

1 A bill to be entitled
2 An act relating to the verification of employment
3 eligibility; defining terms; requiring every employer
4 to use the Employment Authorization Program to verify
5 the employment eligibility of each new employee on or
6 after a specified date; providing that a business that
7 does not use the E-Verify system to verify the
8 employment eligibility of the employee shall lose its
9 license to do business in this state until the
10 business has registered with the E-Verify system;
11 requiring that each verification be made in accordance
12 with certain provisions of federal law; prohibiting an
13 employer from employing an unauthorized alien;
14 authorizing certain persons to file a complaint with
15 the Department of Business and Professional Regulation
16 or the Department of Economic Opportunity alleging
17 that an employer has employed an unauthorized alien;
18 prohibiting the filing of a complaint based on race,
19 color, or national origin; providing that a person who
20 knowingly files a false and frivolous complaint
21 commits a misdemeanor of the second degree; providing
22 criminal penalties; requiring the department or the
23 Department of Economic Opportunity to notify the
24 employer upon receipt of a complaint; requiring the
25 department or the Department of Economic Opportunity
26 to investigate whether a violation has occurred;
27 authorizing the department and the Department of
28 Economic Opportunity to issue a subpoena for the

29 | production of documents; requiring the department or
30 | the Department of Economic Opportunity to request that
31 | the Federal Government verify the employment
32 | eligibility of any employee named in a complaint;
33 | prohibiting the department or the Department of
34 | Economic Opportunity from independently making a final
35 | determination regarding whether an employee is
36 | authorized to be employed in the United States;
37 | requiring the department or the Department of Economic
38 | Opportunity to notify certain entities after
39 | determining that the employer has employed an
40 | unauthorized alien; prohibiting the department or the
41 | Department of Economic Opportunity from acting on a
42 | complaint for a violation of law occurring before a
43 | specified date; requiring the department or the
44 | Department of Economic Opportunity to order an
45 | employer to take certain action upon a first violation
46 | of the prohibition against hiring an unauthorized
47 | alien; requiring that certain licenses of an employer
48 | be suspended if the employer fails to file an
49 | affidavit confirming the termination of employment of
50 | an unauthorized alien; providing for reinstatement of
51 | such licenses under certain circumstances; requiring
52 | that the department or the Department of Economic
53 | Opportunity take certain action against an employer
54 | for a second violation within a specified period
55 | following the prohibition against hiring an
56 | unauthorized alien; specifying actions for which an

57 | employer registered with and participating in the E-
58 | Verify system may not be held civilly liable;
59 | providing specified immunity and nonliability with
60 | respect to employers who properly comply with the E-
61 | Verify system in good faith and rely upon information
62 | provided by the system; requiring the Department of
63 | Economic Opportunity to maintain a public database
64 | containing certain information and make such
65 | information available on its website; authorizing the
66 | department or the Department of Economic Opportunity
67 | to apply to the appropriate circuit court for a
68 | judicial order directing an employer to comply with an
69 | order issued by the department or the Department of
70 | Economic Opportunity; creating a rebuttable
71 | presumption for certain employers that the employer
72 | did not knowingly employ an unauthorized alien;
73 | authorizing an employer or employee to seek an
74 | injunction under certain circumstances; providing that
75 | certain actions by an employer constitute an unfair
76 | trade practice; providing that an employee aggrieved
77 | by such actions has a private cause of action against
78 | the employer for a deceptive and unfair trade
79 | practice; providing for an award of court costs and
80 | attorneys fees; providing that a cause of action does
81 | not exