, Florida Statutes, is amended to read:

1977 288.1081 Economic Gardening Business Loan Pilot Program.—
 1978 (5)

1979 (d) A loan administrator is entitled to receive a loan
 1980 origination fee, payable at closing, of 1 percent of each loan
 1981 issued by the loan administrator and a servicing fee of 0.625
 1982 percent per annum of the loan's outstanding principal ~~principle~~
 1983 balance, payable monthly. During the first 12 months of the
 1984 loan, the servicing fee shall be paid from the disbursement from
 1985 the Economic Development Trust Fund, and thereafter the loan
 1986 administrator shall collect the servicing fee from the payments
 1987 made by the borrower, charging the fee against repayments of
 1988 principal.

1989 Reviser's note.—Amended to confirm an editorial
 1990 substitution made to conform to context.

1991 Section 53. Subsection (6) of section 288.1169, Florida
 1992 Statutes, is amended to read:

1993 288.1169 International Game Fish Association World Center
 1994 facility.—

1995 (6) The Department of Commerce must recertify every 10
 1996 years that the facility is open, that the International Game
 1997 Fish Association World Center continues to be the only
 1998 international administrative headquarters, fishing museum, and

1999 | Hall of Fame in the United States recognized by the
 2000 | International Game Fish Association, and that the project is
 2001 | meeting the minimum projections for attendance or sales tax
 2002 | revenues as required at the time of original certification. If
 2003 | the facility is not recertified during this 10-year review as
 2004 | meeting the minimum projections, then funding shall be abated
 2005 | until certification criteria are met. If the project fails to
 2006 | generate \$1 million of annual revenues pursuant to paragraph
 2007 | (2) (e), the distribution of revenues pursuant to s.
 2008 | 212.20(6)(d)6.d. ~~212.02(6)(d)6.d.~~ shall be reduced to an amount
 2009 | equal to \$83,333 multiplied by a fraction, the numerator of
 2010 | which is the actual revenues generated and the denominator of
 2011 | which is \$1 million. Such reduction remains in effect until
 2012 | revenues generated by the project in a 12-month period equal or
 2013 | exceed \$1 million.

2014 | Reviser's note.—Amended to correct an apparent error.
 2015 | Section 9, ch. 2009-68, Laws of Florida, revised the
 2016 | cite from s. 212.20(6)(d)7.d. to s. 212.02(6)(d)6.d.
 2017 | to conform to s. 2, ch. 2009-68, which amended s.
 2018 | 212.20(6)(d) to delete subparagraph 2. and
 2019 | redesignated subsequent subparagraphs. Section 212.02
 2020 | does not contain a paragraph (6)(d).

2021 | Section 54. Paragraph (b) of subsection (9) of section
 2022 | 288.1224, Florida Statutes, is amended to read:

2023 | 288.1224 Powers and duties.—The commission:

2024 | (9) Is authorized to establish and operate tourism offices
 2025 | in foreign countries in the execution of its responsibilities
 2026 | for promoting the development of tourism. To facilitate the

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2027 performance of these responsibilities, the commission is
2028 authorized to contract with the commission's direct-support
2029 organization to establish and administer such offices. Where
2030 feasible, appropriate, and recommended by the 4-year marketing
2031 plan, the commission may collocate the programs of foreign
2032 tourism offices in cooperation with any foreign office operated
2033 by any agency of this state.

2034 (b) The Florida Commission on Tourism, or its direct-
2035 support organization, in connection with the establishment,
2036 operation, and management of any of its tourism offices located
2037 in a foreign country, is exempt from the provisions of ss.
2038 255.21, 255.25, and 255.254 relating to leasing of buildings;
2039 ss. 283.33 and 283.35 relating to bids for printing; ss.
2040 287.001-287.20 relating to purchasing and motor vehicles; and
2041 ss. 282.003-282.0056 and 282.702-282.7101 ~~282.003-282.111~~
2042 relating to communications, and from all statutory provisions
2043 relating to state employment, if the laws, administrative code,
2044 or business practices or customs of the foreign country, or
2045 political or administrative subdivision thereof, in which such
2046 office is located are in conflict with these provisions.

2047 Reviser's note.—Amended to conform to the
2048 redesignation of sections within chapter 282 by ch.
2049 2009-80, Laws of Florida, and the further
2050 redesignation of s. 282.710 as s. 282.7101 by the
2051 reviser incident to compiling the 2009 Florida
2052 Statutes.

2053 Section 55. Paragraph (a) of subsection (4) of section
2054 311.12, Florida Statutes, is amended to read:

2055 311.12 Seaport security.—

2056 (4) SECURE AND RESTRICTED AREAS.—Each seaport listed in s.

2057 311.09 must clearly designate in seaport security plans, and

2058 clearly identify with appropriate signs and markers on the

2059 premises of a seaport, all secure and restricted areas as

2060 defined by the United States Department of Homeland Security—

2061 United States Coast Guard Navigation and Vessel Inspection

2062 Circular No. 03-07 and 49 C.F.R. part 1572. The plans must also

2063 address access eligibility requirements and corresponding

2064 security enforcement authorizations.

2065 (a) The seaport's security plan must set forth the

2066 conditions and restrictions to be imposed on persons employed

2067 at, doing business at, or visiting the seaport who have access

2068 to secure and restricted areas which are sufficient to provide

2069 substantial compliance with the minimum security standards

2070 established in subsection (1) and federal regulations.

2071 1. All seaport employees and other persons working at the

2072 seaport who have regular access to secure or restricted areas

2073 must comply with federal access control regulations and state

2074 criminal history checks as prescribed in this section.

2075 2. All persons and objects in secure and restricted areas

2076 are subject to search by a sworn state-certified law enforcement

2077 officer, a Class D seaport security officer certified under

2078 Maritime Transportation Security Act of 2002 guidelines and s.

2079 311.121, or an employee of the seaport security force certified

2080 under the Maritime Transportation Security Act of 2002

2081 guidelines and s. 311.121.

2082 3. Persons found in these areas without the proper

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2083 permission are subject to the trespass provisions of ss. 810.08
 2084 and 810.09.

2085 Reviser's note.—Amended to conform to the full title
 2086 of the act.

2087 Section 56. Paragraph (c) of subsection (3) of section
 2088 311.121, Florida Statutes, is amended to read:

2089 311.121 Qualifications, training, and certification of
 2090 licensed security officers at Florida seaports.—

2091 (3) The Seaport Security Officer Qualification, Training,
 2092 and Standards Coordinating Council is created under the
 2093 Department of Law Enforcement.

2094 (c) Council members designated under subparagraphs (a)1.—
 2095 4. shall serve for the duration of their employment or
 2096 appointment. Council members designated under subparagraphs
 2097 (a)5.-9. ~~(b)5.-9.~~ shall be appointed for 4-year terms.

2098 Reviser's note.—Amended to confirm an editorial
 2099 substitution; paragraph (b) does not contain
 2100 subparagraphs, and subparagraphs (a)5.-9. relate to
 2101 designation of specified council members.

2102 Section 57. Subsection (3) of section 311.122, Florida
 2103 Statutes, is amended to read:

2104 311.122 Seaport law enforcement agency; authorization;
 2105 requirements; powers; training.—

2106 (3) If a seaport creates a seaport law enforcement agency
 2107 for its facility, a minimum of 30 percent of the aggregate
 2108 personnel of each seaport law enforcement agency shall be sworn
 2109 state-certified law enforcement officers with additional
 2110 Maritime Transportation Security Act of 2002 seaport training; a

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2111 minimum of 30 percent of on-duty personnel of each seaport law
 2112 enforcement agency shall be sworn state-certified law
 2113 enforcement officers with additional Maritime Transportation
 2114 Security Act of 2002 seaport training; and at least one on-duty
 2115 supervisor must be a sworn state-certified law enforcement
 2116 officer with additional Maritime Transportation Security Act of
 2117 2002 seaport training.

2118 Reviser's note.—Amended to conform to the full title
 2119 of the act.

2120 Section 58. Subsection (17) of section 318.18, Florida
 2121 Statutes, is amended to read:

2122 318.18 Amount of penalties.—The penalties required for a
 2123 noncriminal disposition pursuant to s. 318.14 or a criminal
 2124 offense listed in s. 318.17 are as follows:

2125 (17) In addition to any penalties imposed, a surcharge of
 2126 \$3 must be paid for all criminal offenses listed in s. 318.17
 2127 and for all noncriminal moving traffic violations under chapter
 2128 316. Revenue from the surcharge shall be remitted to the
 2129 Department of Revenue and deposited quarterly into the State
 2130 Agency Law Enforcement Radio System Trust Fund of the Department
 2131 of Management Services for the state agency law enforcement
 2132 radio system, as described in s. 282.709, and to provide
 2133 technical assistance to state agencies and local law enforcement
 2134 agencies with their statewide systems of regional law
 2135 enforcement communications, as described in s. 282.7101 ~~282.710~~.
 2136 This subsection expires July 1, 2012. The Department of
 2137 Management Services may retain funds sufficient to recover the
 2138 costs and expenses incurred for managing, administering, and

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2139 | overseeing the Statewide Law Enforcement Radio System, and
 2140 | providing technical assistance to state agencies and local law
 2141 | enforcement agencies with their statewide systems of regional
 2142 | law enforcement communications. The Department of Management
 2143 | Services working in conjunction with the Joint Task Force on
 2144 | State Agency Law Enforcement Communications shall determine and
 2145 | direct the purposes for which these funds are used to enhance
 2146 | and improve the radio system.

2147 | Reviser's note.—Amended to conform to the
 2148 | redesignation of s. 282.710 as s. 282.7101 by the
 2149 | reviser incident to compiling the 2009 Florida
 2150 | Statutes.

2151 | Section 59. Subsection (13) of section 318.21, Florida
 2152 | Statutes, is amended to read:

2153 | 318.21 Disposition of civil penalties by county courts.—
 2154 | All civil penalties received by a county court pursuant to the
 2155 | provisions of this chapter shall be distributed and paid monthly
 2156 | as follows:

2157 | (13) Of the proceeds from the fine under s. 318.18(15)
 2158 | ~~318.18(14)~~, \$65 shall be remitted to the Department of Revenue
 2159 | for deposit into the Administrative Trust Fund of the Department
 2160 | of Health and the remaining \$60 shall be distributed pursuant to
 2161 | subsections (1) and (2).

2162 | Reviser's note.—Amended to conform to the
 2163 | redesignation of s. 318.18(14) as s. 318.18(15). Two
 2164 | subsections (14) were created by different 2005 laws,
 2165 | and this reference was renumbered as subsection (15).
 2166 | Section 60. Section 321.02, Florida Statutes, is amended

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2167 | to read:

2168 | 321.02 Powers and duties of department, highway patrol.—
 2169 | The director of the Division of Highway Patrol of the Department
 2170 | of Highway Safety and Motor Vehicles shall also be the commander
 2171 | of the Florida Highway Patrol. The said department shall set up
 2172 | and promulgate rules and regulations by which the personnel of
 2173 | the Florida Highway Patrol officers shall be examined, employed,
 2174 | trained, located, suspended, reduced in rank, discharged,
 2175 | recruited, paid and pensioned, subject to civil service
 2176 | provisions hereafter set out. The department may enter into
 2177 | contracts or agreements, with or without competitive bidding or
 2178 | procurement, to make available, on a fair, reasonable,
 2179 | nonexclusive, and nondiscriminatory basis, property and other
 2180 | structures under division control for the placement of new
 2181 | facilities by any wireless provider of mobile service as defined
 2182 | in 47 U.S.C. s. 153(27) ~~153(n)~~ or s. 332(d), and any
 2183 | telecommunications company as defined in s. 364.02 when it is
 2184 | determined to be practical and feasible to make such property or
 2185 | other structures available. The department may, without adopting
 2186 | a rule, charge a just, reasonable, and nondiscriminatory fee for
 2187 | placement of the facilities, payable annually, based on the fair
 2188 | market value of space used by comparable communications
 2189 | facilities in the state. The department and a wireless provider
 2190 | or telecommunications company may negotiate the reduction or
 2191 | elimination of a fee in consideration of services provided to
 2192 | the division by the wireless provider or the telecommunications
 2193 | company. All such fees collected by the department shall be
 2194 | deposited directly into the State Agency Law Enforcement Radio

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2195 System Trust Fund, and may be used to construct, maintain, or
2196 support the system. The department is further specifically
2197 authorized to purchase, sell, trade, rent, lease and maintain
2198 all necessary equipment, uniforms, motor vehicles, communication
2199 systems, housing facilities, office space, and perform any other
2200 acts necessary for the proper administration and enforcement of
2201 this chapter. However, all supplies and equipment consisting of
2202 single items or in lots shall be purchased under the
2203 requirements of s. 287.057. Purchases shall be made by accepting
2204 the bid of the lowest responsive bidder, the right being
2205 reserved to reject all bids. The department shall prescribe a
2206 distinctive uniform and distinctive emblem to be worn by all
2207 officers of the Florida Highway Patrol. It shall be unlawful for
2208 any other person or persons to wear a similar uniform or emblem,
2209 or any part or parts thereof. The department shall also
2210 prescribe distinctive colors for use on motor vehicles and
2211 motorcycles operated by the Florida Highway Patrol. The
2212 prescribed colors shall be referred to as "Florida Highway
2213 Patrol black and tan."

2214 Reviser's note.—Amended to confirm an editorial
2215 substitution; 47 U.S.C. s. 153(27) defines the term
2216 "mobile service," and 47 U.S.C. s. 153(n) does not
2217 exist.

2218 Section 61. Section 322.181, Florida Statutes, is
2219 repealed.

2220 Reviser's note.—Repeals material requiring a study and
2221 report due February 1, 2004.

2222 Section 62. Paragraph (b) of subsection (2) of section

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2223 | 322.271, Florida Statutes, is amended to read:

2224 | 322.271 Authority to modify revocation, cancellation, or
2225 | suspension order.—

2226 | (2) At such hearing, the person whose license has been
2227 | suspended, canceled, or revoked may show that such suspension,
2228 | cancellation, or revocation causes a serious hardship and
2229 | precludes the person from carrying out his or her normal
2230 | business occupation, trade, or employment and that the use of
2231 | the person's license in the normal course of his or her business
2232 | is necessary to the proper support of the person or his or her
2233 | family.

2234 | (b) The department may waive the hearing process for
2235 | suspensions and revocations upon request by the driver if the
2236 | driver has enrolled in or completed the applicable driver
2237 | training course approved under s. 318.1451 or the DUI program
2238 | substance abuse education course and evaluation provided in s.
2239 | 316.193(5). However, the department may not waive the hearing
2240 | for suspensions or revocations that involve death or serious
2241 | bodily injury, multiple convictions for violations of s. 316.193
2242 | pursuant to s. 322.27(5), or a second or subsequent suspension
2243 | or revocation pursuant to the same provision of this chapter.
2244 | This paragraph does not preclude the department from requiring a
2245 | hearing for any suspension or revocation that it determines is
2246 | warranted based on the severity of the offense.

2247 | Reviser's note.—Amended to confirm an editorial
2248 | insertion made to facilitate correct interpretation.

2249 | Section 63. Paragraph (x) of subsection (1) of section
2250 | 327.73, Florida Statutes, is amended to read:

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2251 327.73 Noncriminal infractions.—
 2252 (1) Violations of the following provisions of the vessel
 2253 laws of this state are noncriminal infractions:
 2254 (x) Section 253.04(3)(a) ~~253.04(4)(a)~~, relating to
 2255 carelessly causing seagrass scarring, for which the civil
 2256 penalty upon conviction is:
 2257 1. For a first offense, \$50.
 2258 2. For a second offense occurring within 12 months after a
 2259 prior conviction, \$250.
 2260 3. For a third offense occurring within 36 months after a
 2261 prior conviction, \$500.
 2262 4. For a fourth or subsequent offense occurring within 72
 2263 months after a prior conviction, \$1,000.
 2264
 2265 Any person cited for a violation of any such provision shall be
 2266 deemed to be charged with a noncriminal infraction, shall be
 2267 cited for such an infraction, and shall be cited to appear
 2268 before the county court. The civil penalty for any such
 2269 infraction is \$50, except as otherwise provided in this section.
 2270 Any person who fails to appear or otherwise properly respond to
 2271 a uniform boating citation shall, in addition to the charge
 2272 relating to the violation of the boating laws of this state, be
 2273 charged with the offense of failing to respond to such citation
 2274 and, upon conviction, be guilty of a misdemeanor of the second
 2275 degree, punishable as provided in s. 775.082 or s. 775.083. A
 2276 written warning to this effect shall be provided at the time
 2277 such uniform boating citation is issued.
 2278 Reviser's note.—Amended to confirm an editorial

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2279 substitution necessitated by the repeal of former
 2280 subsection (3) by s. 59, ch. 2009-86, Laws of Florida.
 2281 Section 64. Subsection (26) of section 334.044, Florida
 2282 Statutes, is amended to read:
 2283 334.044 Department; powers and duties.—The department
 2284 shall have the following general powers and duties:
 2285 (26) To provide for the enhancement of environmental
 2286 benefits, including air and water quality; to prevent roadside
 2287 erosion; to conserve the natural roadside growth and scenery;
 2288 and to provide for the implementation and maintenance of
 2289 roadside conservation, enhancement, and stabilization
 2290 ~~stabilization,~~ and programs. No less than 1.5 percent of the
 2291 amount contracted for construction projects shall be allocated
 2292 by the department for the purchase of plant materials, with, to
 2293 the greatest extent practical, a minimum of 50 percent of these
 2294 funds for large plant materials and the remaining funds for
 2295 other plant materials. All such plant materials shall be
 2296 purchased from Florida commercial nursery stock in this state on
 2297 a uniform competitive bid basis. The department will develop
 2298 grades and standards for landscaping materials purchased through
 2299 this process. To accomplish these activities, the department may
 2300 contract with nonprofit organizations having the primary purpose
 2301 of developing youth employment opportunities.
 2302 Reviser's note.—Amended to confirm an editorial
 2303 substitution made to correct an apparent error.
 2304 Section 65. Subsection (5) of section 337.0261, Florida
 2305 Statutes, is repealed.
 2306 Reviser's note.—Repealed to delete references to the

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2307 "Strategic Aggregates Review Task Force," which was
 2308 dissolved on July 1, 2008.

2309 Section 66. Paragraph (a) of subsection (2) of section
 2310 337.16, Florida Statutes, is amended to read:

2311 337.16 Disqualification of delinquent contractors from
 2312 bidding; determination of contractor nonresponsibility; denial,
 2313 suspension, and revocation of certificates of qualification;
 2314 grounds; hearing.—

2315 (2) For reasons other than delinquency in progress, the
 2316 department, for good cause, may determine any contractor not
 2317 having a certificate of qualification nonresponsible for a
 2318 specified period of time or may deny, suspend, or revoke any
 2319 certificate of qualification. Good cause includes, but is not
 2320 limited to, circumstances in which a contractor or the
 2321 contractor's official representative:

2322 (a) Makes or submits to the department false, deceptive,
 2323 or fraudulent statements or materials in any bid proposal to the
 2324 department, any application for a certificate of qualification,
 2325 any certification of payment pursuant to s. 337.11(11)
 2326 ~~337.11(10)~~, or any administrative or judicial proceeding;

2327 Reviser's note.—Amended to conform to the
 2328 redesignation of s. 337.11(10) as s. 337.11(11) by s.
 2329 7, ch. 2009-85, Laws of Florida.

2330 Section 67. Subsection (3) of section 338.235, Florida
 2331 Statutes, is amended to read:

2332 338.235 Contracts with department for provision of
 2333 services on the turnpike system.—

2334 (3) The department may enter into contracts or agreements,

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2335 with or without competitive bidding or procurement, to make
2336 available, on a fair, reasonable, nonexclusive, and
2337 nondiscriminatory basis, turnpike property and other turnpike
2338 structures, for the placement of wireless facilities by any
2339 wireless provider of mobile services as defined in 47 U.S.C. s.
2340 153(27) ~~153(n)~~ or s. 332(d), and any telecommunications company
2341 as defined in s. 364.02 when it is determined to be practical
2342 and feasible to make such property or structures available. The
2343 department may, without adopting a rule, charge a just,
2344 reasonable, and nondiscriminatory fee for placement of the
2345 facilities, payable annually, based on the fair market value of
2346 space used by comparable communications facilities in the state.
2347 The department and a wireless provider may negotiate the
2348 reduction or elimination of a fee in consideration of goods or
2349 services provided to the department by the wireless provider.
2350 All such fees collected by the department shall be deposited
2351 directly into the State Agency Law Enforcement Radio System
2352 Trust Fund and may be used to construct, maintain, or support
2353 the system.

2354 Reviser's note.—Amended to confirm an editorial
2355 substitution; 47 U.S.C. s. 153(27) defines the term
2356 "mobile service," and 47 U.S.C. s. 153(n) does not
2357 exist.

2358 Section 68. Paragraph (a) of subsection (8) of section
2359 365.172, Florida Statutes, is amended to read:

2360 365.172 Emergency communications number "E911."—

2361 (8) E911 FEE.—

2362 (a) Each voice communications services provider shall

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2363 collect the fee described in this subsection. Each provider, as
 2364 part of its monthly billing process, shall bill the fee as
 2365 follows. The fee shall not be assessed on any pay telephone in
 2366 the state.

2367 1. Each local exchange carrier shall bill the fee to the
 2368 local exchange subscribers on a service-identifier basis, up to
 2369 a maximum of 25 access lines per account bill rendered.

2370 2. Except in the case of prepaid wireless service, each
 2371 wireless provider shall bill the fee to a subscriber on a per-
 2372 service-identifier basis for service identifiers whose primary
 2373 place of use is within this state. Before July 1, 2009, the fee
 2374 shall not be assessed on or collected from a provider with
 2375 respect to an end user's service if that end user's service is a
 2376 prepaid calling arrangement that is subject to s. 212.05(1)(e).

2377 a. The board shall conduct a study to determine whether it
 2378 is feasible to collect E911 fees from the sale of prepaid
 2379 wireless service. ~~If, based on the findings of the study, the~~
 2380 ~~board determines that a fee should not be collected from the~~
 2381 ~~sale of prepaid wireless service, it shall report its findings~~
 2382 ~~and recommendation to the Governor, the President of the Senate,~~
 2383 ~~and the Speaker of the House of Representatives by December 31,~~
 2384 ~~2008.~~ If the board determines that a fee should be collected
 2385 from the sale of prepaid wireless service, the board shall
 2386 collect the fee beginning July 1, 2009.

2387 b. For purposes of this section, the term:

2388 (I) "Prepaid wireless service" means the right to access
 2389 telecommunications services that must be paid for in advance and
 2390 is sold in predetermined units or dollars enabling the

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2391 | originator to make calls such that the number of units or
2392 | dollars declines with use in a known amount.

2393 | (II) "Prepaid wireless service providers" includes those
2394 | persons who sell prepaid wireless service regardless of its
2395 | form, either as a retailer or reseller.

2396 | c. The study must include an evaluation of methods by
2397 | which E911 fees may be collected from end users and purchasers
2398 | of prepaid wireless service on an equitable, efficient,
2399 | competitively neutral, and nondiscriminatory basis and must
2400 | consider whether the collection of fees on prepaid wireless
2401 | service would constitute an efficient use of public funds given
2402 | the technological and practical considerations of collecting the
2403 | fee based on the varying methodologies prepaid wireless service
2404 | providers and their agents use in marketing prepaid wireless
2405 | service.

2406 | d. The study must include a review and evaluation of the
2407 | collection of E911 fees on prepaid wireless service at the point
2408 | of sale within the state. This evaluation must be consistent
2409 | with the collection principles of end user charges such as those
2410 | in s. 212.05(1)(e).

2411 | e. No later than 90 days after this section becomes law,
2412 | the board shall require all prepaid wireless service providers,
2413 | including resellers, to provide the board with information that
2414 | the board determines is necessary to discharge its duties under
2415 | this section, including information necessary for its
2416 | recommendation, such as total retail and reseller prepaid
2417 | wireless service sales.

2418 | f. All subscriber information provided by a prepaid

2419 wireless service provider in response to a request from the
 2420 board while conducting this study is subject to s. 365.174.

2421 g. The study shall be conducted by an entity competent and
 2422 knowledgeable in matters of state taxation policy if the board
 2423 does not possess that expertise. The study must be paid from the
 2424 moneys distributed to the board for administrative purposes
 2425 under s. 365.173(2)(f) but may not exceed \$250,000.

2426 3. All voice communications services providers not
 2427 addressed under subparagraphs 1. and 2. shall bill the fee on a
 2428 per-service-identifier basis for service identifiers whose
 2429 primary place of use is within the state up to a maximum of 25
 2430 service identifiers for each account bill rendered.

2431
 2432 The provider may list the fee as a separate entry on each bill,
 2433 in which case the fee must be identified as a fee for E911
 2434 services. A provider shall remit the fee to the board only if
 2435 the fee is paid by the subscriber. If a provider receives a
 2436 partial payment for a monthly bill from a subscriber, the amount
 2437 received shall first be applied to the payment due the provider
 2438 for providing voice communications service.

2439 Reviser's note.—Amended to delete obsolete language.

2440 Section 69. Subsection (4) of section 373.046, Florida
 2441 Statutes, is amended to read:

2442 373.046 Interagency agreements.—

2443 (4) The Legislature recognizes and affirms the division of
 2444 responsibilities between the department and the water management
 2445 districts as set forth in ss. III. and X. of each of the
 2446 operating agreements codified as rules 17-101.040(12)(a)3., 4.,

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2447 and 5., Florida Administrative Code. Section IV.A.2.a. of each
2448 operating agreement regarding individual permit oversight is
2449 rescinded. The department shall be responsible for permitting
2450 those activities under part IV of this chapter which, because of
2451 their complexity and magnitude, need to be economically and
2452 efficiently evaluated at the state level, including, but not
2453 limited to, mining, hazardous waste management facilities and
2454 solid waste management facilities that do not qualify for a
2455 general permit under chapter 403. With regard to
2456 postcertification information submittals for activities
2457 authorized under chapters 341 and 403 siting act certifications,
2458 the department, after consultation with the appropriate water
2459 management district and other agencies having applicable
2460 regulatory jurisdiction, shall be responsible for determining
2461 the permittee's compliance with conditions of certification
2462 which were based upon the nonprocedural requirements of part IV
2463 of this chapter. The Legislature authorizes the water management
2464 districts and the department to modify the division of
2465 responsibilities referenced in this section and enter into
2466 further interagency agreements by rulemaking, including
2467 incorporation by reference, pursuant to chapter 120, to provide
2468 for greater efficiency and to avoid duplication in the
2469 administration of part IV of this chapter by designating certain
2470 activities which will be regulated by either the water
2471 management districts or the department. In developing such
2472 interagency agreements, the water management districts and the
2473 department should take into consideration the technical and
2474 fiscal ability of each water management district to implement

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2475 all or some of the provisions of part IV of this chapter.
2476 Nothing herein rescinds or restricts the authority of the
2477 districts to regulate silviculture and agriculture pursuant to
2478 part IV of this chapter or s. 403.927. ~~By December 10, 1993, the~~
2479 ~~secretary of the department shall submit a report to the~~
2480 ~~President of the Senate and the Speaker of the House of~~
2481 ~~Representatives regarding the efficiency of the procedures and~~
2482 ~~the division of responsibilities contemplated by this subsection~~
2483 ~~and regarding progress toward the execution of further~~
2484 ~~interagency agreements and the integration of permitting with~~
2485 ~~sovereignty lands approval. The report also will consider the~~
2486 ~~feasibility of improving the protection of the environment~~
2487 ~~through comprehensive criteria for protection of natural~~
2488 ~~systems.~~

2489 Reviser's note.—Amended to delete obsolete language.

2490 Section 70. Subsection (7) of section 373.236, Florida
2491 Statutes, is amended to read:

2492 373.236 Duration of permits; compliance reports.—

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

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2503 reasonable assurances are provided. Such a permit is subject to
 2504 compliance reports under subsection (4).

2505 Reviser's note.—Amended to confirm an editorial
 2506 insertion made to improve clarity and correct sentence
 2507 construction.

2508 Section 71. Subsection (5) of section 376.30713, Florida
 2509 Statutes, is repealed.

2510 Reviser's note.—Repeals material relating to a report
 2511 due by December 31, 1998, on the progress and level of
 2512 activity made regarding preapproved advanced cleanup.

2513 Section 72. Paragraph (f) of subsection (2) of section
 2514 377.709, Florida Statutes, is amended to read:

2515 377.709 Funding by electric utilities of local
 2516 governmental solid waste facilities that generate electricity.—

2517 (2) DEFINITIONS.—As used in this section, the term:

2518 (f) "Solid waste facility" means a facility owned or
 2519 operated by, or on behalf of, a local government for the purpose
 2520 of disposing of solid waste, as that term is defined in s.
 2521 403.703(32) ~~403.703(13)~~, by any process that produces heat and
 2522 incorporates, as a part of the facility, the means of converting
 2523 heat to electrical energy in amounts greater than actually
 2524 required for the operation of the facility.

2525 Reviser's note.—Amended to correct a cross-reference.

2526 The definition for "solid waste" is at s. 403.703(32)
 2527 as amended by s. 6, ch. 2007-184, Laws of Florida.

2528 Section 73. Paragraph (a) of subsection (29) of section
 2529 380.06, Florida Statutes, is amended to read:

2530 380.06 Developments of regional impact.—

2531 (29) EXEMPTIONS FOR DENSE URBAN LAND AREAS.—
 2532 (a) The following are exempt from this section:
 2533 1. Any proposed development in a municipality that
 2534 qualifies as a dense urban land area as defined in s. 163.3164;
 2535 2. Any proposed development within a county that qualifies
 2536 as a dense urban land area as defined in s. 163.3164 and that is
 2537 located within an urban service area as defined in s. 163.3164
 2538 which has been adopted into the comprehensive plan; or
 2539 3. Any proposed development within a county, including the
 2540 municipalities located therein, which has a population of at
 2541 least 900,000, which qualifies as a dense urban land area under
 2542 s. 163.3164, but which does not have an urban service area
 2543 designated in the comprehensive plan.
 2544 Reviser's note.—Amended to improve clarity.
 2545 Section 74. Subsection (6) of section 381.84, Florida
 2546 Statutes, is reenacted to read:
 2547 381.84 Comprehensive Statewide Tobacco Education and Use
 2548 Prevention Program.—
 2549 (6) CONTRACT REQUIREMENTS.—Contracts or grants for the
 2550 program components or subcomponents described in paragraphs
 2551 (3) (a)-(f) shall be awarded by the State Surgeon General, after
 2552 consultation with the council, on the basis of merit, as
 2553 determined by an open, competitive, peer-reviewed process that
 2554 ensures objectivity, consistency, and high quality. The
 2555 department shall award such grants or contracts no later than
 2556 October 1 for each fiscal year. A recipient of a contract or
 2557 grant for the program component described in paragraph (3) (c) is
 2558 not eligible for a contract or grant award for any other program

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2559 component described in subsection (3) in the same state fiscal
2560 year. A school or college of medicine that is represented on the
2561 council is not eligible to receive a contract or grant under
2562 this section. For the 2009-2010 fiscal year only, the department
2563 shall award a contract or grant in the amount of \$10 million to
2564 the AHEC network for the purpose of developing the components
2565 described in paragraph (3)(i). The AHEC network may apply for a
2566 competitive contract or grant after the 2009-2010 fiscal year.

2567 (a) In order to ensure that all proposals for funding are
2568 appropriate and are evaluated fairly on the basis of merit, the
2569 State Surgeon General, in consultation with the council, shall
2570 appoint a peer review panel of independent, qualified experts in
2571 the field of tobacco control to review the content of each
2572 proposal and establish its priority score. The priority scores
2573 shall be forwarded to the council and must be considered in
2574 determining which proposals will be recommended for funding.

2575 (b) The council and the peer review panel shall establish
2576 and follow rigorous guidelines for ethical conduct and adhere to
2577 a strict policy with regard to conflicts of interest. A member
2578 of the council or panel may not participate in any discussion or
2579 decision with respect to a research proposal by any firm,
2580 entity, or agency with which the member is associated as a
2581 member of the governing body or as an employee or with which the
2582 member has entered into a contractual arrangement. Meetings of
2583 the council and the peer review panels are subject to chapter
2584 119, s. 286.011, and s. 24, Art. I of the State Constitution.

2585 (c) In each contract or grant agreement, the department
2586 shall limit the use of food and promotional items to no more

2587 | than 2.5 percent of the total amount of the contract or grant
 2588 | and limit overhead or indirect costs to no more than 7.5 percent
 2589 | of the total amount of the contract or grant. The department, in
 2590 | consultation with the Department of Financial Services, shall
 2591 | publish guidelines for appropriate food and promotional items.

2592 | (d) In each advertising contract, the department shall
 2593 | limit the total of production fees, buyer commissions, and
 2594 | related costs to no more than 10 percent of the total contract
 2595 | amount.

2596 | (e) Notwithstanding the competitive process for contracts
 2597 | prescribed in this subsection, each county health department is
 2598 | eligible for core funding, on a per capita basis, to implement
 2599 | tobacco education and use prevention activities within that
 2600 | county.

2601 | Reviser's note.—Section 3, ch. 2009-58, Laws of
 2602 | Florida, amended subsection (6) without publishing
 2603 | paragraphs (a)-(e). Absent affirmative evidence of
 2604 | legislative intent to repeal the omitted paragraphs,
 2605 | subsection (6) is reenacted to confirm the omission
 2606 | was not intended.

2607 | Section 75. Section 381.912, Florida Statutes, is
 2608 | repealed.

2609 | Reviser's note.—Repealed to delete a section relating
 2610 | to the Cervical Cancer Elimination Task Force, which
 2611 | was dissolved after submitting its final report due on
 2612 | or before June 30, 2008.

2613 | Section 76. Section 382.357, Florida Statutes, is
 2614 | repealed.

2615 Reviser's note.—Repealed to delete a section
 2616 applicable to a study to determine the feasibility of
 2617 electronically filing original and new or amended
 2618 birth certificates, documentation of paternity
 2619 determinations, and adoptions with the Department of
 2620 Health and a report of the findings to be made by July
 2621 1, 2006.

2622 Section 77. Subsections (2) and (3) of section 394.875,
 2623 Florida Statutes, are amended to read:

2624 394.875 Crisis stabilization units, residential treatment
 2625 facilities, and residential treatment centers for children and
 2626 adolescents; authorized services; license required.—

2627 (2) The requirements of part II of chapter 408 apply to
 2628 the provision of services that require licensure under ss.
 2629 394.455-394.903 ~~394.455-394.904~~ and part II of chapter 408 and
 2630 to entities licensed by or applying for such licensure from the
 2631 Agency for Health Care Administration pursuant to ss. 394.455-
 2632 394.903 ~~394.455-394.904~~. A license issued by the agency is
 2633 required in order to operate a crisis stabilization unit, a
 2634 residential treatment facility, or a residential treatment
 2635 center for children and adolescents, or to act as a crisis
 2636 stabilization unit, a residential treatment facility, or a
 2637 residential treatment center for children and adolescents in
 2638 this state.

2639 (3) The following are exempt from licensure as required in
 2640 ss. 394.455-394.903 ~~394.455-394.904~~:

- 2641 (a) Homes for special services licensed under chapter 400.
- 2642 (b) Nursing homes licensed under chapter 400.

2643 (c) Comprehensive transitional education programs licensed
 2644 under s. 393.067.

2645 Reviser's note.—Amended to conform to the repeal of s.
 2646 394.904 by s. 10, ch. 2008-9, Laws of Florida.

2647 Section 78. Paragraph (d) of subsection (2) of section
 2648 394.9082, Florida Statutes, is amended to read:

2649 394.9082 Behavioral health managing entities.—

2650 (2) DEFINITIONS.—As used in this section, the term:

2651 (d) "Managing entity" means a corporation that is
 2652 organized in this state, is designated or filed as a nonprofit
 2653 organization under s. 501(c)(3) of the Internal Revenue Code
 2654 ~~Service~~, and is under contract to the department to manage the
 2655 day-to-day operational delivery of behavioral health services
 2656 through an organized system of care.

2657 Reviser's note.—Amended to confirm an editorial
 2658 substitution made to correct an apparent error and
 2659 facilitate correct interpretation.

2660 Section 79. Paragraph (b) of subsection (1) of section
 2661 395.4036, Florida Statutes, is amended to read:

2662 395.4036 Trauma payments.—

2663 (1) Recognizing the Legislature's stated intent to provide
 2664 financial support to the current verified trauma centers and to
 2665 provide incentives for the establishment of additional trauma
 2666 centers as part of a system of state-sponsored trauma centers,
 2667 the department shall utilize funds collected under s. 318.18 and
 2668 deposited into the Administrative Trust Fund of the department
 2669 to ensure the availability and accessibility of trauma services
 2670 throughout the state as provided in this subsection.

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2671 (b) Funds collected under s. 318.18(5)(c) and (20) ~~(19)~~
2672 shall be distributed as follows:

2673 1. Thirty percent of the total funds collected shall be
2674 distributed to Level II trauma centers operated by a public
2675 hospital governed by an elected board of directors as of
2676 December 31, 2008.

2677 2. Thirty-five percent of the total funds collected shall
2678 be distributed to verified trauma centers based on trauma
2679 caseload volume for the most recent calendar year available. The
2680 determination of caseload volume for distribution of funds under
2681 this subparagraph shall be based on the department's Trauma
2682 Registry data.

2683 3. Thirty-five percent of the total funds collected shall
2684 be distributed to verified trauma centers based on severity of
2685 trauma patients for the most recent calendar year available. The
2686 determination of severity for distribution of funds under this
2687 subparagraph shall be based on the department's International
2688 Classification Injury Severity Scores or another statistically
2689 valid and scientifically accepted method of stratifying a trauma
2690 patient's severity of injury, risk of mortality, and resource
2691 consumption as adopted by the department by rule, weighted based
2692 on the costs associated with and incurred by the trauma center
2693 in treating trauma patients. The weighting of scores shall be
2694 established by the department by rule.

2695 Reviser's note.—Amended to conform to the
2696 redesignation of s. 318.18(19), as created by s. 1,
2697 ch. 2009-138, Laws of Florida, as s. 318.18(20) to
2698 conform to the creation of a different subsection (19)

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2699 | by s. 3, ch. 2009-6, Laws of Florida.

2700 | Section 80. Subsection (32) of section 397.311, Florida
 2701 | Statutes, is amended to read:

2702 | 397.311 Definitions.—As used in this chapter, except part
 2703 | VIII, the term:

2704 | (32) "Service component" or "component" means a discrete
 2705 | operational entity within a service provider which is subject to
 2706 | licensing as defined by rule. Service components include
 2707 | prevention, intervention, and clinical treatment described in
 2708 | subsection (18) ~~(17)~~.

2709 | Reviser's note.—Amended to correct a cross-reference.

2710 | The referenced service components are set out in
 2711 | detail in subsection (18).

2712 | Section 81. Subsection (5) of section 397.334, Florida
 2713 | Statutes, is amended to read:

2714 | 397.334 Treatment-based drug court programs.—

2715 | (5) Treatment-based drug court programs may include
 2716 | pretrial intervention programs as provided in ss. 948.08,
 2717 | 948.16, and 985.345, treatment-based drug court programs
 2718 | authorized in chapter 39, postadjudicatory programs, and review
 2719 | of the status of compliance or noncompliance of sentenced
 2720 | offenders through a treatment-based drug court program. While
 2721 | enrolled in a treatment-based drug court program, the
 2722 | participant is subject to a coordinated strategy developed by a
 2723 | drug court team under subsection (4) ~~(3)~~. The coordinated
 2724 | strategy may include a protocol of sanctions that may be imposed
 2725 | upon the participant for noncompliance with program rules. The
 2726 | protocol of sanctions may include, but is not limited to,

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2727 placement in a substance abuse treatment program offered by a
 2728 licensed service provider as defined in s. 397.311 or in a jail-
 2729 based treatment program or serving a period of secure detention
 2730 under chapter 985 if a child or a period of incarceration within
 2731 the time limits established for contempt of court if an adult.
 2732 The coordinated strategy must be provided in writing to the
 2733 participant before the participant agrees to enter into a
 2734 treatment-based drug court program.

2735 Reviser's note.—Amended to conform to the
 2736 redesignation of subsection (3) as subsection (4) by
 2737 s. 1, ch. 2009-64, Laws of Florida.

2738 Section 82. Paragraph (u) of subsection (1) of section
 2739 400.141, Florida Statutes, is amended to read:

2740 400.141 Administration and management of nursing home
 2741 facilities.—

2742 (1) Every licensed facility shall comply with all
 2743 applicable standards and rules of the agency and shall:

2744 (u) Before November 30 of each year, subject to the
 2745 availability of an adequate supply of the necessary vaccine,
 2746 provide for immunizations against influenza viruses to all its
 2747 consenting residents in accordance with the recommendations of
 2748 the United States Centers for Disease Control and Prevention,
 2749 subject to exemptions for medical contraindications and
 2750 religious or personal beliefs. Subject to these exemptions, any
 2751 consenting person who becomes a resident of the facility after
 2752 November 30 but before March 31 of the following year must be
 2753 immunized within 5 working days after becoming a resident.
 2754 Immunization shall not be provided to any resident who provides

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2755 | documentation that he or she has been immunized as required by
 2756 | this paragraph. This paragraph does not prohibit a resident from
 2757 | receiving the immunization from his or her personal physician if
 2758 | he or she so chooses. A resident who chooses to receive the
 2759 | immunization from his or her personal physician shall provide
 2760 | proof of immunization to the facility. The agency may adopt and
 2761 | enforce any rules necessary to comply with or implement this
 2762 | paragraph subsection.

2763 | Reviser's note.—Amended to conform to the
 2764 | redesignation of subunits by s. 39, ch. 2009-223, Laws
 2765 | of Florida.

2766 | Section 83. Section 400.195, Florida Statutes, is
 2767 | repealed.

2768 | Reviser's note.—Repealed to delete language applicable
 2769 | to reports by the Agency for Health Care
 2770 | Administration with respect to nursing homes for a
 2771 | period ending June 30, 2005.

2772 | Section 84. Subsection (6) of section 400.474, Florida
 2773 | Statutes, is amended to read:

2774 | 400.474 Administrative penalties.—

2775 | (6) The agency may deny, revoke, or suspend the license of
 2776 | a home health agency and shall impose a fine of \$5,000 against a
 2777 | home health agency that:

2778 | (a) Gives remuneration for staffing services to:

2779 | 1. Another home health agency with which it has formal or
 2780 | informal patient-referral transactions or arrangements; or

2781 | 2. A health services pool with which it has formal or
 2782 | informal patient-referral transactions or arrangements,

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2783
2784 unless the home health agency has activated its comprehensive
2785 emergency management plan in accordance with s. 400.492. This
2786 paragraph does not apply to a Medicare-certified home health
2787 agency that provides fair market value remuneration for staffing
2788 services to a non-Medicare-certified home health agency that is
2789 part of a continuing care facility licensed under chapter 651
2790 for providing services to its own residents if each resident
2791 receiving home health services pursuant to this arrangement
2792 attests in writing that he or she made a decision without
2793 influence from staff of the facility to select, from a list of
2794 Medicare-certified home health agencies provided by the
2795 facility, that Medicare-certified home health agency to provide
2796 the services.

2797 (b) Provides services to residents in an assisted living
2798 facility for which the home health agency does not receive fair
2799 market value remuneration.

2800 (c) Provides staffing to an assisted living facility for
2801 which the home health agency does not receive fair market value
2802 remuneration.

2803 (d) Fails to provide the agency, upon request, with copies
2804 of all contracts with assisted living facilities which were
2805 executed within 5 years before the request.

2806 (e) Gives remuneration to a case manager, discharge
2807 planner, facility-based staff member, or third-party vendor who
2808 is involved in the discharge planning process of a facility
2809 licensed under chapter 395, chapter 429, or this chapter from
2810 whom the home health agency receives referrals.

2811 (f) Fails to submit to the agency, within 15 days after
 2812 the end of each calendar quarter, a written report that includes
 2813 the following data based on data as it existed on the last day
 2814 of the quarter:

2815 1. The number of insulin-dependent diabetic patients
 2816 receiving insulin-injection services from the home health
 2817 agency;

2818 2. The number of patients receiving both home health
 2819 services from the home health agency and hospice services;

2820 3. The number of patients receiving home health services
 2821 from that home health agency; and

2822 4. The names and license numbers of nurses whose primary
 2823 job responsibility is to provide home health services to
 2824 patients and who received remuneration from the home health
 2825 agency in excess of \$25,000 during the calendar quarter.

2826 (g) Gives cash, or its equivalent, to a Medicare or
 2827 Medicaid beneficiary.

2828 (h) Has more than one medical director contract in effect
 2829 at one time or more than one medical director contract and one
 2830 contract with a physician-specialist whose services are mandated
 2831 for the home health agency in order to qualify to participate in
 2832 a federal or state health care program at one time.

2833 (i) Gives remuneration to a physician without a medical
 2834 director contract being in effect. The contract must:

2835 1. Be in writing and signed by both parties;

2836 2. Provide for remuneration that is at fair market value
 2837 for an hourly rate, which must be supported by invoices
 2838 submitted by the medical director describing the work performed,

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2839 | the dates on which that work was performed, and the duration of
 2840 | that work; and

2841 | 3. Be for a term of at least 1 year.

2842 |
 2843 | The hourly rate specified in the contract may not be increased
 2844 | during the term of the contract. The home health agency may not
 2845 | execute a subsequent contract with that physician which has an
 2846 | increased hourly rate and covers any portion of the term that
 2847 | was in the original contract.

2848 | (j) Gives remuneration to:

2849 | 1. A physician, and the home health agency is in violation
 2850 | of paragraph (h) or paragraph (i);

2851 | 2. A member of the physician's office staff; or

2852 | 3. An immediate family member of the physician,

2853 |
 2854 | if the home health agency has received a patient referral in the
 2855 | preceding 12 months from that physician or physician's office
 2856 | staff.

2857 | (k) Fails to provide to the agency, upon request, copies
 2858 | of all contracts with a medical director which were executed
 2859 | within 5 years before the request.

2860 | (l) Demonstrates a pattern of billing the Medicaid program
 2861 | for services to Medicaid recipients which are medically
 2862 | unnecessary as determined by a final order. A pattern may be
 2863 | demonstrated by a showing of at least two such medically
 2864 | unnecessary services within one Medicaid program integrity audit
 2865 | period.

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2867 Nothing in paragraph (e) or paragraph (j) shall be interpreted
 2868 as applying to or precluding any discount, compensation, waiver
 2869 of payment, or payment practice permitted by 42 U.S.C. s. 1320a-
 2870 7(b) ~~52 U.S.C. s. 1320a-7(b)~~ or regulations adopted thereunder,
 2871 including 42 C.F.R. s. 1001.952 or s. 1395nn or regulations
 2872 adopted thereunder.

2873 Reviser's note.—Amended to confirm an editorial
 2874 substitution; 42 U.S.C. s. 1320a-7(b) includes
 2875 exemptions from application of criminal penalties
 2876 relating to federal health care programs, and 52
 2877 U.S.C. s. 1320a-7(b) does not exist.

2878 Section 85. Paragraph (a) of subsection (11) of section
 2879 403.0872, Florida Statutes, is amended to read:

2880 403.0872 Operation permits for major sources of air
 2881 pollution; annual operation license fee.—Provided that program
 2882 approval pursuant to 42 U.S.C. s. 7661a has been received from
 2883 the United States Environmental Protection Agency, beginning
 2884 January 2, 1995, each major source of air pollution, including
 2885 electrical power plants certified under s. 403.511, must obtain
 2886 from the department an operation permit for a major source of
 2887 air pollution under this section. This operation permit is the
 2888 only department operation permit for a major source of air
 2889 pollution required for such source; provided, at the applicant's
 2890 request, the department shall issue a separate acid rain permit
 2891 for a major source of air pollution that is an affected source
 2892 within the meaning of 42 U.S.C. s. 7651a(1). Operation permits
 2893 for major sources of air pollution, except general permits
 2894 issued pursuant to s. 403.814, must be issued in accordance with

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2895 | the procedures contained in this section and in accordance with
2896 | chapter 120; however, to the extent that chapter 120 is
2897 | inconsistent with the provisions of this section, the procedures
2898 | contained in this section prevail.

2899 | (11) Each major source of air pollution permitted to
2900 | operate in this state must pay between January 15 and March 1 of
2901 | each year, upon written notice from the department, an annual
2902 | operation license fee in an amount determined by department
2903 | rule. The annual operation license fee shall be terminated
2904 | immediately in the event the United States Environmental
2905 | Protection Agency imposes annual fees solely to implement and
2906 | administer the major source air-operation permit program in
2907 | Florida under 40 C.F.R. s. 70.10(d).

2908 | (a) The annual fee must be assessed based upon the
2909 | source's previous year's emissions and must be calculated by
2910 | multiplying the applicable annual operation license fee factor
2911 | times the tons of each regulated air pollutant (except carbon
2912 | monoxide) allowed to be emitted per hour by specific condition
2913 | of the source's most recent construction or operation permit,
2914 | times the annual hours of operation allowed by permit condition;
2915 | provided, however, that:

2916 | 1. The license fee factor is \$25 or another amount
2917 | determined by department rule which ensures that the revenue
2918 | provided by each year's operation license fees is sufficient to
2919 | cover all reasonable direct and indirect costs of the major
2920 | stationary source air-operation permit program established by
2921 | this section. The license fee factor may be increased beyond \$25
2922 | only if the secretary of the department affirmatively finds that

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2923 a shortage of revenue for support of the major stationary source
 2924 air-operation permit program will occur in the absence of a fee
 2925 factor adjustment. The annual license fee factor may never
 2926 exceed \$35.

2927 2. For any source that operates for fewer hours during the
 2928 calendar year than allowed under its permit, the annual fee
 2929 calculation must be based upon actual hours of operation rather
 2930 than allowable hours if the owner or operator of the source
 2931 documents the source's actual hours of operation for the
 2932 calendar year. For any source that has an emissions limit that
 2933 is dependent upon the type of fuel burned, the annual fee
 2934 calculation must be based on the emissions limit applicable
 2935 during actual hours of operation.

2936 3. For any source whose allowable emission limitation is
 2937 specified by permit per units of material input or heat input or
 2938 product output, the applicable input or production amount may be
 2939 used to calculate the allowable emissions if the owner or
 2940 operator of the source documents the actual input or production
 2941 amount. If the input or production amount is not documented, the
 2942 maximum allowable input or production amount specified in the
 2943 permit must be used to calculate the allowable emissions.

2944 4. For any new source that does not receive its first
 2945 operation permit until after the beginning of a calendar year,
 2946 the annual fee for the year must be reduced pro rata to reflect
 2947 the period during which the source was not allowed to operate.

2948 5. For any source that emits less of any regulated air
 2949 pollutant than allowed by permit condition, the annual fee
 2950 calculation for such pollutant must be based upon actual

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2951 emissions rather than allowable emissions if the owner or
2952 operator documents the source's actual emissions by means of
2953 data from a department-approved certified continuous emissions
2954 monitor or from an emissions monitoring method which has been
2955 approved by the United States Environmental Protection Agency
2956 under the regulations implementing 42 U.S.C. ss. 7651 et seq.,
2957 or from a method approved by the department for purposes of this
2958 section.

2959 6. The amount of each regulated air pollutant in excess of
2960 4,000 tons per year allowed to be emitted by any source, or
2961 group of sources belonging to the same Major Group as described
2962 in the Standard Industrial Classification Manual, 1987, may not
2963 be included in the calculation of the fee. Any source, or group
2964 of sources, which does not emit any regulated air pollutant in
2965 excess of 4,000 tons per year, is allowed a one-time credit not
2966 to exceed 25 percent of the first annual licensing fee for the
2967 prorated portion of existing air-operation permit application
2968 fees remaining upon commencement of the annual licensing fees.

2969 7. If the department has not received the fee by February
2970 15 of the calendar year, the permittee must be sent a written
2971 warning of the consequences for failing to pay the fee by March
2972 1. If the fee is not postmarked by March 1 of the calendar year,
2973 the department shall impose, in addition to the fee, a penalty
2974 of 50 percent of the amount of the fee, plus interest on such
2975 amount computed in accordance with s. 220.807. The department
2976 may not impose such penalty or interest on any amount underpaid,
2977 provided that the permittee has timely remitted payment of at
2978 least 90 percent of the amount determined to be due and remits

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2979 full payment within 60 days after receipt of notice of the
 2980 amount underpaid. The department may waive the collection of
 2981 underpayment and shall not be required to refund overpayment of
 2982 the fee, if the amount due is less than 1 percent of the fee, up
 2983 to \$50. The department may revoke any major air pollution source
 2984 operation permit if it finds that the permit holder has failed to
 2985 timely pay any required annual operation license fee, penalty,
 2986 or interest.

2987 8. Notwithstanding the computational provisions of this
 2988 subsection, the annual operation license fee for any source
 2989 subject to this section shall not be less than \$250, except that
 2990 the annual operation license fee for sources permitted solely
 2991 through general permits issued under s. 403.814 shall not exceed
 2992 \$50 per year.

2993 9. Notwithstanding the provisions of s. 403.087(6)(a)5.a.
 2994 ~~403.087(6)(a)4.a.~~, authorizing air pollution construction permit
 2995 fees, the department may not require such fees for changes or
 2996 additions to a major source of air pollution permitted pursuant
 2997 to this section, unless the activity triggers permitting
 2998 requirements under Title I, Part C or Part D, of the federal
 2999 Clean Air Act, 42 U.S.C. ss. 7470-7514a. Costs to issue and
 3000 administer such permits shall be considered direct and indirect
 3001 costs of the major stationary source air-operation permit
 3002 program under s. 403.0873. The department shall, however,
 3003 require fees pursuant to the provisions of s. 403.087(6)(a)5.a.
 3004 ~~403.087(6)(a)4.a.~~ for the construction of a new major source of
 3005 air pollution that will be subject to the permitting
 3006 requirements of this section once constructed and for activities

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3007 triggering permitting requirements under Title I, Part C or Part
 3008 D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a.

3009 Reviser's note.—Amended to conform to the
 3010 redesignation of s. 403.087(6)(a)4.a. as s.
 3011 403.087(6)(a)5.a. by s. 19, ch. 2008-150, Laws of
 3012 Florida.

3013 Section 86. Subsection (8) of section 403.93345, Florida
 3014 Statutes, is amended to read:

3015 403.93345 Coral reef protection.—

3016 (8) In addition to the compensation described in
 3017 subsection (5), the department may assess, per occurrence, civil
 3018 penalties according to the following schedule:

3019 (a) For any anchoring of a vessel on a coral reef or for
 3020 any other damage to a coral reef totaling less than or equal to
 3021 an area of 1 square meter, \$150, provided that a responsible
 3022 party who has anchored a recreational vessel as defined in s.
 3023 327.02 which is lawfully registered or exempt from registration
 3024 pursuant to chapter 328 is issued, at least once, a warning
 3025 letter in lieu of penalty; with aggravating circumstances, an
 3026 additional \$150; occurring within a state park or aquatic
 3027 preserve, an additional \$150.

3028 (b) For damage totaling more than an area of 1 square
 3029 meter but less than or equal to an area of 10 square meters,
 3030 \$300 per square meter; with aggravating circumstances, an
 3031 additional \$300 per square meter; occurring within a state park
 3032 or aquatic preserve, an additional \$300 per square meter.

3033 (c) For damage exceeding an area of 10 square meters,
 3034 \$1,000 per square meter; with aggravating circumstances, an

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3035 additional \$1,000 per square meter; occurring within a state
 3036 park or aquatic preserve, an additional \$1,000 per square meter.

3037 (d) For a second violation, the total penalty may be
 3038 doubled.

3039 (e) For a third violation, the total penalty may be
 3040 tripled.

3041 (f) For any violation after a third violation, the total
 3042 penalty may be quadrupled.

3043 (g) The total of penalties levied may not exceed \$250,000
 3044 per occurrence.

3045 Reviser's note.—Amended to confirm an editorial
 3046 insertion made to improve clarity.

3047 Section 87. Section 403.9336, Florida Statutes, is amended
 3048 to read:

3049 403.9336 Legislative findings.—The Legislature finds that
 3050 the implementation of the Model Ordinance for Florida-Friendly
 3051 Fertilizer Use on Urban Landscapes (2008), which was developed
 3052 by the department in conjunction with the ~~Florida~~ Consumer
 3053 Fertilizer Task Force, the Department of Agriculture and
 3054 Consumer Services, and the University of Florida Institute of
 3055 Food and Agricultural Sciences, will assist in protecting the
 3056 quality of Florida's surface water and groundwater resources.
 3057 The Legislature further finds that local conditions, including
 3058 variations in the types and quality of water bodies, site-
 3059 specific soils and geology, and urban or rural densities and
 3060 characteristics, may necessitate the implementation of
 3061 additional or more stringent fertilizer management practices at
 3062 the local government level.

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3063 Reviser's note.—Amended to conform to the name of the
3064 task force as created in s. 576.092; the task force
3065 has been abolished, and s. 576.092 is repealed by this
3066 act.

3067 Section 88. Subsections (6) and (7) of section 408.0361,
3068 Florida Statutes, are repealed.

3069 Reviser's note.—Subsection (6) is repealed to delete
3070 language establishing an advisory group to study the
3071 issue of replacing certificate-of-need review of organ
3072 transplant programs with licensure regulation of organ
3073 transplant programs and to submit a report by July 1,
3074 2005. Subsection (7) is repealed to delete language
3075 establishing a workgroup to study certificate-of-need
3076 regulations and changing market conditions related to
3077 the supply and distribution of hospital beds and to
3078 submit a report by July 1, 2005.

3079 Section 89. Paragraph (k) of subsection (3) of section
3080 408.05, Florida Statutes, is amended to read:

3081 408.05 Florida Center for Health Information and Policy
3082 Analysis.—

3083 (3) COMPREHENSIVE HEALTH INFORMATION SYSTEM.—In order to
3084 produce comparable and uniform health information and statistics
3085 for the development of policy recommendations, the agency shall
3086 perform the following functions:

3087 (k) Develop, in conjunction with the State Consumer Health
3088 Information and Policy Advisory Council, and implement a long-
3089 range plan for making available health care quality measures and
3090 financial data that will allow consumers to compare health care

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3091 services. The health care quality measures and financial data
3092 the agency must make available shall include, but is not limited
3093 to, pharmaceuticals, physicians, health care facilities, and
3094 health plans and managed care entities. The agency shall ~~submit~~
3095 ~~the initial plan to the Governor, the President of the Senate,~~
3096 ~~and the Speaker of the House of Representatives by January 1,~~
3097 ~~2006, and shall~~ update the plan and report on the status of its
3098 implementation annually ~~thereafter~~. The agency shall also make
3099 the plan and status report available to the public on its
3100 Internet website. As part of the plan, the agency shall identify
3101 the process and timeframes for implementation, any barriers to
3102 implementation, and recommendations of changes in the law that
3103 may be enacted by the Legislature to eliminate the barriers. As
3104 preliminary elements of the plan, the agency shall:

3105 1. Make available patient-safety indicators, inpatient
3106 quality indicators, and performance outcome and patient charge
3107 data collected from health care facilities pursuant to s.
3108 408.061(1)(a) and (2). The terms "patient-safety indicators" and
3109 "inpatient quality indicators" shall be as defined by the
3110 Centers for Medicare and Medicaid Services, the National Quality
3111 Forum, the Joint Commission on Accreditation of Healthcare
3112 Organizations, the Agency for Healthcare Research and Quality,
3113 the Centers for Disease Control and Prevention, or a similar
3114 national entity that establishes standards to measure the
3115 performance of health care providers, or by other states. The
3116 agency shall determine which conditions, procedures, health care
3117 quality measures, and patient charge data to disclose based upon
3118 input from the council. When determining which conditions and

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3119 | procedures are to be disclosed, the council and the agency shall
 3120 | consider variation in costs, variation in outcomes, and
 3121 | magnitude of variations and other relevant information. When
 3122 | determining which health care quality measures to disclose, the
 3123 | agency:

3124 | a. Shall consider such factors as volume of cases; average
 3125 | patient charges; average length of stay; complication rates;
 3126 | mortality rates; and infection rates, among others, which shall
 3127 | be adjusted for case mix and severity, if applicable.

3128 | b. May consider such additional measures that are adopted
 3129 | by the Centers for Medicare and Medicaid Studies, National
 3130 | Quality Forum, the Joint Commission on Accreditation of
 3131 | Healthcare Organizations, the Agency for Healthcare Research and
 3132 | Quality, Centers for Disease Control and Prevention, or a
 3133 | similar national entity that establishes standards to measure
 3134 | the performance of health care providers, or by other states.

3135 |
 3136 | When determining which patient charge data to disclose, the
 3137 | agency shall include such measures as the average of
 3138 | undiscounted charges on frequently performed procedures and
 3139 | preventive diagnostic procedures, the range of procedure charges
 3140 | from highest to lowest, average net revenue per adjusted patient
 3141 | day, average cost per adjusted patient day, and average cost per
 3142 | admission, among others.

3143 | 2. Make available performance measures, benefit design,
 3144 | and premium cost data from health plans licensed pursuant to
 3145 | chapter 627 or chapter 641. The agency shall determine which
 3146 | health care quality measures and member and subscriber cost data

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3147 to disclose, based upon input from the council. When determining
3148 which data to disclose, the agency shall consider information
3149 that may be required by either individual or group purchasers to
3150 assess the value of the product, which may include membership
3151 satisfaction, quality of care, current enrollment or membership,
3152 coverage areas, accreditation status, premium costs, plan costs,
3153 premium increases, range of benefits, copayments and
3154 deductibles, accuracy and speed of claims payment, credentials
3155 of physicians, number of providers, names of network providers,
3156 and hospitals in the network. Health plans shall make available
3157 to the agency any such data or information that is not currently
3158 reported to the agency or the office.

3159 3. Determine the method and format for public disclosure
3160 of data reported pursuant to this paragraph. The agency shall
3161 make its determination based upon input from the State Consumer
3162 Health Information and Policy Advisory Council. At a minimum,
3163 the data shall be made available on the agency's Internet
3164 website in a manner that allows consumers to conduct an
3165 interactive search that allows them to view and compare the
3166 information for specific providers. The website must include
3167 such additional information as is determined necessary to ensure
3168 that the website enhances informed decisionmaking among
3169 consumers and health care purchasers, which shall include, at a
3170 minimum, appropriate guidance on how to use the data and an
3171 explanation of why the data may vary from provider to provider.
3172 ~~The data specified in subparagraph 1. shall be released no later~~
3173 ~~than January 1, 2006, for the reporting of infection rates, and~~
3174 ~~no later than October 1, 2005, for mortality rates and~~

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3175 ~~complication rates. The data specified in subparagraph 2. shall~~
 3176 ~~be released no later than October 1, 2006.~~

3177 4. Publish on its website undiscounted charges for no
 3178 fewer than 150 of the most commonly performed adult and
 3179 pediatric procedures, including outpatient, inpatient,
 3180 diagnostic, and preventative procedures.

3181 Reviser's note.—Amended to delete provisions that have
 3182 served their purpose.

3183 Section 90. Subsection (25) of section 408.820, Florida
 3184 Statutes, is amended to read:

3185 408.820 Exemptions.—Except as prescribed in authorizing
 3186 statutes, the following exemptions shall apply to specified
 3187 requirements of this part:

3188 (25) Health care clinics, as provided under part X of
 3189 chapter 400, are exempt from s. 408.810(6), (7), and (10).

3190 Reviser's note.—Amended to confirm an editorial
 3191 insertion made to improve clarity.

3192 Section 91. Subsection (3) of section 409.816, Florida
 3193 Statutes, is amended to read:

3194 409.816 Limitations on premiums and cost-sharing.—The
 3195 following limitations on premiums and cost-sharing are
 3196 established for the program.

3197 (3) Enrollees in families with a family income above 150
 3198 percent of the federal poverty level who are not receiving
 3199 coverage under the Medicaid program or who are not eligible
 3200 under s. 409.814(6) ~~409.814(7)~~ may be required to pay enrollment
 3201 fees, premiums, copayments, deductibles, coinsurance, or similar
 3202 charges on a sliding scale related to income, except that the

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3203 total annual aggregate cost-sharing with respect to all children
3204 in a family may not exceed 5 percent of the family's income.
3205 However, copayments, deductibles, coinsurance, or similar
3206 charges may not be imposed for preventive services, including
3207 well-baby and well-child care, age-appropriate immunizations,
3208 and routine hearing and vision screenings.

3209 Reviser's note.—Amended to correct an apparent error
3210 and conform to context. The reference was to s.

3211 409.814(5) prior to amendment of s. 409.816(3) by s.
3212 9, ch. 2009-113, Laws of Florida; s. 7, ch. 2009-113,
3213 redesignated s. 409.814(5) as s. 409.814(6).

3214 Section 92. Subsection (5) of section 409.905, Florida
3215 Statutes, is reenacted to read:

3216 409.905 Mandatory Medicaid services.—The agency may make
3217 payments for the following services, which are required of the
3218 state by Title XIX of the Social Security Act, furnished by
3219 Medicaid providers to recipients who are determined to be
3220 eligible on the dates on which the services were provided. Any
3221 service under this section shall be provided only when medically
3222 necessary and in accordance with state and federal law.

3223 Mandatory services rendered by providers in mobile units to
3224 Medicaid recipients may be restricted by the agency. Nothing in
3225 this section shall be construed to prevent or limit the agency
3226 from adjusting fees, reimbursement rates, lengths of stay,
3227 number of visits, number of services, or any other adjustments
3228 necessary to comply with the availability of moneys and any
3229 limitations or directions provided for in the General
3230 Appropriations Act or chapter 216.

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3231 (5) HOSPITAL INPATIENT SERVICES.—The agency shall pay for
3232 all covered services provided for the medical care and treatment
3233 of a recipient who is admitted as an inpatient by a licensed
3234 physician or dentist to a hospital licensed under part I of
3235 chapter 395. However, the agency shall limit the payment for
3236 inpatient hospital services for a Medicaid recipient 21 years of
3237 age or older to 45 days or the number of days necessary to
3238 comply with the General Appropriations Act.

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

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3259 authorization is accessible 24 hours per day, 7 days per week
3260 and authorization is automatically granted when not denied
3261 within 4 hours after the request. Authorization procedures must
3262 include steps for review of denials. Upon implementing the prior
3263 authorization program for hospital inpatient services, the
3264 agency shall discontinue its hospital retrospective review
3265 program.

3266 (b) A licensed hospital maintained primarily for the care
3267 and treatment of patients having mental disorders or mental
3268 diseases is not eligible to participate in the hospital
3269 inpatient portion of the Medicaid program except as provided in
3270 federal law. However, the department shall apply for a waiver,
3271 within 9 months after June 5, 1991, designed to provide
3272 hospitalization services for mental health reasons to children
3273 and adults in the most cost-effective and lowest cost setting
3274 possible. Such waiver shall include a request for the
3275 opportunity to pay for care in hospitals known under federal law
3276 as "institutions for mental disease" or "IMD's." The waiver
3277 proposal shall propose no additional aggregate cost to the state
3278 or Federal Government, and shall be conducted in Hillsborough
3279 County, Highlands County, Hardee County, Manatee County, and
3280 Polk County. The waiver proposal may incorporate competitive
3281 bidding for hospital services, comprehensive brokering, prepaid
3282 capitated arrangements, or other mechanisms deemed by the
3283 department to show promise in reducing the cost of acute care
3284 and increasing the effectiveness of preventive care. When
3285 developing the waiver proposal, the department shall take into
3286 account price, quality, accessibility, linkages of the hospital

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3287 to community services and family support programs, plans of the
3288 hospital to ensure the earliest discharge possible, and the
3289 comprehensiveness of the mental health and other health care
3290 services offered by participating providers.

3291 (c) The agency shall adjust a hospital's current inpatient
3292 per diem rate to reflect the cost of serving the Medicaid
3293 population at that institution if:

3294 1. The hospital experiences an increase in Medicaid
3295 caseload by more than 25 percent in any year, primarily
3296 resulting from the closure of a hospital in the same service
3297 area occurring after July 1, 1995;

3298 2. The hospital's Medicaid per diem rate is at least 25
3299 percent below the Medicaid per patient cost for that year; or

3300 3. The hospital is located in a county that has six or
3301 fewer general acute care hospitals, began offering obstetrical
3302 services on or after September 1999, and has submitted a request
3303 in writing to the agency for a rate adjustment after July 1,
3304 2000, but before September 30, 2000, in which case such
3305 hospital's Medicaid inpatient per diem rate shall be adjusted to
3306 cost, effective July 1, 2002.

3307
3308 By October 1 of each year, the agency must provide estimated
3309 costs for any adjustment in a hospital inpatient per diem rate
3310 to the Executive Office of the Governor, the House of
3311 Representatives General Appropriations Committee, and the Senate
3312 Appropriations Committee. Before the agency implements a change
3313 in a hospital's inpatient per diem rate pursuant to this
3314 paragraph, the Legislature must have specifically appropriated

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3315 sufficient funds in the General Appropriations Act to support
3316 the increase in cost as estimated by the agency.

3317 (d) The agency shall implement a hospitalist program in
3318 nonteaching hospitals, select counties, or statewide. The
3319 program shall require hospitalists to manage Medicaid
3320 recipients' hospital admissions and lengths of stay. Individuals
3321 who are dually eligible for Medicare and Medicaid are exempted
3322 from this requirement. Medicaid participating physicians and
3323 other practitioners with hospital admitting privileges shall
3324 coordinate and review admissions of Medicaid recipients with the
3325 hospitalist. The agency may competitively bid a contract for
3326 selection of a single qualified organization to provide
3327 hospitalist services. The agency may procure hospitalist
3328 services by individual county or may combine counties in a
3329 single procurement. The qualified organization shall contract
3330 with or employ board-eligible physicians in Miami-Dade, Palm
3331 Beach, Hillsborough, Pasco, and Pinellas Counties. The agency is
3332 authorized to seek federal waivers to implement this program.

3333 (e) The agency shall implement a comprehensive utilization
3334 management program for hospital neonatal intensive care stays in
3335 certain high-volume participating hospitals, select counties, or
3336 statewide, and shall replace existing hospital inpatient
3337 utilization management programs for neonatal intensive care
3338 admissions. The program shall be designed to manage the lengths
3339 of stay for children being treated in neonatal intensive care
3340 units and must seek the earliest medically appropriate discharge
3341 to the child's home or other less costly treatment setting. The
3342 agency may competitively bid a contract for selection of a

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3343 | qualified organization to provide neonatal intensive care
3344 | utilization management services. The agency is authorized to
3345 | seek any federal waivers to implement this initiative.

3346 | Reviser's note.—Section 5, ch. 2009-55, Laws of
3347 | Florida, amended subsection (5) of s. 409.905 without
3348 | publishing existing paragraphs (a), (b), (d), and (e).
3349 | Absent affirmative evidence of legislative intent to
3350 | repeal existing paragraphs (5) (a), (b), (d), and (e),
3351 | subsection (5) is reenacted to confirm that the
3352 | omission was not intended.

3353 | Section 93. Paragraph (b) of subsection (12) of section
3354 | 409.908, Florida Statutes, is amended to read:

3355 | 409.908 Reimbursement of Medicaid providers.—Subject to
3356 | specific appropriations, the agency shall reimburse Medicaid
3357 | providers, in accordance with state and federal law, according
3358 | to methodologies set forth in the rules of the agency and in
3359 | policy manuals and handbooks incorporated by reference therein.
3360 | These methodologies may include fee schedules, reimbursement
3361 | methods based on cost reporting, negotiated fees, competitive
3362 | bidding pursuant to s. 287.057, and other mechanisms the agency
3363 | considers efficient and effective for purchasing services or
3364 | goods on behalf of recipients. If a provider is reimbursed based
3365 | on cost reporting and submits a cost report late and that cost
3366 | report would have been used to set a lower reimbursement rate
3367 | for a rate semester, then the provider's rate for that semester
3368 | shall be retroactively calculated using the new cost report, and
3369 | full payment at the recalculated rate shall be effected
3370 | retroactively. Medicare-granted extensions for filing cost

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3371 reports, if applicable, shall also apply to Medicaid cost
3372 reports. Payment for Medicaid compensable services made on
3373 behalf of Medicaid eligible persons is subject to the
3374 availability of moneys and any limitations or directions
3375 provided for in the General Appropriations Act or chapter 216.
3376 Further, nothing in this section shall be construed to prevent
3377 or limit the agency from adjusting fees, reimbursement rates,
3378 lengths of stay, number of visits, or number of services, or
3379 making any other adjustments necessary to comply with the
3380 availability of moneys and any limitations or directions
3381 provided for in the General Appropriations Act, provided the
3382 adjustment is consistent with legislative intent.

3383 (12)

3384 (b) The agency shall adopt a fee schedule, subject to any
3385 limitations or directions provided for in the General
3386 Appropriations Act, based on a resource-based relative value
3387 scale for pricing Medicaid physician services. Under this fee
3388 schedule, physicians shall be paid a dollar amount for each
3389 service based on the average resources required to provide the
3390 service, including, but not limited to, estimates of average
3391 physician time and effort, practice expense, and the costs of
3392 professional liability insurance. The fee schedule shall provide
3393 increased reimbursement for preventive and primary care services
3394 and lowered reimbursement for specialty services by using at
3395 least two conversion factors, one for cognitive services and
3396 another for procedural services. The fee schedule shall not
3397 increase total Medicaid physician expenditures unless moneys are
3398 available, ~~and shall be phased in over a 2-year period beginning~~

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3399 | ~~on July 1, 1994.~~ The Agency for Health Care Administration shall
 3400 | seek the advice of a 16-member advisory panel in formulating and
 3401 | adopting the fee schedule. The panel shall consist of Medicaid
 3402 | physicians licensed under chapters 458 and 459 and shall be
 3403 | composed of 50 percent primary care physicians and 50 percent
 3404 | specialty care physicians.

3405 | Reviser's note.—Amended to delete obsolete language.

3406 | Section 94. Subsection (5) of section 409.911, Florida
 3407 | Statutes, is amended to read:

3408 | 409.911 Disproportionate share program.—Subject to
 3409 | specific allocations established within the General
 3410 | Appropriations Act and any limitations established pursuant to
 3411 | chapter 216, the agency shall distribute, pursuant to this
 3412 | section, moneys to hospitals providing a disproportionate share
 3413 | of Medicaid or charity care services by making quarterly
 3414 | Medicaid payments as required. Notwithstanding the provisions of
 3415 | s. 409.915, counties are exempt from contributing toward the
 3416 | cost of this special reimbursement for hospitals serving a
 3417 | disproportionate share of low-income patients.

3418 | (5) The following formula shall be used to pay
 3419 | disproportionate share dollars to provider service network (PSN)
 3420 | hospitals:

3421 | $DSHP = TAAPSNH \times (IHPSND \times THPSND)$

3423 | Where:

3424 | DSHP = Disproportionate share hospital payments.

3425 | TAAPSNH = Total amount available for PSN hospitals.

3426 | IHPSND = Individual hospital PSN days.

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3427 THPSND = Total of all hospital PSN days.

3428

3429 For purposes of this subsection ~~paragraph~~, the PSN inpatient
3430 days shall be provided in the General Appropriations Act.

3431 Reviser's note.—Amended to confirm an editorial
3432 substitution; subsection (5) is not divided into
3433 paragraphs.

3434 Section 95. Paragraph (f) of subsection (5) and paragraph
3435 (g) of subsection (15) of section 409.912, Florida Statutes, are
3436 repealed.

3437 Reviser's note.—Paragraph (5) (f) is repealed to delete
3438 language requiring a report due by December 31, 2007,
3439 analyzing the merits and challenges of seeking a
3440 waiver to implement a voluntary program that
3441 integrates payments and services for dually enrolled
3442 Medicare and Medicaid recipients who are 65 years of
3443 age or older. Paragraph (15) (g) is repealed to delete
3444 language requiring a report due by July 1, 2005,
3445 regarding the impact to the state of modifying level-
3446 of-care criteria to eliminate the Intermediate II
3447 level of care.

3448 Section 96. Subsection (14) of section 409.91211, Florida
3449 Statutes, is amended to read:

3450 409.91211 Medicaid managed care pilot program.—

3451 (14) It is the intent of the Legislature that if any
3452 conflict exists between the provisions contained in this section
3453 and other provisions of this chapter which relate to the
3454 implementation of the Medicaid managed care pilot program, the

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3455 provisions contained in this section shall control. ~~The agency~~
 3456 ~~shall provide a written report to the Legislature by April 1,~~
 3457 ~~2006, identifying any provisions of this chapter which conflict~~
 3458 ~~with the implementation of the Medicaid managed care pilot~~
 3459 ~~program created in this section. After April 1, 2006,~~ The agency
 3460 shall provide a written report to the Legislature immediately
 3461 upon identifying any provisions of this chapter which conflict
 3462 with the implementation of the Medicaid managed care pilot
 3463 program created in this section.

3464 Reviser's note.—Amended to delete provisions that have
 3465 served their purpose.

3466 Section 97. Subsection (2) of section 420.628, Florida
 3467 Statutes, is amended to read:

3468 420.628 Affordable housing for children and young adults
 3469 leaving foster care; legislative findings and intent.—

3470 (2) Young adults who leave the child welfare system meet
 3471 the definition of eligible persons under ss. 420.503(17) and
 3472 420.9071(10) ~~ss. 420.503(7) and 420.907(10)~~ for affordable
 3473 housing, and are encouraged to participate in federal, state,
 3474 and local affordable housing programs. Students deemed to be
 3475 eligible occupants under 26 U.S.C. s. 42(i)(3)(D) shall be
 3476 considered eligible persons for purposes of all projects funded
 3477 under this chapter.

3478 Reviser's note.—Amended to confirm editorial
 3479 substitutions. Section 420.503(7) defines the term
 3480 "community housing development organization," and
 3481 subsection (17) defines the term "eligible persons."
 3482 Section 420.907(10) does not exist, and s.

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3483 420.9071(10) defines the term "eligible person."
 3484 Section 98. Paragraph (f) of subsection (18) of section
 3485 430.04, Florida Statutes, is amended to read:
 3486 430.04 Duties and responsibilities of the Department of
 3487 Elderly Affairs.—The Department of Elderly Affairs shall:
 3488 (18) Administer all Medicaid waivers and programs relating
 3489 to elders and their appropriations. The waivers include, but are
 3490 not limited to:
 3491 (f) The Program of ~~for~~ All-inclusive Care for the Elderly.
 3492 Reviser's note.—Amended to confirm an editorial
 3493 substitution made to conform to the correct name of
 3494 the program.
 3495 Section 99. Subsection (5) of section 440.105, Florida
 3496 Statutes, is amended to read:
 3497 440.105 Prohibited activities; reports; penalties;
 3498 limitations.—
 3499 (5) It shall be unlawful for any attorney or other person,
 3500 in his or her individual capacity or in his or her capacity as a
 3501 public or private employee or for any firm, corporation,
 3502 partnership, or association, to unlawfully solicit any business
 3503 in and about city or county hospitals, courts, or any public
 3504 institution or public place; in and about private hospitals or
 3505 sanitariums; in and about any private institution; or upon
 3506 private property of any character whatsoever for the purpose of
 3507 making workers' compensation claims. Whoever violates any
 3508 provision of this subsection commits a felony of the second
 3509 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 3510 775.084 ~~775.085~~.

3511 Reviser's note.—Amended to correct an apparent error
 3512 and facilitate correct interpretation. The reference
 3513 is not consistent with the contents of s. 775.085 but
 3514 is consistent with the contents of s. 775.084.

3515 Section 100. Subsection (3) of section 443.1117, Florida
 3516 Statutes, is amended to read:

3517 443.1117 Temporary extended benefits.—

3518 (3) TOTAL EXTENDED BENEFIT AMOUNT.—Except as provided in
 3519 subsection (4) ~~(5)~~:

3520 (a) For any week for which there is an "on" indicator
 3521 pursuant to paragraph (2) (g) ~~(3) (g)~~, the total extended benefit
 3522 amount payable to an eligible individual for her or his
 3523 applicable benefit year is the lesser of:

3524 1. Fifty percent of the total regular benefits payable
 3525 under this chapter in the applicable benefit year; or

3526 2. Thirteen times the weekly benefit amount payable under
 3527 this chapter for a week of total unemployment in the applicable
 3528 benefit year.

3529 (b) For any high unemployment period as defined in
 3530 paragraph (2) (h) ~~(3) (h)~~, the total extended benefit amount
 3531 payable to an eligible individual for her or his applicable
 3532 benefit year is the lesser of:

3533 1. Eighty percent of the total regular benefits payable
 3534 under this chapter in the applicable benefit year; or

3535 2. Twenty times the weekly benefit amount payable under
 3536 this chapter for a week of total unemployment in the applicable
 3537 benefit year.

3538 Reviser's note.—The introductory language to

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3539 subsection (3) is amended to correct an apparent error
3540 and facilitate correct interpretation. Subsection (5)
3541 does not exist; the content in subsection (4) relates
3542 to extended benefit periods. Paragraph (3)(a) is
3543 amended to confirm an editorial substitution;
3544 paragraph (2)(g) defines the term "state 'on'
3545 indicator," and paragraph (3)(g) does not exist.
3546 Paragraph (3)(b) is amended to confirm an editorial
3547 insertion; paragraph (2)(h) defines the term "high
3548 unemployment period," and paragraph (3)(h) does not
3549 exist.

3550 Section 101. Subsection (9) of section 445.049, Florida
3551 Statutes, is repealed.

3552 Reviser's note.—Repealed to delete language requiring
3553 the Digital Divide Council to submit a report by March
3554 1, 2008, with results of the council's monitoring,
3555 reviewing, and evaluating of and recommendations on
3556 certain programs.

3557 Section 102. Section 450.231, Florida Statutes, is amended
3558 to read:

3559 450.231 Annual reports to Legislature.—The commission
3560 shall report its findings, recommendations, and proposed
3561 legislation to each regular session of the Legislature no later
3562 than February 1 of each year ~~beginning in 2006~~.

3563 Reviser's note.—Amended to delete a provision that has
3564 served its purpose.

3565 Section 103. Paragraph (c) of subsection (1) of section
3566 456.041, Florida Statutes, is amended to read:

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3567 456.041 Practitioner profile; creation.—

3568 (1)

3569 (c) Within 30 calendar days after receiving an update of
 3570 information required for the practitioner's profile, the
 3571 department shall update the practitioner's profile in accordance
 3572 with the requirements of subsection (8) ~~(7)~~.

3573 Reviser's note.—Amended to conform to the
 3574 redesignation of subsection (7) as subsection (8) by
 3575 s. 22, ch. 2009-223, Laws of Florida.

3576 Section 104. Subsections (7) and (8) of section 466.0067,
 3577 Florida Statutes, are amended to read:

3578 466.0067 Application for health access dental license.—The
 3579 Legislature finds that there is an important state interest in
 3580 attracting dentists to practice in underserved health access
 3581 settings in this state and further, that allowing out-of-state
 3582 dentists who meet certain criteria to practice in health access
 3583 settings without the supervision of a dentist licensed in this
 3584 state is substantially related to achieving this important state
 3585 interest. Therefore, notwithstanding the requirements of s.
 3586 466.006, the board shall grant a health access dental license to
 3587 practice dentistry in this state in health access settings as
 3588 defined in s. 466.003(14) to an applicant that:

3589 (7) Currently holds a valid, active, dental license in
 3590 good standing which has not been revoked, suspended, restricted,
 3591 or otherwise disciplined from another of the ~~these~~ United
 3592 States, the District of Columbia, or a United States territory;

3593 (8) Has never had a license revoked from another of the
 3594 ~~these~~ United States, the District of Columbia, or a United

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3595 States territory;

3596 Reviser's note.—Amended to provide contextual
3597 consistency within the Florida Statutes.

3598 Section 105. Subsection (1) of section 472.016, Florida
3599 Statutes, is amended to read:

3600 472.016 Members of Armed Forces in good standing with the
3601 board.—

3602 (1) Any member of the Armed Forces of the United States
3603 who is now or in the future on active duty and who, at the time
3604 of becoming such a member of the Armed Forces, was in good
3605 standing with the board and entitled to practice or engage in
3606 surveying and mapping in the state shall be kept in good
3607 standing by the board, without registering, paying dues or fees,
3608 or performing any other act on his or her part to be performed,
3609 as long as he or she is a member of the Armed Forces of the
3610 United States on active duty and for a period of 6 months after
3611 discharge from active duty, provided that he or she is not
3612 engaged in the practice of surveying or mapping in the private
3613 sector for profit.

3614 Reviser's note.—Amended to confirm an editorial
3615 insertion made to improve clarity and facilitate
3616 correct interpretation.

3617 Section 106. Subsection (1) of section 472.036, Florida
3618 Statutes, is amended to read:

3619 472.036 Unlicensed practice of professional surveying and
3620 mapping; cease and desist notice; civil penalty; enforcement;
3621 citations; allocation of moneys collected.—

3622 (1) When the department has probable cause to believe that

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3623 any person not licensed by the department or the board has
3624 violated any provision of this chapter, or any rule adopted
3625 pursuant to this chapter, the department may issue and deliver
3626 to such person a notice to cease and desist from such violation.
3627 In addition, the department may issue and deliver a notice to
3628 cease and desist to any person who aids and abets the unlicensed
3629 practice of surveying and mapping by employing such unlicensed
3630 person. The issuance of a notice to cease and desist shall not
3631 constitute agency action for which a hearing under ss. 120.569
3632 and 120.57 may be sought. For the purpose of enforcing a cease
3633 and desist order, the department may file a proceeding in the
3634 name of the state seeking issuance of an injunction or a writ of
3635 mandamus against any person who violates any provisions of such
3636 order. In addition to the foregoing remedies, the department may
3637 impose an administrative penalty not to exceed \$5,000 per
3638 incident pursuant to the provisions of chapter 120 or may issue
3639 a citation pursuant to the provisions of subsection (3). If the
3640 department is required to seek enforcement of the order for a
3641 penalty pursuant to s. 120.569, it shall be entitled to collect
3642 its attorney's fees and costs, together with any cost of
3643 collection.

3644 Reviser's note.—Amended to confirm an editorial
3645 insertion made to improve clarity and facilitate
3646 correct interpretation.

3647 Section 107. Subsection (4) of section 473.315, Florida
3648 Statutes, is amended to read:

3649 473.315 Independence, technical standards.—

3650 (4) Attorneys who are admitted to practice law by the

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3651 Supreme Court of Florida are exempt from the standards of
3652 practice of public accounting as defined in s. 473.302(8)(b) and
3653 (c) ~~473.302(7)(b) and (e)~~ when such standards conflict with the
3654 rules of The Florida Bar or orders of the Florida Supreme Court.

3655 Reviser's note.—Amended to conform to the
3656 redesignation of s. 473.302(7)(b) and (c) as s.
3657 473.302(8)(b) and (c) by s. 3, ch. 2009-54, Laws of
3658 Florida.

3659 Section 108. Paragraph (f) of subsection (5) of section
3660 489.119, Florida Statutes, is amended to read:

3661 489.119 Business organizations; qualifying agents.—
3662 (5)

3663 (f) In addition to any other penalty prescribed by law, a
3664 local government may impose a civil fine pursuant to s.
3665 489.127(5) against a person who is not certified or registered
3666 under this part if the person:

3667 1. Claims to be licensed in any offer of services,
3668 business proposal, bid, contract, or advertisement, but ~~who~~ does
3669 not possess a valid competency-based license issued by a local
3670 government in this state to perform the specified construction
3671 services; or

3672 2. Claims to be insured in any offer of services, business
3673 proposal, bid, contract, or advertisement, but whose performance
3674 of the subject work is not covered by a general liability or
3675 workers' compensation insurance policy.

3676 Reviser's note.—Amended to confirm an editorial
3677 deletion made to improve clarity.

3678 Section 109. Effective October 1, 2010, subsection (3) of

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3679 section 494.00321, Florida Statutes, as created by section 27 of
 3680 chapter 2009-241, Laws of Florida, is amended to read:

3681 494.00321 Mortgage broker license.—

3682 (3) An application is considered received for the purposes
 3683 of s. 120.60 upon the office's receipt of all documentation from
 3684 the registry, including the completed application form, criminal
 3685 history information, and independent credit report, as well as
 3686 the license application fee, the fee required by s. 494.00172
 3687 ~~492.00172~~, and all applicable fingerprinting processing fees.

3688 Reviser's note.—Amended to confirm an editorial
 3689 substitution; s. 494.00172 includes material relating
 3690 to fees, and s. 492.00172 does not exist.

3691 Section 110. Effective October 1, 2010, paragraph (f) of
 3692 subsection (2) of section 494.00611, Florida Statutes, as
 3693 created by section 43 of chapter 2009-241, Laws of Florida, is
 3694 amended to read:

3695 494.00611 Mortgage lender license.—

3696 (2) In order to apply for a mortgage lender license, an
 3697 applicant must:

3698 (f) Submit a copy of the applicant's financial audit
 3699 report for the most recent fiscal year ~~which~~, pursuant to United
 3700 States generally accepted accounting principles. If the
 3701 applicant is a wholly owned subsidiary of another corporation,
 3702 the financial audit report for the parent corporation satisfies
 3703 this requirement. The commission may establish by rule the form
 3704 and procedures for filing the financial audit report, including
 3705 the requirement to file the report with the registry when
 3706 technology is available. The financial audit report must

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3707 document that the applicant has a bona fide and verifiable net
 3708 worth, of at least \$63,000 if the applicant is not seeking a
 3709 servicing endorsement, or at least \$250,000 if the applicant is
 3710 seeking a servicing endorsement, which must be continuously
 3711 maintained as a condition of licensure. However, if the
 3712 applicant held an active license issued before October 1, 2010,
 3713 pursuant to former s. 494.0065, and the applicant is seeking a
 3714 servicing endorsement, the minimum net worth requirement:

- 3715 1. Until September 30, 2011, is \$63,000.
- 3716 2. Between October 1, 2011, and September 30, 2012, is
 3717 \$125,000.
- 3718 3. On or after October 1, 2012, is \$250,000.

3719 Reviser's note.—Amended to confirm an editorial
 3720 deletion made to improve clarity and facilitate
 3721 correct interpretation.

3722 Section 111. Effective October 1, 2010, subsection (2) of
 3723 section 494.0066, Florida Statutes, as amended by section 49 of
 3724 chapter 2009-241, Laws of Florida, is amended to read:

3725 494.0066 Branch offices.—

3726 (2) The office shall issue a branch office license to a
 3727 mortgage lender after the office determines that the mortgage
 3728 lender has submitted a completed branch office application form
 3729 as prescribed by rule by the commission and an initial
 3730 nonrefundable branch office license fee of \$225 per branch
 3731 office. Application fees may not be prorated for partial years
 3732 of licensure. The branch office application must include the
 3733 name and license number of the mortgage lender under this part,
 3734 the name of the branch manager in charge of the branch office,

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3735 and the address of the branch office. The branch office license
3736 shall be issued in the name of the mortgage lender and must be
3737 renewed in conjunction with the license renewal. An application
3738 is considered received for purposes of s. 120.60 upon receipt of
3739 a completed branch office renewal form, as prescribed by
3740 commission rule, and the required fees.

3741 Reviser's note.—Amended to confirm an editorial
3742 insertion made to provide clarity.

3743 Section 112. Paragraph (a) of subsection (5) of section
3744 501.1377, Florida Statutes, is amended to read:

3745 501.1377 Violations involving homeowners during the course
3746 of residential foreclosure proceedings.—

3747 (5) FORECLOSURE-RESCUE TRANSACTIONS; WRITTEN AGREEMENT.—

3748 (a)1. A foreclosure-rescue transaction must include a
3749 written agreement prepared in at least 12-point uppercase type
3750 that is completed, signed, and dated by the homeowner and the
3751 equity purchaser before executing any instrument from the
3752 homeowner to the equity purchaser quitclaiming, assigning,
3753 transferring, conveying, or encumbering an interest in the
3754 residential real property in foreclosure. The equity purchaser
3755 must give the homeowner a copy of the completed agreement within
3756 3 hours after the homeowner signs the agreement. The agreement
3757 must contain the entire understanding of the parties and must
3758 include:

3759 a. The name, business address, and telephone number of the
3760 equity purchaser.

3761 b. The street address and full legal description of the
3762 property.

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3763 c. Clear and conspicuous disclosure of any financial or
 3764 legal obligations of the homeowner that will be assumed by the
 3765 equity purchaser.

3766 d. The total consideration to be paid by the equity
 3767 purchaser in connection with or incident to the acquisition of
 3768 the property by the equity purchaser.

3769 e. The terms of payment or other consideration, including,
 3770 but not limited to, any services that the equity purchaser
 3771 represents will be performed for the homeowner before or after
 3772 the sale.

3773 f. The date and time when possession of the property is to
 3774 be transferred to the equity purchaser.

3775 2. A foreclosure-rescue transaction agreement must
 3776 contain, above the signature line, a statement in at least 12-
 3777 point uppercase type that substantially complies with the
 3778 following:

3780 I UNDERSTAND THAT UNDER THIS AGREEMENT I AM SELLING MY
 3781 HOME TO THE OTHER UNDERSIGNED PARTY.

3782 3. A foreclosure-rescue transaction agreement must state
 3783 the specifications of any option or right to repurchase the
 3784 residential real property in foreclosure, including the specific
 3785 amounts of any escrow payments or deposit, down payment,
 3786 purchase price, closing costs, commissions, or other fees or
 3787 costs.

3788 4. A foreclosure-rescue transaction agreement must comply
 3789 with all applicable provisions of 15 U.S.C. ss. 1601 ~~1600~~ et
 3790 seq. and related regulations.

3791 Reviser's note.—Amended to conform to the fact that 15
 3792 U.S.C. s. 1600 does not exist; the Truth in Lending
 3793 Act is cited as 15 U.S.C. ss. 1601 et seq.

3794 Section 113. Subsection (5) of section 517.191, Florida
 3795 Statutes, is amended to read:

3796 517.191 Injunction to restrain violations; civil
 3797 penalties; enforcement by Attorney General.—

3798 (5) In addition to all other means provided by law for
 3799 enforcing any of the provisions of this chapter, when the
 3800 Attorney General, upon complaint or otherwise, has reason to
 3801 believe that a person has engaged or is engaged in any act or
 3802 practice constituting a violation of s. 517.275, s. 517.301, s.
 3803 517.311, or s. 517.312, or any rule or order issued under such
 3804 sections, the Attorney General may investigate and bring an
 3805 action to enforce these provisions as provided in ss. 517.171,
 3806 517.201, and 517.2015 after receiving written approval from the
 3807 office. Such an action may be brought against such person and
 3808 any other person in any way participating in such act or
 3809 practice or engaging in such act or practice or doing any act in
 3810 furtherance of such act or practice, to obtain injunctive
 3811 relief, restitution, civil penalties, and any remedies provided
 3812 for in this section. The Attorney General may recover any costs
 3813 and attorney fees related to the Attorney General's
 3814 investigation or enforcement of this section. Notwithstanding
 3815 any other provision of law, moneys recovered by the Attorney
 3816 General for costs, attorney fees, and civil penalties for a
 3817 violation of s. 517.275, s. 517.301, s. 517.311, or s. 517.312,
 3818 or any rule or order issued pursuant to such sections, shall be

3819 deposited in the Legal Affairs Revolving Trust Fund. The Legal
 3820 Affairs Revolving Trust Fund may be used to investigate and
 3821 enforce this section.

3822 Reviser's note.—Amended to confirm an editorial
 3823 insertion made to provide clarity.

3824 Section 114. Subsection (5) of section 526.144, Florida
 3825 Statutes, is repealed.

3826 Reviser's note.—Repeals material requiring submittal
 3827 of a report relating to the Florida Disaster Motor
 3828 Fuel Supplier Program by March 1, 2007.

3829 Section 115. Paragraph (d) of subsection (1) of section
 3830 556.105, Florida Statutes, is amended to read:

3831 556.105 Procedures.—

3832 (1)

3833 (d)~~1~~. The system shall study the feasibility of the
 3834 establishment or recognition of zones for the purpose of
 3835 allowing excavation within such zones to be undertaken without
 3836 notice to the system as now required by this chapter when such
 3837 zones are:

3838 1. ~~a.~~ In areas within which no underground facilities are
 3839 located.

3840 2. ~~b.~~ Where permanent markings, permit and mapping
 3841 systems, and structural protection for underwater crossings are
 3842 required or in place.

3843 3. ~~c.~~ For previously marked utilities on construction of
 3844 one- or two-family dwellings where the contractor remains in
 3845 custody and control of the building site for the duration of the
 3846 building permit.

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3847 | ~~2. The system shall report the results of the study to the~~
3848 | ~~Legislature on or before February 1, 2007, along with~~
3849 | ~~recommendations for further legislative action.~~

3850 | Reviser's note.—Amended to delete material that has
3851 | served its purpose.

3852 | Section 116. Section 569.19, Florida Statutes, is amended
3853 | to read:

3854 | 569.19 Annual report.—The division shall report annually
3855 | with written findings to the Legislature and the Governor by
3856 | December 31, ~~starting with the year 1997,~~ on the progress of
3857 | implementing the enforcement provisions of this chapter. This
3858 | must include, but is not limited to:

3859 | (1) The number and results of compliance visits.

3860 | (2) The number of violations for failure of a retailer to
3861 | hold a valid license.

3862 | (3) The number of violations for selling tobacco products
3863 | to persons under age 18, and the results of administrative
3864 | hearings on the above and related issues.

3865 | (4) The number of persons under age 18 cited for
3866 | violations of s. 569.11 and sanctions imposed as a result of
3867 | citation.

3868 | Reviser's note.—Amended to delete obsolete material.

3869 | Section 117. Section 576.092, Florida Statutes, is
3870 | repealed.

3871 | Reviser's note.—Repeals a provision requiring
3872 | submittal of a report by January 15, 2008, and
3873 | providing for abolishment of the Consumer Fertilizer
3874 | Task Force upon transmittal of the report.

3875 Section 118. Subsection (6) of section 589.011, Florida
 3876 Statutes, is amended to read:

3877 589.011 Use of state forest lands; fees; rules.—

3878 (6) The Division of Forestry may enter into contracts or
 3879 agreements, with or without competitive bidding or procurement,
 3880 to make available, on a fair, reasonable, and nondiscriminatory
 3881 basis, property and other structures under division control for
 3882 the placement of new facilities by any wireless provider of
 3883 mobile service as defined in 47 U.S.C. s. 153(27) ~~153(n)~~ or 47
 3884 U.S.C. s. 332(d) or any telecommunications company as defined in
 3885 s. 364.02 when it is determined to be practical and feasible to
 3886 make such property or other structures available. The division
 3887 may, without adopting a rule, charge a just, reasonable, and
 3888 nondiscriminatory fee for the placement of the facilities,
 3889 payable annually, based on the fair market value of space used
 3890 by comparable communications facilities in the state. The
 3891 division and a wireless provider or telecommunications company
 3892 may negotiate the reduction or elimination of a fee in
 3893 consideration of services provided to the division by the
 3894 wireless provider or telecommunications company. All such fees
 3895 collected by the division shall be deposited in the Incidental
 3896 Trust Fund.

3897 Reviser's note.—Amended to confirm an editorial
 3898 substitution; 47 U.S.C. s. 153(27) defines the term
 3899 "mobile service," and 47 U.S.C. s. 153(n) does not
 3900 exist.

3901 Section 119. Subsection (6) of section 624.91, Florida
 3902 Statutes, as amended by section 13 of chapter 2009-113, Laws of

3903 Florida, is reenacted to read:

3904 624.91 The Florida Healthy Kids Corporation Act.—

3905 (6) BOARD OF DIRECTORS.—

3906 (a) The Florida Healthy Kids Corporation shall operate
 3907 subject to the supervision and approval of a board of directors
 3908 chaired by the Chief Financial Officer or her or his designee,
 3909 and composed of 11 other members selected for 3-year terms of
 3910 office as follows:

3911 1. The Secretary of Health Care Administration, or his or
 3912 her designee.

3913 2. One member appointed by the Commissioner of Education
 3914 from the Office of School Health Programs of the Florida
 3915 Department of Education.

3916 3. One member appointed by the Chief Financial Officer
 3917 from among three members nominated by the Florida Pediatric
 3918 Society.

3919 4. One member, appointed by the Governor, who represents
 3920 the Children's Medical Services Program.

3921 5. One member appointed by the Chief Financial Officer
 3922 from among three members nominated by the Florida Hospital
 3923 Association.

3924 6. One member, appointed by the Governor, who is an expert
 3925 on child health policy.

3926 7. One member, appointed by the Chief Financial Officer,
 3927 from among three members nominated by the Florida Academy of
 3928 Family Physicians.

3929 8. One member, appointed by the Governor, who represents
 3930 the state Medicaid program.

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3931 9. One member, appointed by the Chief Financial Officer,
 3932 from among three members nominated by the Florida Association of
 3933 Counties.

3934 10. The State Health Officer or her or his designee.

3935 11. The Secretary of Children and Family Services, or his
 3936 or her designee.

3937 (b) A member of the board of directors may be removed by
 3938 the official who appointed that member. The board shall appoint
 3939 an executive director, who is responsible for other staff
 3940 authorized by the board.

3941 (c) Board members are entitled to receive, from funds of
 3942 the corporation, reimbursement for per diem and travel expenses
 3943 as provided by s. 112.061.

3944 (d) There shall be no liability on the part of, and no
 3945 cause of action shall arise against, any member of the board of
 3946 directors, or its employees or agents, for any action they take
 3947 in the performance of their powers and duties under this act.

3948 Reviser's note.—Section 13, ch. 2009-113, Laws of
 3949 Florida, amended subsection (6) without publishing
 3950 paragraphs (b)-(d) of that subsection. Absent
 3951 affirmative evidence of legislative intent to repeal
 3952 paragraphs (b)-(d), subsection (6) is reenacted to
 3953 confirm that the omission was not intended.

3954 Section 120. Subsection (2) of section 627.062, Florida
 3955 Statutes, is amended to read:

3956 627.062 Rate standards.—

3957 (2) As to all such classes of insurance:

3958 (a) Insurers or rating organizations shall establish and

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3959 use rates, rating schedules, or rating manuals to allow the
3960 insurer a reasonable rate of return on such classes of insurance
3961 written in this state. A copy of rates, rating schedules, rating
3962 manuals, premium credits or discount schedules, and surcharge
3963 schedules, and changes thereto, shall be filed with the office
3964 under one of the following procedures except as provided in
3965 subparagraph 3.:

3966 1. If the filing is made at least 90 days before the
3967 proposed effective date and the filing is not implemented during
3968 the office's review of the filing and any proceeding and
3969 judicial review, then such filing shall be considered a "file
3970 and use" filing. In such case, the office shall finalize its
3971 review by issuance of a notice of intent to approve or a notice
3972 of intent to disapprove within 90 days after receipt of the
3973 filing. The notice of intent to approve and the notice of intent
3974 to disapprove constitute agency action for purposes of the
3975 Administrative Procedure Act. Requests for supporting
3976 information, requests for mathematical or mechanical
3977 corrections, or notification to the insurer by the office of its
3978 preliminary findings shall not toll the 90-day period during any
3979 such proceedings and subsequent judicial review. The rate shall
3980 be deemed approved if the office does not issue a notice of
3981 intent to approve or a notice of intent to disapprove within 90
3982 days after receipt of the filing.

3983 2. If the filing is not made in accordance with the
3984 provisions of subparagraph 1., such filing shall be made as soon
3985 as practicable, but no later than 30 days after the effective
3986 date, and shall be considered a "use and file" filing. An

3987 insurer making a "use and file" filing is potentially subject to
 3988 an order by the office to return to policyholders portions of
 3989 rates found to be excessive, as provided in paragraph (h).

3990 3. For all property insurance filings made or submitted
 3991 after January 25, 2007, but before December 31, 2010, an insurer
 3992 seeking a rate that is greater than the rate most recently
 3993 approved by the office shall make a "file and use" filing. For
 3994 purposes of this subparagraph, motor vehicle collision and
 3995 comprehensive coverages are not considered to be property
 3996 coverages.

3997 (b) Upon receiving a rate filing, the office shall review
 3998 the rate filing to determine if a rate is excessive, inadequate,
 3999 or unfairly discriminatory. In making that determination, the
 4000 office shall, in accordance with generally accepted and
 4001 reasonable actuarial techniques, consider the following factors:

4002 1. Past and prospective loss experience within and without
 4003 this state.

4004 2. Past and prospective expenses.

4005 3. The degree of competition among insurers for the risk
 4006 insured.

4007 4. Investment income reasonably expected by the insurer,
 4008 consistent with the insurer's investment practices, from
 4009 investable premiums anticipated in the filing, plus any other
 4010 expected income from currently invested assets representing the
 4011 amount expected on unearned premium reserves and loss reserves.

4012 The commission may adopt rules using reasonable techniques of
 4013 actuarial science and economics to specify the manner in which
 4014 insurers shall calculate investment income attributable to such

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4015 | classes of insurance written in this state and the manner in
 4016 | which such investment income shall be used to calculate
 4017 | insurance rates. Such manner shall contemplate allowances for an
 4018 | underwriting profit factor and full consideration of investment
 4019 | income which produce a reasonable rate of return; however,
 4020 | investment income from invested surplus may not be considered.

4021 | 5. The reasonableness of the judgment reflected in the
 4022 | filing.

4023 | 6. Dividends, savings, or unabsorbed premium deposits
 4024 | allowed or returned to Florida policyholders, members, or
 4025 | subscribers.

4026 | 7. The adequacy of loss reserves.

4027 | 8. The cost of reinsurance. The office shall not
 4028 | disapprove a rate as excessive solely due to the insurer having
 4029 | obtained catastrophic reinsurance to cover the insurer's
 4030 | estimated 250-year probable maximum loss or any lower level of
 4031 | loss.

4032 | 9. Trend factors, including trends in actual losses per
 4033 | insured unit for the insurer making the filing.

4034 | 10. Conflagration and catastrophe hazards, if applicable.

4035 | 11. Projected hurricane losses, if applicable, which must
 4036 | be estimated using a model or method found to be acceptable or
 4037 | reliable by the Florida Commission on Hurricane Loss Projection
 4038 | Methodology, and as further provided in s. 627.0628.

4039 | 12. A reasonable margin for underwriting profit and
 4040 | contingencies.

4041 | 13. The cost of medical services, if applicable.

4042 | 14. Other relevant factors which impact upon the frequency

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4043 or severity of claims or upon expenses.

4044 (c) In the case of fire insurance rates, consideration
4045 shall be given to the availability of water supplies and the
4046 experience of the fire insurance business during a period of not
4047 less than the most recent 5-year period for which such
4048 experience is available.

4049 (d) If conflagration or catastrophe hazards are given
4050 consideration by an insurer in its rates or rating plan,
4051 including surcharges and discounts, the insurer shall establish
4052 a reserve for that portion of the premium allocated to such
4053 hazard and shall maintain the premium in a catastrophe reserve.
4054 Any removal of such premiums from the reserve for purposes other
4055 than paying claims associated with a catastrophe or purchasing
4056 reinsurance for catastrophes shall be subject to approval of the
4057 office. Any ceding commission received by an insurer purchasing
4058 reinsurance for catastrophes shall be placed in the catastrophe
4059 reserve.

4060 (e) After consideration of the rate factors provided in
4061 paragraphs (b), (c), and (d), a rate may be found by the office
4062 to be excessive, inadequate, or unfairly discriminatory based
4063 upon the following standards:

4064 1. Rates shall be deemed excessive if they are likely to
4065 produce a profit from Florida business that is unreasonably high
4066 in relation to the risk involved in the class of business or if
4067 expenses are unreasonably high in relation to services rendered.

4068 2. Rates shall be deemed excessive if, among other things,
4069 the rate structure established by a stock insurance company
4070 provides for replenishment of surpluses from premiums, when the

4071 replenishment is attributable to investment losses.

4072 3. Rates shall be deemed inadequate if they are clearly
 4073 insufficient, together with the investment income attributable
 4074 to them, to sustain projected losses and expenses in the class
 4075 of business to which they apply.

4076 4. A rating plan, including discounts, credits, or
 4077 surcharges, shall be deemed unfairly discriminatory if it fails
 4078 to clearly and equitably reflect consideration of the
 4079 policyholder's participation in a risk management program
 4080 adopted pursuant to s. 627.0625.

4081 5. A rate shall be deemed inadequate as to the premium
 4082 charged to a risk or group of risks if discounts or credits are
 4083 allowed which exceed a reasonable reflection of expense savings
 4084 and reasonably expected loss experience from the risk or group
 4085 of risks.

4086 6. A rate shall be deemed unfairly discriminatory as to a
 4087 risk or group of risks if the application of premium discounts,
 4088 credits, or surcharges among such risks does not bear a
 4089 reasonable relationship to the expected loss and expense
 4090 experience among the various risks.

4091 (f) In reviewing a rate filing, the office may require the
 4092 insurer to provide at the insurer's expense all information
 4093 necessary to evaluate the condition of the company and the
 4094 reasonableness of the filing according to the criteria
 4095 enumerated in this section.

4096 (g) The office may at any time review a rate, rating
 4097 schedule, rating manual, or rate change; the pertinent records
 4098 of the insurer; and market conditions. If the office finds on a

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4099 preliminary basis that a rate may be excessive, inadequate, or
4100 unfairly discriminatory, the office shall initiate proceedings
4101 to disapprove the rate and shall so notify the insurer. However,
4102 the office may not disapprove as excessive any rate for which it
4103 has given final approval or which has been deemed approved for a
4104 period of 1 year after the effective date of the filing unless
4105 the office finds that a material misrepresentation or material
4106 error was made by the insurer or was contained in the filing.
4107 Upon being so notified, the insurer or rating organization
4108 shall, within 60 days, file with the office all information
4109 which, in the belief of the insurer or organization, proves the
4110 reasonableness, adequacy, and fairness of the rate or rate
4111 change. The office shall issue a notice of intent to approve or
4112 a notice of intent to disapprove pursuant to the procedures of
4113 paragraph (a) within 90 days after receipt of the insurer's
4114 initial response. In such instances and in any administrative
4115 proceeding relating to the legality of the rate, the insurer or
4116 rating organization shall carry the burden of proof by a
4117 preponderance of the evidence to show that the rate is not
4118 excessive, inadequate, or unfairly discriminatory. After the
4119 office notifies an insurer that a rate may be excessive,
4120 inadequate, or unfairly discriminatory, unless the office
4121 withdraws the notification, the insurer shall not alter the rate
4122 except to conform with the office's notice until the earlier of
4123 120 days after the date the notification was provided or 180
4124 days after the date of the implementation of the rate. The
4125 office may, subject to chapter 120, disapprove without the 60-
4126 day notification any rate increase filed by an insurer within

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4127 the prohibited time period or during the time that the legality
4128 of the increased rate is being contested.

4129 (h) In the event the office finds that a rate or rate
4130 change is excessive, inadequate, or unfairly discriminatory, the
4131 office shall issue an order of disapproval specifying that a new
4132 rate or rate schedule which responds to the findings of the
4133 office be filed by the insurer. The office shall further order,
4134 for any "use and file" filing made in accordance with
4135 subparagraph (a)2., that premiums charged each policyholder
4136 constituting the portion of the rate above that which was
4137 actuarially justified be returned to such policyholder in the
4138 form of a credit or refund. If the office finds that an
4139 insurer's rate or rate change is inadequate, the new rate or
4140 rate schedule filed with the office in response to such a
4141 finding shall be applicable only to new or renewal business of
4142 the insurer written on or after the effective date of the
4143 responsive filing.

4144 (i) Except as otherwise specifically provided in this
4145 chapter, the office shall not prohibit any insurer, including
4146 any residual market plan or joint underwriting association, from
4147 paying acquisition costs based on the full amount of premium, as
4148 defined in s. 627.403, applicable to any policy, or prohibit any
4149 such insurer from including the full amount of acquisition costs
4150 in a rate filing.

4151 (j) With respect to residential property insurance rate
4152 filings, the rate filing must account for mitigation measures
4153 undertaken by policyholders to reduce hurricane losses.

4154 (k)1. An insurer may make a separate filing limited solely

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4155 to an adjustment of its rates for reinsurance or financing costs
4156 incurred in the purchase of reinsurance or financing products to
4157 replace or finance the payment of the amount covered by the
4158 Temporary Increase in Coverage Limits (TICL) portion of the
4159 Florida Hurricane Catastrophe Fund including replacement
4160 reinsurance for the TICL reductions made pursuant to s.
4161 215.555(17) (e); the actual cost paid due to the application of
4162 the TICL premium factor pursuant to s. 215.555(17) (f); and the
4163 actual cost paid due to the application of the cash build-up
4164 factor pursuant to s. 215.555(5) (b) if the insurer:

4165 a. Elects to purchase financing products such as a
4166 liquidity instrument or line of credit, in which case the cost
4167 included in the filing for the liquidity instrument or line of
4168 credit may not result in a premium increase exceeding 3 percent
4169 for any individual policyholder. All costs contained in the
4170 filing may not result in an overall premium increase of more
4171 than 10 percent for any individual policyholder.

4172 b. Includes in the filing a copy of all of its
4173 reinsurance, liquidity instrument, or line of credit contracts;
4174 proof of the billing or payment for the contracts; and the
4175 calculation upon which the proposed rate change is based
4176 demonstrates that the costs meet the criteria of this section
4177 and are not loaded for expenses or profit for the insurer making
4178 the filing.

4179 c. Includes no other changes to its rates in the filing.

4180 d. Has not implemented a rate increase within the 6 months
4181 immediately preceding the filing.

4182 e. Does not file for a rate increase under any other

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4183 paragraph within 6 months after making a filing under this
4184 paragraph.

4185 f. That purchases reinsurance or financing products from
4186 an affiliated company in compliance with this paragraph does so
4187 only if the costs for such reinsurance or financing products are
4188 charged at or below charges made for comparable coverage by
4189 nonaffiliated reinsurers or financial entities making such
4190 coverage or financing products available in this state.

4191 2. An insurer may only make one filing in any 12-month
4192 period under this paragraph.

4193 3. An insurer that elects to implement a rate change under
4194 this paragraph must file its rate filing with the office at
4195 least 45 days before the effective date of the rate change.
4196 After an insurer submits a complete filing that meets all of the
4197 requirements of this paragraph, the office has 45 days after the
4198 date of the filing to review the rate filing and determine if
4199 the rate is excessive, inadequate, or unfairly discriminatory.

4200
4201 The provisions of this subsection shall not apply to workers'
4202 compensation and employer's liability insurance and to motor
4203 vehicle insurance.

4204 Reviser's note.—Amended to confirm an editorial
4205 insertion made to improve clarity.

4206 Section 121. Paragraph (cc) of subsection (6) of section
4207 627.351, Florida Statutes, is repealed, and paragraph (b) of
4208 subsection (2) and paragraphs (b), (c), and (o) of subsection
4209 (6) of that section are amended to read:

4210 627.351 Insurance risk apportionment plans.—

4211 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

4212 (b) The department shall require all insurers holding a
 4213 certificate of authority to transact property insurance on a
 4214 direct basis in this state, other than joint underwriting
 4215 associations and other entities formed pursuant to this section,
 4216 to provide windstorm coverage to applicants from areas
 4217 determined to be eligible pursuant to paragraph (c) who in good
 4218 faith are entitled to, but are unable to procure, such coverage
 4219 through ordinary means; or it shall adopt a reasonable plan or
 4220 plans for the equitable apportionment or sharing among such
 4221 insurers of windstorm coverage, which may include formation of
 4222 an association for this purpose. As used in this subsection, the
 4223 term "property insurance" means insurance on real or personal
 4224 property, as defined in s. 624.604, including insurance for
 4225 fire, industrial fire, allied lines, farmowners multiperil,
 4226 homeowners' multiperil, commercial multiperil, and mobile homes,
 4227 and including liability coverages on all such insurance, but
 4228 excluding inland marine as defined in s. 624.607(3) and
 4229 excluding vehicle insurance as defined in s. 624.605(1)(a) other
 4230 than insurance on mobile homes used as permanent dwellings. The
 4231 department shall adopt rules that provide a formula for the
 4232 recovery and repayment of any deferred assessments.

4233 1. For the purpose of this section, properties eligible
 4234 for such windstorm coverage are defined as dwellings, buildings,
 4235 and other structures, including mobile homes which are used as
 4236 dwellings and which are tied down in compliance with mobile home
 4237 tie-down requirements prescribed by the Department of Highway
 4238 Safety and Motor Vehicles pursuant to s. 320.8325, and the

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4239 contents of all such properties. An applicant or policyholder is
 4240 eligible for coverage only if an offer of coverage cannot be
 4241 obtained by or for the applicant or policyholder from an
 4242 admitted insurer at approved rates.

4243 2.a.(I) All insurers required to be members of such
 4244 association shall participate in its writings, expenses, and
 4245 losses. Surplus of the association shall be retained for the
 4246 payment of claims and shall not be distributed to the member
 4247 insurers. Such participation by member insurers shall be in the
 4248 proportion that the net direct premiums of each member insurer
 4249 written for property insurance in this state during the
 4250 preceding calendar year bear to the aggregate net direct
 4251 premiums for property insurance of all member insurers, as
 4252 reduced by any credits for voluntary writings, in this state
 4253 during the preceding calendar year. For the purposes of this
 4254 subsection, the term "net direct premiums" means direct written
 4255 premiums for property insurance, reduced by premium for
 4256 liability coverage and for the following if included in allied
 4257 lines: rain and hail on growing crops; livestock; association
 4258 direct premiums booked; National Flood Insurance Program direct
 4259 premiums; and similar deductions specifically authorized by the
 4260 plan of operation and approved by the department. A member's
 4261 participation shall begin on the first day of the calendar year
 4262 following the year in which it is issued a certificate of
 4263 authority to transact property insurance in the state and shall
 4264 terminate 1 year after the end of the calendar year during which
 4265 it no longer holds a certificate of authority to transact
 4266 property insurance in the state. The commissioner, after review

4267 of annual statements, other reports, and any other statistics
 4268 that the commissioner deems necessary, shall certify to the
 4269 association the aggregate direct premiums written for property
 4270 insurance in this state by all member insurers.

4271 (II) Effective July 1, 2002, the association shall operate
 4272 subject to the supervision and approval of a board of governors
 4273 who are the same individuals that have been appointed by the
 4274 Treasurer to serve on the board of governors of the Citizens
 4275 Property Insurance Corporation.

4276 (III) The plan of operation shall provide a formula
 4277 whereby a company voluntarily providing windstorm coverage in
 4278 affected areas will be relieved wholly or partially from
 4279 apportionment of a regular assessment pursuant to sub-sub-
 4280 subparagraph d.(I) or sub-sub-subparagraph d.(II).

4281 (IV) A company which is a member of a group of companies
 4282 under common management may elect to have its credits applied on
 4283 a group basis, and any company or group may elect to have its
 4284 credits applied to any other company or group.

4285 (V) There shall be no credits or relief from apportionment
 4286 to a company for emergency assessments collected from its
 4287 policyholders under sub-sub-subparagraph d.(III).

4288 (VI) The plan of operation may also provide for the award
 4289 of credits, for a period not to exceed 3 years, from a regular
 4290 assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-
 4291 subparagraph d.(II) as an incentive for taking policies out of
 4292 the Residential Property and Casualty Joint Underwriting
 4293 Association. In order to qualify for the exemption under this
 4294 sub-sub-subparagraph, the take-out plan must provide that at

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4295 | least 40 percent of the policies removed from the Residential
4296 | Property and Casualty Joint Underwriting Association cover risks
4297 | located in Miami-Dade, Broward, and Palm Beach Counties or at
4298 | least 30 percent of the policies so removed cover risks located
4299 | in Miami-Dade, Broward, and Palm Beach Counties and an
4300 | additional 50 percent of the policies so removed cover risks
4301 | located in other coastal counties, and must also provide that no
4302 | more than 15 percent of the policies so removed may exclude
4303 | windstorm coverage. With the approval of the department, the
4304 | association may waive these geographic criteria for a take-out
4305 | plan that removes at least the lesser of 100,000 Residential
4306 | Property and Casualty Joint Underwriting Association policies or
4307 | 15 percent of the total number of Residential Property and
4308 | Casualty Joint Underwriting Association policies, provided the
4309 | governing board of the Residential Property and Casualty Joint
4310 | Underwriting Association certifies that the take-out plan will
4311 | materially reduce the Residential Property and Casualty Joint
4312 | Underwriting Association's 100-year probable maximum loss from
4313 | hurricanes. With the approval of the department, the board may
4314 | extend such credits for an additional year if the insurer
4315 | guarantees an additional year of renewability for all policies
4316 | removed from the Residential Property and Casualty Joint
4317 | Underwriting Association, or for 2 additional years if the
4318 | insurer guarantees 2 additional years of renewability for all
4319 | policies removed from the Residential Property and Casualty
4320 | Joint Underwriting Association.

4321 | b. Assessments to pay deficits in the association under
4322 | this subparagraph shall be included as an appropriate factor in

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4323 | the making of rates as provided in s. 627.3512.

4324 | c. The Legislature finds that the potential for unlimited
 4325 | deficit assessments under this subparagraph may induce insurers
 4326 | to attempt to reduce their writings in the voluntary market, and
 4327 | that such actions would worsen the availability problems that
 4328 | the association was created to remedy. It is the intent of the
 4329 | Legislature that insurers remain fully responsible for paying
 4330 | regular assessments and collecting emergency assessments for any
 4331 | deficits of the association; however, it is also the intent of
 4332 | the Legislature to provide a means by which assessment
 4333 | liabilities may be amortized over a period of years.

4334 | d.(I) When the deficit incurred in a particular calendar
 4335 | year is 10 percent or less of the aggregate statewide direct
 4336 | written premium for property insurance for the prior calendar
 4337 | year for all member insurers, the association shall levy an
 4338 | assessment on member insurers in an amount equal to the deficit.

4339 | (II) When the deficit incurred in a particular calendar
 4340 | year exceeds 10 percent of the aggregate statewide direct
 4341 | written premium for property insurance for the prior calendar
 4342 | year for all member insurers, the association shall levy an
 4343 | assessment on member insurers in an amount equal to the greater
 4344 | of 10 percent of the deficit or 10 percent of the aggregate
 4345 | statewide direct written premium for property insurance for the
 4346 | prior calendar year for member insurers. Any remaining deficit
 4347 | shall be recovered through emergency assessments under sub-sub-
 4348 | subparagraph (III).

4349 | (III) Upon a determination by the board of directors that
 4350 | a deficit exceeds the amount that will be recovered through

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4351 regular assessments on member insurers, pursuant to sub-sub-
4352 subparagraph (I) or sub-sub-subparagraph (II), the board shall
4353 levy, after verification by the department, emergency
4354 assessments to be collected by member insurers and by
4355 underwriting associations created pursuant to this section which
4356 write property insurance, upon issuance or renewal of property
4357 insurance policies other than National Flood Insurance policies
4358 in the year or years following levy of the regular assessments.
4359 The amount of the emergency assessment collected in a particular
4360 year shall be a uniform percentage of that year's direct written
4361 premium for property insurance for all member insurers and
4362 underwriting associations, excluding National Flood Insurance
4363 policy premiums, as annually determined by the board and
4364 verified by the department. The department shall verify the
4365 arithmetic calculations involved in the board's determination
4366 within 30 days after receipt of the information on which the
4367 determination was based. Notwithstanding any other provision of
4368 law, each member insurer and each underwriting association
4369 created pursuant to this section shall collect emergency
4370 assessments from its policyholders without such obligation being
4371 affected by any credit, limitation, exemption, or deferment. The
4372 emergency assessments so collected shall be transferred directly
4373 to the association on a periodic basis as determined by the
4374 association. The aggregate amount of emergency assessments
4375 levied under this sub-sub-subparagraph in any calendar year may
4376 not exceed the greater of 10 percent of the amount needed to
4377 cover the original deficit, plus interest, fees, commissions,
4378 required reserves, and other costs associated with financing of

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4379 | the original deficit, or 10 percent of the aggregate statewide
4380 | direct written premium for property insurance written by member
4381 | insurers and underwriting associations for the prior year, plus
4382 | interest, fees, commissions, required reserves, and other costs
4383 | associated with financing the original deficit. The board may
4384 | pledge the proceeds of the emergency assessments under this sub-
4385 | sub-subparagraph as the source of revenue for bonds, to retire
4386 | any other debt incurred as a result of the deficit or events
4387 | giving rise to the deficit, or in any other way that the board
4388 | determines will efficiently recover the deficit. The emergency
4389 | assessments under this sub-sub-subparagraph shall continue as
4390 | long as any bonds issued or other indebtedness incurred with
4391 | respect to a deficit for which the assessment was imposed remain
4392 | outstanding, unless adequate provision has been made for the
4393 | payment of such bonds or other indebtedness pursuant to the
4394 | document governing such bonds or other indebtedness. Emergency
4395 | assessments collected under this sub-sub-subparagraph are not
4396 | part of an insurer's rates, are not premium, and are not subject
4397 | to premium tax, fees, or commissions; however, failure to pay
4398 | the emergency assessment shall be treated as failure to pay
4399 | premium.

4400 | (IV) Each member insurer's share of the total regular
4401 | assessments under sub-sub-subparagraph (I) or sub-sub-
4402 | subparagraph (II) shall be in the proportion that the insurer's
4403 | net direct premium for property insurance in this state, for the
4404 | year preceding the assessment bears to the aggregate statewide
4405 | net direct premium for property insurance of all member
4406 | insurers, as reduced by any credits for voluntary writings for

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4407 that year.

4408 (V) If regular deficit assessments are made under sub-sub-
4409 subparagraph (I) or sub-sub-subparagraph (II), or by the
4410 Residential Property and Casualty Joint Underwriting Association
4411 under sub-subparagraph (6)(b)3.a. or sub-subparagraph
4412 (6)(b)3.b., the association shall levy upon the association's
4413 policyholders, as part of its next rate filing, or by a separate
4414 rate filing solely for this purpose, a market equalization
4415 surcharge in a percentage equal to the total amount of such
4416 regular assessments divided by the aggregate statewide direct
4417 written premium for property insurance for member insurers for
4418 the prior calendar year. Market equalization surcharges under
4419 this sub-sub-subparagraph are not considered premium and are not
4420 subject to commissions, fees, or premium taxes; however, failure
4421 to pay a market equalization surcharge shall be treated as
4422 failure to pay premium.

4423 e. The governing body of any unit of local government, any
4424 residents of which are insured under the plan, may issue bonds
4425 as defined in s. 125.013 or s. 166.101 to fund an assistance
4426 program, in conjunction with the association, for the purpose of
4427 defraying deficits of the association. In order to avoid
4428 needless and indiscriminate proliferation, duplication, and
4429 fragmentation of such assistance programs, any unit of local
4430 government, any residents of which are insured by the
4431 association, may provide for the payment of losses, regardless
4432 of whether or not the losses occurred within or outside of the
4433 territorial jurisdiction of the local government. Revenue bonds
4434 may not be issued until validated pursuant to chapter 75, unless

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4435 a state of emergency is declared by executive order or
4436 proclamation of the Governor pursuant to s. 252.36 making such
4437 findings as are necessary to determine that it is in the best
4438 interests of, and necessary for, the protection of the public
4439 health, safety, and general welfare of residents of this state
4440 and the protection and preservation of the economic stability of
4441 insurers operating in this state, and declaring it an essential
4442 public purpose to permit certain municipalities or counties to
4443 issue bonds as will provide relief to claimants and
4444 policyholders of the association and insurers responsible for
4445 apportionment of plan losses. Any such unit of local government
4446 may enter into such contracts with the association and with any
4447 other entity created pursuant to this subsection as are
4448 necessary to carry out this paragraph. Any bonds issued under
4449 this sub-subparagraph shall be payable from and secured by
4450 moneys received by the association from assessments under this
4451 subparagraph, and assigned and pledged to or on behalf of the
4452 unit of local government for the benefit of the holders of such
4453 bonds. The funds, credit, property, and taxing power of the
4454 state or of the unit of local government shall not be pledged
4455 for the payment of such bonds. If any of the bonds remain unsold
4456 60 days after issuance, the department shall require all
4457 insurers subject to assessment to purchase the bonds, which
4458 shall be treated as admitted assets; each insurer shall be
4459 required to purchase that percentage of the unsold portion of
4460 the bond issue that equals the insurer's relative share of
4461 assessment liability under this subsection. An insurer shall not
4462 be required to purchase the bonds to the extent that the

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4463 department determines that the purchase would endanger or impair
4464 the solvency of the insurer. The authority granted by this sub-
4465 subparagraph is additional to any bonding authority granted by
4466 subparagraph 6.

4467 3. The plan shall also provide that any member with a
4468 surplus as to policyholders of \$20 million or less writing 25
4469 percent or more of its total countrywide property insurance
4470 premiums in this state may petition the department, within the
4471 first 90 days of each calendar year, to qualify as a limited
4472 apportionment company. The apportionment of such a member
4473 company in any calendar year for which it is qualified shall not
4474 exceed its gross participation, which shall not be affected by
4475 the formula for voluntary writings. In no event shall a limited
4476 apportionment company be required to participate in any
4477 apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)
4478 or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds
4479 \$50 million after payment of available plan funds in any
4480 calendar year. However, a limited apportionment company shall
4481 collect from its policyholders any emergency assessment imposed
4482 under sub-sub-subparagraph 2.d.(III). The plan shall provide
4483 that, if the department determines that any regular assessment
4484 will result in an impairment of the surplus of a limited
4485 apportionment company, the department may direct that all or
4486 part of such assessment be deferred. However, there shall be no
4487 limitation or deferment of an emergency assessment to be
4488 collected from policyholders under sub-sub-subparagraph
4489 2.d.(III).

4490 4. The plan shall provide for the deferment, in whole or

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4491 in part, of a regular assessment of a member insurer under sub-
4492 sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but
4493 not for an emergency assessment collected from policyholders
4494 under sub-sub-subparagraph 2.d.(III), if, in the opinion of the
4495 commissioner, payment of such regular assessment would endanger
4496 or impair the solvency of the member insurer. In the event a
4497 regular assessment against a member insurer is deferred in whole
4498 or in part, the amount by which such assessment is deferred may
4499 be assessed against the other member insurers in a manner
4500 consistent with the basis for assessments set forth in sub-sub-
4501 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

4502 5.a. The plan of operation may include deductibles and
4503 rules for classification of risks and rate modifications
4504 consistent with the objective of providing and maintaining funds
4505 sufficient to pay catastrophe losses.

4506 b. It is the intent of the Legislature that the rates for
4507 coverage provided by the association be actuarially sound and
4508 not competitive with approved rates charged in the admitted
4509 voluntary market such that the association functions as a
4510 residual market mechanism to provide insurance only when the
4511 insurance cannot be procured in the voluntary market. The plan
4512 of operation shall provide a mechanism to assure that, beginning
4513 no later than January 1, 1999, the rates charged by the
4514 association for each line of business are reflective of approved
4515 rates in the voluntary market for hurricane coverage for each
4516 line of business in the various areas eligible for association
4517 coverage.

4518 c. The association shall provide for windstorm coverage on

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4519 residential properties in limits up to \$10 million for
 4520 commercial lines residential risks and up to \$1 million for
 4521 personal lines residential risks. If coverage with the
 4522 association is sought for a residential risk valued in excess of
 4523 these limits, coverage shall be available to the risk up to the
 4524 replacement cost or actual cash value of the property, at the
 4525 option of the insured, if coverage for the risk cannot be
 4526 located in the authorized market. The association must accept a
 4527 commercial lines residential risk with limits above \$10 million
 4528 or a personal lines residential risk with limits above \$1
 4529 million if coverage is not available in the authorized market.
 4530 The association may write coverage above the limits specified in
 4531 this subparagraph with or without facultative or other
 4532 reinsurance coverage, as the association determines appropriate.

4533 d. The plan of operation must provide objective criteria
 4534 and procedures, approved by the department, to be uniformly
 4535 applied for all applicants in determining whether an individual
 4536 risk is so hazardous as to be uninsurable. In making this
 4537 determination and in establishing the criteria and procedures,
 4538 the following shall be considered:

4539 (I) Whether the likelihood of a loss for the individual
 4540 risk is substantially higher than for other risks of the same
 4541 class; and

4542 (II) Whether the uncertainty associated with the
 4543 individual risk is such that an appropriate premium cannot be
 4544 determined.

4545

4546 The acceptance or rejection of a risk by the association

4547 | pursuant to such criteria and procedures must be construed as
 4548 | the private placement of insurance, and the provisions of
 4549 | chapter 120 do not apply.

4550 | e. If the risk accepts an offer of coverage through the
 4551 | market assistance program or through a mechanism established by
 4552 | the association, either before the policy is issued by the
 4553 | association or during the first 30 days of coverage by the
 4554 | association, and the producing agent who submitted the
 4555 | application to the association is not currently appointed by the
 4556 | insurer, the insurer shall:

4557 | (I) Pay to the producing agent of record of the policy,
 4558 | for the first year, an amount that is the greater of the
 4559 | insurer's usual and customary commission for the type of policy
 4560 | written or a fee equal to the usual and customary commission of
 4561 | the association; or

4562 | (II) Offer to allow the producing agent of record of the
 4563 | policy to continue servicing the policy for a period of not less
 4564 | than 1 year and offer to pay the agent the greater of the
 4565 | insurer's or the association's usual and customary commission
 4566 | for the type of policy written.

4567 |
 4568 | If the producing agent is unwilling or unable to accept
 4569 | appointment, the new insurer shall pay the agent in accordance
 4570 | with sub-sub-subparagraph (I). Subject to the provisions of s.
 4571 | 627.3517, the policies issued by the association must provide
 4572 | that if the association obtains an offer from an authorized
 4573 | insurer to cover the risk at its approved rates under either a
 4574 | standard policy including wind coverage or, if consistent with

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4575 the insurer's underwriting rules as filed with the department, a
4576 basic policy including wind coverage, the risk is no longer
4577 eligible for coverage through the association. Upon termination
4578 of eligibility, the association shall provide written notice to
4579 the policyholder and agent of record stating that the
4580 association policy must be canceled as of 60 days after the date
4581 of the notice because of the offer of coverage from an
4582 authorized insurer. Other provisions of the insurance code
4583 relating to cancellation and notice of cancellation do not apply
4584 to actions under this sub-subparagraph.

4585 f. When the association enters into a contractual
4586 agreement for a take-out plan, the producing agent of record of
4587 the association policy is entitled to retain any unearned
4588 commission on the policy, and the insurer shall:

4589 (I) Pay to the producing agent of record of the
4590 association policy, for the first year, an amount that is the
4591 greater of the insurer's usual and customary commission for the
4592 type of policy written or a fee equal to the usual and customary
4593 commission of the association; or

4594 (II) Offer to allow the producing agent of record of the
4595 association policy to continue servicing the policy for a period
4596 of not less than 1 year and offer to pay the agent the greater
4597 of the insurer's or the association's usual and customary
4598 commission for the type of policy written.

4599
4600 If the producing agent is unwilling or unable to accept
4601 appointment, the new insurer shall pay the agent in accordance
4602 with sub-sub-subparagraph (I).

4603 6.a. The plan of operation may authorize the formation of
 4604 a private nonprofit corporation, a private nonprofit
 4605 unincorporated association, a partnership, a trust, a limited
 4606 liability company, or a nonprofit mutual company which may be
 4607 empowered, among other things, to borrow money by issuing bonds
 4608 or by incurring other indebtedness and to accumulate reserves or
 4609 funds to be used for the payment of insured catastrophe losses.
 4610 The plan may authorize all actions necessary to facilitate the
 4611 issuance of bonds, including the pledging of assessments or
 4612 other revenues.

4613 b. Any entity created under this subsection, or any entity
 4614 formed for the purposes of this subsection, may sue and be sued,
 4615 may borrow money; issue bonds, notes, or debt instruments;
 4616 pledge or sell assessments, market equalization surcharges and
 4617 other surcharges, rights, premiums, contractual rights,
 4618 projected recoveries from the Florida Hurricane Catastrophe
 4619 Fund, other reinsurance recoverables, and other assets as
 4620 security for such bonds, notes, or debt instruments; enter into
 4621 any contracts or agreements necessary or proper to accomplish
 4622 such borrowings; and take other actions necessary to carry out
 4623 the purposes of this subsection. The association may issue bonds
 4624 or incur other indebtedness, or have bonds issued on its behalf
 4625 by a unit of local government pursuant to subparagraph (6) (q) 2.
 4626 ~~(6) (p) 2.~~, in the absence of a hurricane or other weather-related
 4627 event, upon a determination by the association subject to
 4628 approval by the department that such action would enable it to
 4629 efficiently meet the financial obligations of the association
 4630 and that such financings are reasonably necessary to effectuate

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4631 the requirements of this subsection. Any such entity may
4632 accumulate reserves and retain surpluses as of the end of any
4633 association year to provide for the payment of losses incurred
4634 by the association during that year or any future year. The
4635 association shall incorporate and continue the plan of operation
4636 and articles of agreement in effect on the effective date of
4637 chapter 76-96, Laws of Florida, to the extent that it is not
4638 inconsistent with chapter 76-96, and as subsequently modified
4639 consistent with chapter 76-96. The board of directors and
4640 officers currently serving shall continue to serve until their
4641 successors are duly qualified as provided under the plan. The
4642 assets and obligations of the plan in effect immediately prior
4643 to the effective date of chapter 76-96 shall be construed to be
4644 the assets and obligations of the successor plan created herein.

4645 c. In recognition of s. 10, Art. I of the State
4646 Constitution, prohibiting the impairment of obligations of
4647 contracts, it is the intent of the Legislature that no action be
4648 taken whose purpose is to impair any bond indenture or financing
4649 agreement or any revenue source committed by contract to such
4650 bond or other indebtedness issued or incurred by the association
4651 or any other entity created under this subsection.

4652 7. On such coverage, an agent's remuneration shall be that
4653 amount of money payable to the agent by the terms of his or her
4654 contract with the company with which the business is placed.
4655 However, no commission will be paid on that portion of the
4656 premium which is in excess of the standard premium of that
4657 company.

4658 8. Subject to approval by the department, the association

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4659 | may establish different eligibility requirements and operational
4660 | procedures for any line or type of coverage for any specified
4661 | eligible area or portion of an eligible area if the board
4662 | determines that such changes to the eligibility requirements and
4663 | operational procedures are justified due to the voluntary market
4664 | being sufficiently stable and competitive in such area or for
4665 | such line or type of coverage and that consumers who, in good
4666 | faith, are unable to obtain insurance through the voluntary
4667 | market through ordinary methods would continue to have access to
4668 | coverage from the association. When coverage is sought in
4669 | connection with a real property transfer, such requirements and
4670 | procedures shall not provide for an effective date of coverage
4671 | later than the date of the closing of the transfer as
4672 | established by the transferor, the transferee, and, if
4673 | applicable, the lender.

4674 | 9. Notwithstanding any other provision of law:

4675 | a. The pledge or sale of, the lien upon, and the security
4676 | interest in any rights, revenues, or other assets of the
4677 | association created or purported to be created pursuant to any
4678 | financing documents to secure any bonds or other indebtedness of
4679 | the association shall be and remain valid and enforceable,
4680 | notwithstanding the commencement of and during the continuation
4681 | of, and after, any rehabilitation, insolvency, liquidation,
4682 | bankruptcy, receivership, conservatorship, reorganization, or
4683 | similar proceeding against the association under the laws of
4684 | this state or any other applicable laws.

4685 | b. No such proceeding shall relieve the association of its
4686 | obligation, or otherwise affect its ability to perform its

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4687 obligation, to continue to collect, or levy and collect,
4688 assessments, market equalization or other surcharges, projected
4689 recoveries from the Florida Hurricane Catastrophe Fund,
4690 reinsurance recoverables, or any other rights, revenues, or
4691 other assets of the association pledged.

4692 c. Each such pledge or sale of, lien upon, and security
4693 interest in, including the priority of such pledge, lien, or
4694 security interest, any such assessments, emergency assessments,
4695 market equalization or renewal surcharges, projected recoveries
4696 from the Florida Hurricane Catastrophe Fund, reinsurance
4697 recoverables, or other rights, revenues, or other assets which
4698 are collected, or levied and collected, after the commencement
4699 of and during the pendency of or after any such proceeding shall
4700 continue unaffected by such proceeding.

4701 d. As used in this subsection, the term "financing
4702 documents" means any agreement, instrument, or other document
4703 now existing or hereafter created evidencing any bonds or other
4704 indebtedness of the association or pursuant to which any such
4705 bonds or other indebtedness has been or may be issued and
4706 pursuant to which any rights, revenues, or other assets of the
4707 association are pledged or sold to secure the repayment of such
4708 bonds or indebtedness, together with the payment of interest on
4709 such bonds or such indebtedness, or the payment of any other
4710 obligation of the association related to such bonds or
4711 indebtedness.

4712 e. Any such pledge or sale of assessments, revenues,
4713 contract rights or other rights or assets of the association
4714 shall constitute a lien and security interest, or sale, as the

4715 case may be, that is immediately effective and attaches to such
 4716 assessments, revenues, contract, or other rights or assets,
 4717 whether or not imposed or collected at the time the pledge or
 4718 sale is made. Any such pledge or sale is effective, valid,
 4719 binding, and enforceable against the association or other entity
 4720 making such pledge or sale, and valid and binding against and
 4721 superior to any competing claims or obligations owed to any
 4722 other person or entity, including policyholders in this state,
 4723 asserting rights in any such assessments, revenues, contract, or
 4724 other rights or assets to the extent set forth in and in
 4725 accordance with the terms of the pledge or sale contained in the
 4726 applicable financing documents, whether or not any such person
 4727 or entity has notice of such pledge or sale and without the need
 4728 for any physical delivery, recordation, filing, or other action.

4729 f. There shall be no liability on the part of, and no
 4730 cause of action of any nature shall arise against, any member
 4731 insurer or its agents or employees, agents or employees of the
 4732 association, members of the board of directors of the
 4733 association, or the department or its representatives, for any
 4734 action taken by them in the performance of their duties or
 4735 responsibilities under this subsection. Such immunity does not
 4736 apply to actions for breach of any contract or agreement
 4737 pertaining to insurance, or any willful tort.

4738 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

4739 (b)1. All insurers authorized to write one or more subject
 4740 lines of business in this state are subject to assessment by the
 4741 corporation and, for the purposes of this subsection, are
 4742 referred to collectively as "assessable insurers." Insurers

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4743 writing one or more subject lines of business in this state
4744 pursuant to part VIII of chapter 626 are not assessable
4745 insurers, but insureds who procure one or more subject lines of
4746 business in this state pursuant to part VIII of chapter 626 are
4747 subject to assessment by the corporation and are referred to
4748 collectively as "assessable insureds." An authorized insurer's
4749 assessment liability shall begin on the first day of the
4750 calendar year following the year in which the insurer was issued
4751 a certificate of authority to transact insurance for subject
4752 lines of business in this state and shall terminate 1 year after
4753 the end of the first calendar year during which the insurer no
4754 longer holds a certificate of authority to transact insurance
4755 for subject lines of business in this state.

4756 2.a. All revenues, assets, liabilities, losses, and
4757 expenses of the corporation shall be divided into three separate
4758 accounts as follows:

4759 (I) A personal lines account for personal residential
4760 policies issued by the corporation or issued by the Residential
4761 Property and Casualty Joint Underwriting Association and renewed
4762 by the corporation that provide comprehensive, multiperil
4763 coverage on risks that are not located in areas eligible for
4764 coverage in the Florida Windstorm Underwriting Association as
4765 those areas were defined on January 1, 2002, and for such
4766 policies that do not provide coverage for the peril of wind on
4767 risks that are located in such areas;

4768 (II) A commercial lines account for commercial residential
4769 and commercial nonresidential policies issued by the corporation
4770 or issued by the Residential Property and Casualty Joint

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4771 Underwriting Association and renewed by the corporation that
4772 provide coverage for basic property perils on risks that are not
4773 located in areas eligible for coverage in the Florida Windstorm
4774 Underwriting Association as those areas were defined on January
4775 1, 2002, and for such policies that do not provide coverage for
4776 the peril of wind on risks that are located in such areas; and
4777 (III) A high-risk account for personal residential
4778 policies and commercial residential and commercial
4779 nonresidential property policies issued by the corporation or
4780 transferred to the corporation that provide coverage for the
4781 peril of wind on risks that are located in areas eligible for
4782 coverage in the Florida Windstorm Underwriting Association as
4783 those areas were defined on January 1, 2002. The corporation may
4784 offer policies that provide multiperil coverage and the
4785 corporation shall continue to offer policies that provide
4786 coverage only for the peril of wind for risks located in areas
4787 eligible for coverage in the high-risk account. In issuing
4788 multiperil coverage, the corporation may use its approved policy
4789 forms and rates for the personal lines account. An applicant or
4790 insured who is eligible to purchase a multiperil policy from the
4791 corporation may purchase a multiperil policy from an authorized
4792 insurer without prejudice to the applicant's or insured's
4793 eligibility to prospectively purchase a policy that provides
4794 coverage only for the peril of wind from the corporation. An
4795 applicant or insured who is eligible for a corporation policy
4796 that provides coverage only for the peril of wind may elect to
4797 purchase or retain such policy and also purchase or retain
4798 coverage excluding wind from an authorized insurer without

4799 | prejudice to the applicant's or insured's eligibility to
 4800 | prospectively purchase a policy that provides multiperil
 4801 | coverage from the corporation. It is the goal of the Legislature
 4802 | that there would be an overall average savings of 10 percent or
 4803 | more for a policyholder who currently has a wind-only policy
 4804 | with the corporation, and an ex-wind policy with a voluntary
 4805 | insurer or the corporation, and who then obtains a multiperil
 4806 | policy from the corporation. It is the intent of the Legislature
 4807 | that the offer of multiperil coverage in the high-risk account
 4808 | be made and implemented in a manner that does not adversely
 4809 | affect the tax-exempt status of the corporation or
 4810 | creditworthiness of or security for currently outstanding
 4811 | financing obligations or credit facilities of the high-risk
 4812 | account, the personal lines account, or the commercial lines
 4813 | account. The high-risk account must also include quota share
 4814 | primary insurance under subparagraph (c)2. The area eligible for
 4815 | coverage under the high-risk account also includes the area
 4816 | within Port Canaveral, which is bordered on the south by the
 4817 | City of Cape Canaveral, bordered on the west by the Banana
 4818 | River, and bordered on the north by Federal Government property.

4819 | b. The three separate accounts must be maintained as long
 4820 | as financing obligations entered into by the Florida Windstorm
 4821 | Underwriting Association or Residential Property and Casualty
 4822 | Joint Underwriting Association are outstanding, in accordance
 4823 | with the terms of the corresponding financing documents. When
 4824 | the financing obligations are no longer outstanding, in
 4825 | accordance with the terms of the corresponding financing
 4826 | documents, the corporation may use a single account for all

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4827 revenues, assets, liabilities, losses, and expenses of the
4828 corporation. Consistent with the requirement of this
4829 subparagraph and prudent investment policies that minimize the
4830 cost of carrying debt, the board shall exercise its best efforts
4831 to retire existing debt or to obtain approval of necessary
4832 parties to amend the terms of existing debt, so as to structure
4833 the most efficient plan to consolidate the three separate
4834 accounts into a single account. ~~By February 1, 2007, the board~~
4835 ~~shall submit a report to the Financial Services Commission, the~~
4836 ~~President of the Senate, and the Speaker of the House of~~
4837 ~~Representatives which includes an analysis of consolidating the~~
4838 ~~accounts, the actions the board has taken to minimize the cost~~
4839 ~~of carrying debt, and its recommendations for executing the most~~
4840 ~~efficient plan.~~

4841 c. Creditors of the Residential Property and Casualty
4842 Joint Underwriting Association and of the accounts specified in
4843 sub-sub-subparagraphs a.(I) and (II) may have a claim against,
4844 and recourse to, the accounts referred to in sub-sub-
4845 subparagraphs a.(I) and (II) and shall have no claim against, or
4846 recourse to, the account referred to in sub-sub-subparagraph
4847 a.(III). Creditors of the Florida Windstorm Underwriting
4848 Association shall have a claim against, and recourse to, the
4849 account referred to in sub-sub-subparagraph a.(III) and shall
4850 have no claim against, or recourse to, the accounts referred to
4851 in sub-sub-subparagraphs a.(I) and (II).

4852 d. Revenues, assets, liabilities, losses, and expenses not
4853 attributable to particular accounts shall be prorated among the
4854 accounts.

4855 e. The Legislature finds that the revenues of the
 4856 corporation are revenues that are necessary to meet the
 4857 requirements set forth in documents authorizing the issuance of
 4858 bonds under this subsection.

4859 f. No part of the income of the corporation may inure to
 4860 the benefit of any private person.

4861 3. With respect to a deficit in an account:

4862 a. After accounting for the Citizens policyholder
 4863 surcharge imposed under sub-subparagraph i., when the remaining
 4864 projected deficit incurred in a particular calendar year is not
 4865 greater than 6 percent of the aggregate statewide direct written
 4866 premium for the subject lines of business for the prior calendar
 4867 year, the entire deficit shall be recovered through regular
 4868 assessments of assessable insurers under paragraph (q) ~~(p)~~ and
 4869 assessable insureds.

4870 b. After accounting for the Citizens policyholder
 4871 surcharge imposed under sub-subparagraph i., when the remaining
 4872 projected deficit incurred in a particular calendar year exceeds
 4873 6 percent of the aggregate statewide direct written premium for
 4874 the subject lines of business for the prior calendar year, the
 4875 corporation shall levy regular assessments on assessable
 4876 insurers under paragraph (q) ~~(p)~~ and on assessable insureds in
 4877 an amount equal to the greater of 6 percent of the deficit or 6
 4878 percent of the aggregate statewide direct written premium for
 4879 the subject lines of business for the prior calendar year. Any
 4880 remaining deficit shall be recovered through emergency
 4881 assessments under sub-subparagraph d.

4882 c. Each assessable insurer's share of the amount being

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4883 assessed under sub-subparagraph a. or sub-subparagraph b. shall
4884 be in the proportion that the assessable insurer's direct
4885 written premium for the subject lines of business for the year
4886 preceding the assessment bears to the aggregate statewide direct
4887 written premium for the subject lines of business for that year.
4888 The assessment percentage applicable to each assessable insured
4889 is the ratio of the amount being assessed under sub-subparagraph
4890 a. or sub-subparagraph b. to the aggregate statewide direct
4891 written premium for the subject lines of business for the prior
4892 year. Assessments levied by the corporation on assessable
4893 insurers under sub-subparagraphs a. and b. shall be paid as
4894 required by the corporation's plan of operation and paragraph
4895 (q) ~~(p)~~. Assessments levied by the corporation on assessable
4896 insureds under sub-subparagraphs a. and b. shall be collected by
4897 the surplus lines agent at the time the surplus lines agent
4898 collects the surplus lines tax required by s. 626.932 and shall
4899 be paid to the Florida Surplus Lines Service Office at the time
4900 the surplus lines agent pays the surplus lines tax to the
4901 Florida Surplus Lines Service Office. Upon receipt of regular
4902 assessments from surplus lines agents, the Florida Surplus Lines
4903 Service Office shall transfer the assessments directly to the
4904 corporation as determined by the corporation.

4905 d. Upon a determination by the board of governors that a
4906 deficit in an account exceeds the amount that will be recovered
4907 through regular assessments under sub-subparagraph a. or sub-
4908 subparagraph b., plus the amount that is expected to be
4909 recovered through surcharges under sub-subparagraph i., as to
4910 the remaining projected deficit the board shall levy, after

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4911 verification by the office, emergency assessments, for as many
4912 years as necessary to cover the deficits, to be collected by
4913 assessable insurers and the corporation and collected from
4914 assessable insureds upon issuance or renewal of policies for
4915 subject lines of business, excluding National Flood Insurance
4916 policies. The amount of the emergency assessment collected in a
4917 particular year shall be a uniform percentage of that year's
4918 direct written premium for subject lines of business and all
4919 accounts of the corporation, excluding National Flood Insurance
4920 Program policy premiums, as annually determined by the board and
4921 verified by the office. The office shall verify the arithmetic
4922 calculations involved in the board's determination within 30
4923 days after receipt of the information on which the determination
4924 was based. Notwithstanding any other provision of law, the
4925 corporation and each assessable insurer that writes subject
4926 lines of business shall collect emergency assessments from its
4927 policyholders without such obligation being affected by any
4928 credit, limitation, exemption, or deferment. Emergency
4929 assessments levied by the corporation on assessable insureds
4930 shall be collected by the surplus lines agent at the time the
4931 surplus lines agent collects the surplus lines tax required by
4932 s. 626.932 and shall be paid to the Florida Surplus Lines
4933 Service Office at the time the surplus lines agent pays the
4934 surplus lines tax to the Florida Surplus Lines Service Office.
4935 The emergency assessments so collected shall be transferred
4936 directly to the corporation on a periodic basis as determined by
4937 the corporation and shall be held by the corporation solely in
4938 the applicable account. The aggregate amount of emergency

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4939 assessments levied for an account under this sub-subparagraph in
 4940 any calendar year may, at the discretion of the board of
 4941 governors, be less than but may not exceed the greater of 10
 4942 percent of the amount needed to cover the deficit, plus
 4943 interest, fees, commissions, required reserves, and other costs
 4944 associated with financing of the original deficit, or 10 percent
 4945 of the aggregate statewide direct written premium for subject
 4946 lines of business and for all accounts of the corporation for
 4947 the prior year, plus interest, fees, commissions, required
 4948 reserves, and other costs associated with financing the deficit.

4949 e. The corporation may pledge the proceeds of assessments,
 4950 projected recoveries from the Florida Hurricane Catastrophe
 4951 Fund, other insurance and reinsurance recoverables, policyholder
 4952 surcharges and other surcharges, and other funds available to
 4953 the corporation as the source of revenue for and to secure bonds
 4954 issued under paragraph (q) ~~(p)~~, bonds or other indebtedness
 4955 issued under subparagraph (c)3., or lines of credit or other
 4956 financing mechanisms issued or created under this subsection, or
 4957 to retire any other debt incurred as a result of deficits or
 4958 events giving rise to deficits, or in any other way that the
 4959 board determines will efficiently recover such deficits. The
 4960 purpose of the lines of credit or other financing mechanisms is
 4961 to provide additional resources to assist the corporation in
 4962 covering claims and expenses attributable to a catastrophe. As
 4963 used in this subsection, the term "assessments" includes regular
 4964 assessments under sub-subparagraph a., sub-subparagraph b., or
 4965 subparagraph (q)1. ~~(p)1.~~ and emergency assessments under sub-
 4966 subparagraph d. Emergency assessments collected under sub-

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4967 | subparagraph d. are not part of an insurer's rates, are not
4968 | premium, and are not subject to premium tax, fees, or
4969 | commissions; however, failure to pay the emergency assessment
4970 | shall be treated as failure to pay premium. The emergency
4971 | assessments under sub-subparagraph d. shall continue as long as
4972 | any bonds issued or other indebtedness incurred with respect to
4973 | a deficit for which the assessment was imposed remain
4974 | outstanding, unless adequate provision has been made for the
4975 | payment of such bonds or other indebtedness pursuant to the
4976 | documents governing such bonds or other indebtedness.

4977 | f. As used in this subsection for purposes of any deficit
4978 | incurred on or after January 25, 2007, the term "subject lines
4979 | of business" means insurance written by assessable insurers or
4980 | procured by assessable insureds for all property and casualty
4981 | lines of business in this state, but not including workers'
4982 | compensation or medical malpractice. As used in the sub-
4983 | subparagraph, the term "property and casualty lines of business"
4984 | includes all lines of business identified on Form 2, Exhibit of
4985 | Premiums and Losses, in the annual statement required of
4986 | authorized insurers by s. 624.424 and any rule adopted under
4987 | this section, except for those lines identified as accident and
4988 | health insurance and except for policies written under the
4989 | National Flood Insurance Program or the Federal Crop Insurance
4990 | Program. For purposes of this sub-subparagraph, the term
4991 | "workers' compensation" includes both workers' compensation
4992 | insurance and excess workers' compensation insurance.

4993 | g. The Florida Surplus Lines Service Office shall
4994 | determine annually the aggregate statewide written premium in

4995 subject lines of business procured by assessable insureds and
 4996 shall report that information to the corporation in a form and
 4997 at a time the corporation specifies to ensure that the
 4998 corporation can meet the requirements of this subsection and the
 4999 corporation's financing obligations.

5000 h. The Florida Surplus Lines Service Office shall verify
 5001 the proper application by surplus lines agents of assessment
 5002 percentages for regular assessments and emergency assessments
 5003 levied under this subparagraph on assessable insureds and shall
 5004 assist the corporation in ensuring the accurate, timely
 5005 collection and payment of assessments by surplus lines agents as
 5006 required by the corporation.

5007 i. If a deficit is incurred in any account in 2008 or
 5008 thereafter, the board of governors shall levy a Citizens
 5009 policyholder surcharge against all policyholders of the
 5010 corporation for a 12-month period, which shall be collected at
 5011 the time of issuance or renewal of a policy, as a uniform
 5012 percentage of the premium for the policy of up to 15 percent of
 5013 such premium, which funds shall be used to offset the deficit.
 5014 Citizens policyholder surcharges under this sub-subparagraph are
 5015 not considered premium and are not subject to commissions, fees,
 5016 or premium taxes. However, failure to pay such surcharges shall
 5017 be treated as failure to pay premium.

5018 j. If the amount of any assessments or surcharges
 5019 collected from corporation policyholders, assessable insurers or
 5020 their policyholders, or assessable insureds exceeds the amount
 5021 of the deficits, such excess amounts shall be remitted to and
 5022 retained by the corporation in a reserve to be used by the

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5023 corporation, as determined by the board of governors and
5024 approved by the office, to pay claims or reduce any past,
5025 present, or future plan-year deficits or to reduce outstanding
5026 debt.

5027 (c) The plan of operation of the corporation:

5028 1. Must provide for adoption of residential property and
5029 casualty insurance policy forms and commercial residential and
5030 nonresidential property insurance forms, which forms must be
5031 approved by the office prior to use. The corporation shall adopt
5032 the following policy forms:

5033 a. Standard personal lines policy forms that are
5034 comprehensive multiperil policies providing full coverage of a
5035 residential property equivalent to the coverage provided in the
5036 private insurance market under an HO-3, HO-4, or HO-6 policy.

5037 b. Basic personal lines policy forms that are policies
5038 similar to an HO-8 policy or a dwelling fire policy that provide
5039 coverage meeting the requirements of the secondary mortgage
5040 market, but which coverage is more limited than the coverage
5041 under a standard policy.

5042 c. Commercial lines residential and nonresidential policy
5043 forms that are generally similar to the basic perils of full
5044 coverage obtainable for commercial residential structures and
5045 commercial nonresidential structures in the admitted voluntary
5046 market.

5047 d. Personal lines and commercial lines residential
5048 property insurance forms that cover the peril of wind only. The
5049 forms are applicable only to residential properties located in
5050 areas eligible for coverage under the high-risk account referred

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5051 to in sub-subparagraph (b)2.a.

5052 e. Commercial lines nonresidential property insurance
 5053 forms that cover the peril of wind only. The forms are
 5054 applicable only to nonresidential properties located in areas
 5055 eligible for coverage under the high-risk account referred to in
 5056 sub-subparagraph (b)2.a.

5057 f. The corporation may adopt variations of the policy
 5058 forms listed in sub-subparagraphs a.-e. that contain more
 5059 restrictive coverage.

5060 2.a. Must provide that the corporation adopt a program in
 5061 which the corporation and authorized insurers enter into quota
 5062 share primary insurance agreements for hurricane coverage, as
 5063 defined in s. 627.4025(2) (a), for eligible risks, and adopt
 5064 property insurance forms for eligible risks which cover the
 5065 peril of wind only. As used in this subsection, the term:

5066 (I) "Quota share primary insurance" means an arrangement
 5067 in which the primary hurricane coverage of an eligible risk is
 5068 provided in specified percentages by the corporation and an
 5069 authorized insurer. The corporation and authorized insurer are
 5070 each solely responsible for a specified percentage of hurricane
 5071 coverage of an eligible risk as set forth in a quota share
 5072 primary insurance agreement between the corporation and an
 5073 authorized insurer and the insurance contract. The
 5074 responsibility of the corporation or authorized insurer to pay
 5075 its specified percentage of hurricane losses of an eligible
 5076 risk, as set forth in the quota share primary insurance
 5077 agreement, may not be altered by the inability of the other
 5078 party to the agreement to pay its specified percentage of

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5079 hurricane losses. Eligible risks that are provided hurricane
5080 coverage through a quota share primary insurance arrangement
5081 must be provided policy forms that set forth the obligations of
5082 the corporation and authorized insurer under the arrangement,
5083 clearly specify the percentages of quota share primary insurance
5084 provided by the corporation and authorized insurer, and
5085 conspicuously and clearly state that neither the authorized
5086 insurer nor the corporation may be held responsible beyond its
5087 specified percentage of coverage of hurricane losses.

5088 (II) "Eligible risks" means personal lines residential and
5089 commercial lines residential risks that meet the underwriting
5090 criteria of the corporation and are located in areas that were
5091 eligible for coverage by the Florida Windstorm Underwriting
5092 Association on January 1, 2002.

5093 b. The corporation may enter into quota share primary
5094 insurance agreements with authorized insurers at corporation
5095 coverage levels of 90 percent and 50 percent.

5096 c. If the corporation determines that additional coverage
5097 levels are necessary to maximize participation in quota share
5098 primary insurance agreements by authorized insurers, the
5099 corporation may establish additional coverage levels. However,
5100 the corporation's quota share primary insurance coverage level
5101 may not exceed 90 percent.

5102 d. Any quota share primary insurance agreement entered
5103 into between an authorized insurer and the corporation must
5104 provide for a uniform specified percentage of coverage of
5105 hurricane losses, by county or territory as set forth by the
5106 corporation board, for all eligible risks of the authorized

5107 insurer covered under the quota share primary insurance
 5108 agreement.

5109 e. Any quota share primary insurance agreement entered
 5110 into between an authorized insurer and the corporation is
 5111 subject to review and approval by the office. However, such
 5112 agreement shall be authorized only as to insurance contracts
 5113 entered into between an authorized insurer and an insured who is
 5114 already insured by the corporation for wind coverage.

5115 f. For all eligible risks covered under quota share
 5116 primary insurance agreements, the exposure and coverage levels
 5117 for both the corporation and authorized insurers shall be
 5118 reported by the corporation to the Florida Hurricane Catastrophe
 5119 Fund. For all policies of eligible risks covered under quota
 5120 share primary insurance agreements, the corporation and the
 5121 authorized insurer shall maintain complete and accurate records
 5122 for the purpose of exposure and loss reimbursement audits as
 5123 required by Florida Hurricane Catastrophe Fund rules. The
 5124 corporation and the authorized insurer shall each maintain
 5125 duplicate copies of policy declaration pages and supporting
 5126 claims documents.

5127 g. The corporation board shall establish in its plan of
 5128 operation standards for quota share agreements which ensure that
 5129 there is no discriminatory application among insurers as to the
 5130 terms of quota share agreements, pricing of quota share
 5131 agreements, incentive provisions if any, and consideration paid
 5132 for servicing policies or adjusting claims.

5133 h. The quota share primary insurance agreement between the
 5134 corporation and an authorized insurer must set forth the

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5135 specific terms under which coverage is provided, including, but
5136 not limited to, the sale and servicing of policies issued under
5137 the agreement by the insurance agent of the authorized insurer
5138 producing the business, the reporting of information concerning
5139 eligible risks, the payment of premium to the corporation, and
5140 arrangements for the adjustment and payment of hurricane claims
5141 incurred on eligible risks by the claims adjuster and personnel
5142 of the authorized insurer. Entering into a quota sharing
5143 insurance agreement between the corporation and an authorized
5144 insurer shall be voluntary and at the discretion of the
5145 authorized insurer.

5146 3. May provide that the corporation may employ or
5147 otherwise contract with individuals or other entities to provide
5148 administrative or professional services that may be appropriate
5149 to effectuate the plan. The corporation shall have the power to
5150 borrow funds, by issuing bonds or by incurring other
5151 indebtedness, and shall have other powers reasonably necessary
5152 to effectuate the requirements of this subsection, including,
5153 without limitation, the power to issue bonds and incur other
5154 indebtedness in order to refinance outstanding bonds or other
5155 indebtedness. The corporation may, but is not required to, seek
5156 judicial validation of its bonds or other indebtedness under
5157 chapter 75. The corporation may issue bonds or incur other
5158 indebtedness, or have bonds issued on its behalf by a unit of
5159 local government pursuant to subparagraph (q)2. ~~(p)2.~~, in the
5160 absence of a hurricane or other weather-related event, upon a
5161 determination by the corporation, subject to approval by the
5162 office, that such action would enable it to efficiently meet the

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5163 financial obligations of the corporation and that such
5164 financings are reasonably necessary to effectuate the
5165 requirements of this subsection. The corporation is authorized
5166 to take all actions needed to facilitate tax-free status for any
5167 such bonds or indebtedness, including formation of trusts or
5168 other affiliated entities. The corporation shall have the
5169 authority to pledge assessments, projected recoveries from the
5170 Florida Hurricane Catastrophe Fund, other reinsurance
5171 recoverables, market equalization and other surcharges, and
5172 other funds available to the corporation as security for bonds
5173 or other indebtedness. In recognition of s. 10, Art. I of the
5174 State Constitution, prohibiting the impairment of obligations of
5175 contracts, it is the intent of the Legislature that no action be
5176 taken whose purpose is to impair any bond indenture or financing
5177 agreement or any revenue source committed by contract to such
5178 bond or other indebtedness.

5179 4.a. Must require that the corporation operate subject to
5180 the supervision and approval of a board of governors consisting
5181 of eight individuals who are residents of this state, from
5182 different geographical areas of this state. The Governor, the
5183 Chief Financial Officer, the President of the Senate, and the
5184 Speaker of the House of Representatives shall each appoint two
5185 members of the board. At least one of the two members appointed
5186 by each appointing officer must have demonstrated expertise in
5187 insurance. The Chief Financial Officer shall designate one of
5188 the appointees as chair. All board members serve at the pleasure
5189 of the appointing officer. All members of the board of governors
5190 are subject to removal at will by the officers who appointed

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5191 | them. All board members, including the chair, must be appointed
5192 | to serve for 3-year terms beginning annually on a date
5193 | designated by the plan. However, for the first term beginning on
5194 | or after July 1, 2009, each appointing officer shall appoint one
5195 | member of the board for a 2-year term and one member for a 3-
5196 | year term. Any board vacancy shall be filled for the unexpired
5197 | term by the appointing officer. The Chief Financial Officer
5198 | shall appoint a technical advisory group to provide information
5199 | and advice to the board of governors in connection with the
5200 | board's duties under this subsection. The executive director and
5201 | senior managers of the corporation shall be engaged by the board
5202 | and serve at the pleasure of the board. Any executive director
5203 | appointed on or after July 1, 2006, is subject to confirmation
5204 | by the Senate. The executive director is responsible for
5205 | employing other staff as the corporation may require, subject to
5206 | review and concurrence by the board.

5207 | b. The board shall create a Market Accountability Advisory
5208 | Committee to assist the corporation in developing awareness of
5209 | its rates and its customer and agent service levels in
5210 | relationship to the voluntary market insurers writing similar
5211 | coverage. The members of the advisory committee shall consist of
5212 | the following 11 persons, one of whom must be elected chair by
5213 | the members of the committee: four representatives, one
5214 | appointed by the Florida Association of Insurance Agents, one by
5215 | the Florida Association of Insurance and Financial Advisors, one
5216 | by the Professional Insurance Agents of Florida, and one by the
5217 | Latin American Association of Insurance Agencies; three
5218 | representatives appointed by the insurers with the three highest

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5219 | voluntary market share of residential property insurance
 5220 | business in the state; one representative from the Office of
 5221 | Insurance Regulation; one consumer appointed by the board who is
 5222 | insured by the corporation at the time of appointment to the
 5223 | committee; one representative appointed by the Florida
 5224 | Association of Realtors; and one representative appointed by the
 5225 | Florida Bankers Association. All members must serve for 3-year
 5226 | terms and may serve for consecutive terms. The committee shall
 5227 | report to the corporation at each board meeting on insurance
 5228 | market issues which may include rates and rate competition with
 5229 | the voluntary market; service, including policy issuance, claims
 5230 | processing, and general responsiveness to policyholders,
 5231 | applicants, and agents; and matters relating to depopulation.

5232 | 5. Must provide a procedure for determining the
 5233 | eligibility of a risk for coverage, as follows:

5234 | a. Subject to the provisions of s. 627.3517, with respect
 5235 | to personal lines residential risks, if the risk is offered
 5236 | coverage from an authorized insurer at the insurer's approved
 5237 | rate under either a standard policy including wind coverage or,
 5238 | if consistent with the insurer's underwriting rules as filed
 5239 | with the office, a basic policy including wind coverage, for a
 5240 | new application to the corporation for coverage, the risk is not
 5241 | eligible for any policy issued by the corporation unless the
 5242 | premium for coverage from the authorized insurer is more than 15
 5243 | percent greater than the premium for comparable coverage from
 5244 | the corporation. If the risk is not able to obtain any such
 5245 | offer, the risk is eligible for either a standard policy
 5246 | including wind coverage or a basic policy including wind

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5247 coverage issued by the corporation; however, if the risk could
5248 not be insured under a standard policy including wind coverage
5249 regardless of market conditions, the risk shall be eligible for
5250 a basic policy including wind coverage unless rejected under
5251 subparagraph 8. However, with regard to a policyholder of the
5252 corporation or a policyholder removed from the corporation
5253 through an assumption agreement until the end of the assumption
5254 period, the policyholder remains eligible for coverage from the
5255 corporation regardless of any offer of coverage from an
5256 authorized insurer or surplus lines insurer. The corporation
5257 shall determine the type of policy to be provided on the basis
5258 of objective standards specified in the underwriting manual and
5259 based on generally accepted underwriting practices.

5260 (I) If the risk accepts an offer of coverage through the
5261 market assistance plan or an offer of coverage through a
5262 mechanism established by the corporation before a policy is
5263 issued to the risk by the corporation or during the first 30
5264 days of coverage by the corporation, and the producing agent who
5265 submitted the application to the plan or to the corporation is
5266 not currently appointed by the insurer, the insurer shall:

5267 (A) Pay to the producing agent of record of the policy,
5268 for the first year, an amount that is the greater of the
5269 insurer's usual and customary commission for the type of policy
5270 written or a fee equal to the usual and customary commission of
5271 the corporation; or

5272 (B) Offer to allow the producing agent of record of the
5273 policy to continue servicing the policy for a period of not less
5274 than 1 year and offer to pay the agent the greater of the

5275 insurer's or the corporation's usual and customary commission
 5276 for the type of policy written.

5277
 5278 If the producing agent is unwilling or unable to accept
 5279 appointment, the new insurer shall pay the agent in accordance
 5280 with sub-sub-sub-subparagraph (A).

5281 (II) When the corporation enters into a contractual
 5282 agreement for a take-out plan, the producing agent of record of
 5283 the corporation policy is entitled to retain any unearned
 5284 commission on the policy, and the insurer shall:

5285 (A) Pay to the producing agent of record of the
 5286 corporation policy, for the first year, an amount that is the
 5287 greater of the insurer's usual and customary commission for the
 5288 type of policy written or a fee equal to the usual and customary
 5289 commission of the corporation; or

5290 (B) Offer to allow the producing agent of record of the
 5291 corporation policy to continue servicing the policy for a period
 5292 of not less than 1 year and offer to pay the agent the greater
 5293 of the insurer's or the corporation's usual and customary
 5294 commission for the type of policy written.

5295
 5296 If the producing agent is unwilling or unable to accept
 5297 appointment, the new insurer shall pay the agent in accordance
 5298 with sub-sub-sub-subparagraph (A).

5299 b. With respect to commercial lines residential risks, for
 5300 a new application to the corporation for coverage, if the risk
 5301 is offered coverage under a policy including wind coverage from
 5302 an authorized insurer at its approved rate, the risk is not

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5303 eligible for any policy issued by the corporation unless the
5304 premium for coverage from the authorized insurer is more than 15
5305 percent greater than the premium for comparable coverage from
5306 the corporation. If the risk is not able to obtain any such
5307 offer, the risk is eligible for a policy including wind coverage
5308 issued by the corporation. However, with regard to a
5309 policyholder of the corporation or a policyholder removed from
5310 the corporation through an assumption agreement until the end of
5311 the assumption period, the policyholder remains eligible for
5312 coverage from the corporation regardless of any offer of
5313 coverage from an authorized insurer or surplus lines insurer.

5314 (I) If the risk accepts an offer of coverage through the
5315 market assistance plan or an offer of coverage through a
5316 mechanism established by the corporation before a policy is
5317 issued to the risk by the corporation or during the first 30
5318 days of coverage by the corporation, and the producing agent who
5319 submitted the application to the plan or the corporation is not
5320 currently appointed by the insurer, the insurer shall:

5321 (A) Pay to the producing agent of record of the policy,
5322 for the first year, an amount that is the greater of the
5323 insurer's usual and customary commission for the type of policy
5324 written or a fee equal to the usual and customary commission of
5325 the corporation; or

5326 (B) Offer to allow the producing agent of record of the
5327 policy to continue servicing the policy for a period of not less
5328 than 1 year and offer to pay the agent the greater of the
5329 insurer's or the corporation's usual and customary commission
5330 for the type of policy written.

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5331
5332 If the producing agent is unwilling or unable to accept
5333 appointment, the new insurer shall pay the agent in accordance
5334 with sub-sub-sub-subparagraph (A).

5335 (II) When the corporation enters into a contractual
5336 agreement for a take-out plan, the producing agent of record of
5337 the corporation policy is entitled to retain any unearned
5338 commission on the policy, and the insurer shall:

5339 (A) Pay to the producing agent of record of the
5340 corporation policy, for the first year, an amount that is the
5341 greater of the insurer's usual and customary commission for the
5342 type of policy written or a fee equal to the usual and customary
5343 commission of the corporation; or

5344 (B) Offer to allow the producing agent of record of the
5345 corporation policy to continue servicing the policy for a period
5346 of not less than 1 year and offer to pay the agent the greater
5347 of the insurer's or the corporation's usual and customary
5348 commission for the type of policy written.

5349
5350 If the producing agent is unwilling or unable to accept
5351 appointment, the new insurer shall pay the agent in accordance
5352 with sub-sub-sub-subparagraph (A).

5353 c. For purposes of determining comparable coverage under
5354 sub-subparagraphs a. and b., the comparison shall be based on
5355 those forms and coverages that are reasonably comparable. The
5356 corporation may rely on a determination of comparable coverage
5357 and premium made by the producing agent who submits the
5358 application to the corporation, made in the agent's capacity as

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5359 the corporation's agent. A comparison may be made solely of the
5360 premium with respect to the main building or structure only on
5361 the following basis: the same coverage A or other building
5362 limits; the same percentage hurricane deductible that applies on
5363 an annual basis or that applies to each hurricane for commercial
5364 residential property; the same percentage of ordinance and law
5365 coverage, if the same limit is offered by both the corporation
5366 and the authorized insurer; the same mitigation credits, to the
5367 extent the same types of credits are offered both by the
5368 corporation and the authorized insurer; the same method for loss
5369 payment, such as replacement cost or actual cash value, if the
5370 same method is offered both by the corporation and the
5371 authorized insurer in accordance with underwriting rules; and
5372 any other form or coverage that is reasonably comparable as
5373 determined by the board. If an application is submitted to the
5374 corporation for wind-only coverage in the high-risk account, the
5375 premium for the corporation's wind-only policy plus the premium
5376 for the ex-wind policy that is offered by an authorized insurer
5377 to the applicant shall be compared to the premium for multiperil
5378 coverage offered by an authorized insurer, subject to the
5379 standards for comparison specified in this subparagraph. If the
5380 corporation or the applicant requests from the authorized
5381 insurer a breakdown of the premium of the offer by types of
5382 coverage so that a comparison may be made by the corporation or
5383 its agent and the authorized insurer refuses or is unable to
5384 provide such information, the corporation may treat the offer as
5385 not being an offer of coverage from an authorized insurer at the
5386 insurer's approved rate.

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5387 6. Must include rules for classifications of risks and
5388 rates therefor.

5389 7. Must provide that if premium and investment income for
5390 an account attributable to a particular calendar year are in
5391 excess of projected losses and expenses for the account
5392 attributable to that year, such excess shall be held in surplus
5393 in the account. Such surplus shall be available to defray
5394 deficits in that account as to future years and shall be used
5395 for that purpose prior to assessing assessable insurers and
5396 assessable insureds as to any calendar year.

5397 8. Must provide objective criteria and procedures to be
5398 uniformly applied for all applicants in determining whether an
5399 individual risk is so hazardous as to be uninsurable. In making
5400 this determination and in establishing the criteria and
5401 procedures, the following shall be considered:

5402 a. Whether the likelihood of a loss for the individual
5403 risk is substantially higher than for other risks of the same
5404 class; and

5405 b. Whether the uncertainty associated with the individual
5406 risk is such that an appropriate premium cannot be determined.

5407
5408 The acceptance or rejection of a risk by the corporation shall
5409 be construed as the private placement of insurance, and the
5410 provisions of chapter 120 shall not apply.

5411 9. Must provide that the corporation shall make its best
5412 efforts to procure catastrophe reinsurance at reasonable rates,
5413 to cover its projected 100-year probable maximum loss as
5414 determined by the board of governors.

5415 | 10. The policies issued by the corporation must provide
5416 | that, if the corporation or the market assistance plan obtains
5417 | an offer from an authorized insurer to cover the risk at its
5418 | approved rates, the risk is no longer eligible for renewal
5419 | through the corporation, except as otherwise provided in this
5420 | subsection.

5421 | 11. Corporation policies and applications must include a
5422 | notice that the corporation policy could, under this section, be
5423 | replaced with a policy issued by an authorized insurer that does
5424 | not provide coverage identical to the coverage provided by the
5425 | corporation. The notice shall also specify that acceptance of
5426 | corporation coverage creates a conclusive presumption that the
5427 | applicant or policyholder is aware of this potential.

5428 | 12. May establish, subject to approval by the office,
5429 | different eligibility requirements and operational procedures
5430 | for any line or type of coverage for any specified county or
5431 | area if the board determines that such changes to the
5432 | eligibility requirements and operational procedures are
5433 | justified due to the voluntary market being sufficiently stable
5434 | and competitive in such area or for such line or type of
5435 | coverage and that consumers who, in good faith, are unable to
5436 | obtain insurance through the voluntary market through ordinary
5437 | methods would continue to have access to coverage from the
5438 | corporation. When coverage is sought in connection with a real
5439 | property transfer, such requirements and procedures shall not
5440 | provide for an effective date of coverage later than the date of
5441 | the closing of the transfer as established by the transferor,
5442 | the transferee, and, if applicable, the lender.

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5443 13. Must provide that, with respect to the high-risk
5444 account, any assessable insurer with a surplus as to
5445 policyholders of \$25 million or less writing 25 percent or more
5446 of its total countrywide property insurance premiums in this
5447 state may petition the office, within the first 90 days of each
5448 calendar year, to qualify as a limited apportionment company. A
5449 regular assessment levied by the corporation on a limited
5450 apportionment company for a deficit incurred by the corporation
5451 for the high-risk account in 2006 or thereafter may be paid to
5452 the corporation on a monthly basis as the assessments are
5453 collected by the limited apportionment company from its insureds
5454 pursuant to s. 627.3512, but the regular assessment must be paid
5455 in full within 12 months after being levied by the corporation.
5456 A limited apportionment company shall collect from its
5457 policyholders any emergency assessment imposed under sub-
5458 subparagraph (b)3.d. The plan shall provide that, if the office
5459 determines that any regular assessment will result in an
5460 impairment of the surplus of a limited apportionment company,
5461 the office may direct that all or part of such assessment be
5462 deferred as provided in subparagraph (q)4. ~~(p)4.~~ However, there
5463 shall be no limitation or deferment of an emergency assessment
5464 to be collected from policyholders under sub-subparagraph
5465 (b)3.d.

5466 14. Must provide that the corporation appoint as its
5467 licensed agents only those agents who also hold an appointment
5468 as defined in s. 626.015(3) with an insurer who at the time of
5469 the agent's initial appointment by the corporation is authorized
5470 to write and is actually writing personal lines residential

5471 property coverage, commercial residential property coverage, or
 5472 commercial nonresidential property coverage within the state.

5473 15. Must provide, by July 1, 2007, a premium payment plan
 5474 option to its policyholders which allows at a minimum for
 5475 quarterly and semiannual payment of premiums. A monthly payment
 5476 plan may, but is not required to, be offered.

5477 16. Must limit coverage on mobile homes or manufactured
 5478 homes built prior to 1994 to actual cash value of the dwelling
 5479 rather than replacement costs of the dwelling.

5480 17. May provide such limits of coverage as the board
 5481 determines, consistent with the requirements of this subsection.

5482 18. May require commercial property to meet specified
 5483 hurricane mitigation construction features as a condition of
 5484 eligibility for coverage.

5485 (o) If coverage in an account is deactivated pursuant to
 5486 paragraph (p) ~~(o)~~, coverage through the corporation shall be
 5487 reactivated by order of the office only under one of the
 5488 following circumstances:

5489 1. If the market assistance plan receives a minimum of 100
 5490 applications for coverage within a 3-month period, or 200
 5491 applications for coverage within a 1-year period or less for
 5492 residential coverage, unless the market assistance plan provides
 5493 a quotation from admitted carriers at their filed rates for at
 5494 least 90 percent of such applicants. Any market assistance plan
 5495 application that is rejected because an individual risk is so
 5496 hazardous as to be uninsurable using the criteria specified in
 5497 subparagraph (c)8. shall not be included in the minimum
 5498 percentage calculation provided herein. In the event that there

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5499 is a legal or administrative challenge to a determination by the
5500 office that the conditions of this subparagraph have been met
5501 for eligibility for coverage in the corporation, any eligible
5502 risk may obtain coverage during the pendency of such challenge.

5503 2. In response to a state of emergency declared by the
5504 Governor under s. 252.36, the office may activate coverage by
5505 order for the period of the emergency upon a finding by the
5506 office that the emergency significantly affects the availability
5507 of residential property insurance.

5508 Reviser's note.—Paragraphs (2) (b) and (6) (b), (c), and
5509 (o) are amended to conform to the addition of a new
5510 paragraph (6) (f) by s. 4, ch. 2009-77, Laws of
5511 Florida. Paragraph (6) (b) is amended and paragraph
5512 (6) (cc) is repealed to delete references to reports
5513 that were due February 1, 2007.

5514 Section 122. Paragraph (c) of subsection (5) of section
5515 733.817, Florida Statutes, is amended to read:

5516 733.817 Apportionment of estate taxes.—

5517 (5) Except as provided above or as otherwise directed by
5518 the governing instrument, the net tax attributable to each
5519 interest shall be apportioned as follows:

5520 (c) The net tax attributable to an interest in protected
5521 homestead shall be apportioned against the recipients of other
5522 interests in the estate or passing under any revocable trust in
5523 the following order:

5524 1. Class I: Recipients of interests not disposed of by the
5525 decedent's will or revocable trust that are included in the
5526 measure of the federal estate tax.

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5527 2. Class II: Recipients of residuary devises and residuary
5528 interests that are included in the measure of the federal estate
5529 tax.

5530 3. Class III: Recipients of nonresiduary devises and
5531 nonresiduary interests that are included in the measure of the
5532 federal estate tax.

5533
5534 The net tax apportioned to a class, if any, pursuant to this
5535 paragraph shall be apportioned among the recipients in the class
5536 in the proportion that the value of the interest of each bears
5537 to the total value of all interests included in that class.

5538 Reviser's note.—Amended to conform to context.

5539 Section 123. Paragraph (a) of subsection (1) of section
5540 817.36, Florida Statutes, is amended to read:

5541 817.36 Resale of tickets.—

5542 (1) A person or entity that offers for resale or resells
5543 any ticket may charge only \$1 above the admission price charged
5544 therefor by the original ticket seller of the ticket for the
5545 following transactions:

5546 (a) Passage or accommodations on any common carrier in
5547 this state. However, this paragraph does not apply to travel
5548 agencies that have an established place of business in this
5549 state and are ~~is~~ required to pay state, county, and city
5550 occupational license taxes.

5551 Reviser's note.—Amended to confirm an editorial
5552 substitution made to improve clarity and correct
5553 sentence structure.

5554 Section 124. Paragraph (a) of subsection (4) of section

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5555 921.002, Florida Statutes, is amended to read:

5556 921.002 The Criminal Punishment Code.—The Criminal
 5557 Punishment Code shall apply to all felony offenses, except
 5558 capital felonies, committed on or after October 1, 1998.

5559 (4) (a) The Department of Corrections shall report on
 5560 trends in sentencing practices and sentencing score thresholds
 5561 and provide an analysis on the sentencing factors considered by
 5562 the courts and shall submit this information to the Legislature
 5563 by October 1 of each year, ~~beginning in 1999~~.

5564 Reviser's note.—Amended to delete language that has
 5565 served its purpose.

5566 Section 125. Subsection (11) of section 934.02, Florida
 5567 Statutes, is amended to read:

5568 934.02 Definitions.—As used in this chapter:

5569 (11) "Communication common carrier" shall have the same
 5570 meaning which is given the term "common carrier" in 47 U.S.C. s.
 5571 153(10) ~~153(h)~~.

5572 Reviser's note.—Amended to confirm an editorial
 5573 substitution; 47 U.S.C. s. 153(10) defines the term
 5574 "common carrier," and 47 U.S.C. s. 153(h) does not
 5575 exist.

5576 Section 126. Paragraph (a) of subsection (7) of section
 5577 1002.335, Florida Statutes, is amended to read:

5578 1002.335 Florida Schools of Excellence Commission.—

5579 (7) COSPONSOR AGREEMENT.—

5580 (a) Upon approval of a cosponsor, the commission and the
 5581 cosponsor shall enter into an agreement that defines the
 5582 cosponsor's rights and obligations and includes the following:

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- 5583 1. An explanation of the personnel, contractual and
5584 interagency relationships, and potential revenue sources
5585 referenced in the application as required in paragraph (6)(c).
- 5586 2. Incorporation of the requirements of equal access for
5587 all students, including any plans to provide food service or
5588 transportation reasonably necessary to provide access to as many
5589 students as possible.
- 5590 3. Incorporation of the requirement to serve low-income,
5591 low-performing, gifted, or underserved student populations.
- 5592 4. An explanation of the academic and financial goals and
5593 expected outcomes for the cosponsor's charter schools and the
5594 method and plans by which they will be measured and achieved as
5595 referenced in the application.
- 5596 5. The conflict-of-interest policies referenced in the
5597 application.
- 5598 6. An explanation of the disposition of facilities and
5599 assets upon termination and dissolution of a charter school
5600 approved by the cosponsor.
- 5601 7. A provision requiring the cosponsor to annually appear
5602 before the commission and provide a report as to the information
5603 provided pursuant to s. 1002.33(9)(k) ~~1002.33(9)(1)~~ for each of
5604 its charter schools.
- 5605 8. A provision requiring that the cosponsor report the
5606 student enrollment in each of its sponsored charter schools to
5607 the district school board of the county in which the school is
5608 located.
- 5609 9. A provision requiring that the cosponsor work with the
5610 commission to provide the necessary reports to the State Board

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5611 | of Education.

5612 | 10. Any other reasonable terms deemed appropriate by the

5613 | commission given the unique characteristics of the cosponsor.

5614 | Reviser's note.—Amended to conform to the

5615 | redesignation of paragraphs within s. 1002.33(9) by s.

5616 | 7, ch. 2009-214, Laws of Florida.

5617 | Section 127. Paragraph (c) of subsection (3) of section

5618 | 1003.57, Florida Statutes, is amended to read:

5619 | 1003.57 Exceptional students instruction.—

5620 | (3)

5621 | (c) Within 10 business days after receiving the

5622 | notification, the receiving school district must review the

5623 | student's individual educational plan (IEP) to determine if the

5624 | student's IEP can be implemented by the receiving school

5625 | district or by a provider or facility under contract with the

5626 | receiving school district. The receiving school district shall:

5627 | 1. Provide educational instruction to the student;

5628 | 2. Contract with another provider or facility to provide

5629 | the educational instruction;

5630 | 3. Contract with the private residential care facility in

5631 | which the student resides to provide the educational

5632 | instruction; or

5633 | 4. Decline to provide or contract for educational

5634 | instruction.

5635 |

5636 | If the receiving school district declines to provide or contract

5637 | for the educational instruction, the school district in which

5638 | the legal residence of the student is located shall provide or

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5639 contract for the educational instruction to the student. The
5640 school district that provides educational instruction or
5641 contracts to provide educational instruction shall report the
5642 student for funding purposes pursuant to s. 1011.62.

5643
5644 The requirements of paragraphs (c) and (d) do not apply to
5645 written agreements among school districts which specify each
5646 school district's responsibility for providing and paying for
5647 educational services to an exceptional student in a residential
5648 care facility. However, each agreement must require a school
5649 district to review the student's IEP within 10 business days
5650 after receiving the notification required under paragraph (b).

5651 Reviser's note.—Amended to confirm an editorial
5652 insertion made to provide clarity.

5653 Section 128. Paragraph (a) of subsection (2) and
5654 subsection (7) of section 1004.87, Florida Statutes, are
5655 repealed.

5656 Reviser's note.—Paragraph (2)(a) is repealed to delete
5657 material relating to appointment of initial members of
5658 the Florida College System Task Force on or before
5659 August 31, 2008, and holding of the first task force
5660 meeting on or before September 15, 2008. Subsection
5661 (7) is repealed to delete material relating to
5662 submittal of a report and recommendations by March 2,
5663 2009.

5664 Section 129. Subsection (6) of section 1011.71, Florida
5665 Statutes, is amended to read:

5666 1011.71 District school tax.—

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5667 (6) Violations of the expenditure provisions in subsection
 5668 (2) or subsection (5) ~~(4)~~ shall result in an equal dollar
 5669 reduction in the Florida Education Finance Program (FEFP) funds
 5670 for the violating district in the fiscal year following the
 5671 audit citation.

5672 Reviser's note.—Amended to conform to the
 5673 redesignation of subsection (4) as subsection (5) by
 5674 s. 33, ch. 2009-59, Laws of Florida.

5675 Section 130. Subsection (2) of section 1011.73, Florida
 5676 Statutes, is amended to read:

5677 1011.73 District millage elections.—

5678 (2) MILLAGE AUTHORIZED NOT TO EXCEED 4 YEARS.—The district
 5679 school board, pursuant to resolution adopted at a regular
 5680 meeting, shall direct the county commissioners to call an
 5681 election at which the electors within the school district may
 5682 approve an ad valorem tax millage as authorized under s.
 5683 1011.71(9) ~~1011.71(8)~~. Such election may be held at any time,
 5684 except that not more than one such election shall be held during
 5685 any 12-month period. Any millage so authorized shall be levied
 5686 for a period not in excess of 4 years or until changed by
 5687 another millage election, whichever is earlier. If any such
 5688 election is invalidated by a court of competent jurisdiction,
 5689 such invalidated election shall be considered not to have been
 5690 held.

5691 Reviser's note.—Amended to conform to the
 5692 redesignation of subsections within s. 1011.71 by s.
 5693 33, ch. 2009-59, Laws of Florida.

5694 Section 131. Subsection (1) of section 1013.45, Florida

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5695 Statutes, is reenacted to read:

5696 1013.45 Educational facilities contracting and
5697 construction techniques.—

5698 (1) Boards may employ procedures to contract for
5699 construction of new facilities, or for additions, remodeling,
5700 renovation, maintenance, or repairs to existing facilities, that
5701 will include, but not be limited to:

5702 (a) Competitive bids.

5703 (b) Design-build pursuant to s. 287.055.

5704 (c) Selecting a construction management entity, pursuant
5705 to s. 255.103 or the process provided by s. 287.055, that would
5706 be responsible for all scheduling and coordination in both
5707 design and construction phases and is generally responsible for
5708 the successful, timely, and economical completion of the
5709 construction project. The construction management entity must
5710 consist of or contract with licensed or registered professionals
5711 for the specific fields or areas of construction to be
5712 performed, as required by law. At the option of the board, the
5713 construction management entity, after having been selected, may
5714 be required to offer a guaranteed maximum price or a guaranteed
5715 completion date; in which case, the construction management
5716 entity must secure an appropriate surety bond pursuant to s.
5717 255.05 and must hold construction subcontracts. The criteria for
5718 selecting a construction management entity shall not unfairly
5719 penalize an entity that has relevant experience in the delivery
5720 of construction projects of similar size and complexity by
5721 methods of delivery other than construction management.

5722 (d) Selecting a program management entity, pursuant to s.

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5723 255.103 or the process provided by s. 287.055, that would act as
5724 the agent of the board and would be responsible for schedule
5725 control, cost control, and coordination in providing or
5726 procuring planning, design, and construction services. The
5727 program management entity must consist of or contract with
5728 licensed or registered professionals for the specific areas of
5729 design or construction to be performed as required by law. The
5730 program management entity may retain necessary design
5731 professionals selected under the process provided in s. 287.055.
5732 At the option of the board, the program management entity, after
5733 having been selected, may be required to offer a guaranteed
5734 maximum price or a guaranteed completion date, in which case the
5735 program management entity must secure an appropriate surety bond
5736 pursuant to s. 255.05 and must hold design and construction
5737 subcontracts. The criteria for selecting a program management
5738 entity shall not unfairly penalize an entity that has relevant
5739 experience in the delivery of construction programs of similar
5740 size and complexity by methods of delivery other than program
5741 management.

5742 (e) Day-labor contracts not exceeding \$280,000 for
5743 construction, renovation, remodeling, or maintenance of existing
5744 facilities. Beginning January 2009, this amount shall be
5745 adjusted annually based upon changes in the Consumer Price
5746 Index.

5747 Reviser's note.—Section 5, ch. 2009-227, Laws of
5748 Florida, amended subsection (1) without publishing
5749 paragraph (e). Absent affirmative evidence of
5750 legislative intent to repeal paragraph (e), subsection

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5751 (1) is reenacted to confirm that the omission was not
5752 intended.

5753 Section 132. This act shall take effect on the 60th day
5754 after adjournment sine die of the session of the Legislature in
5755 which enacted.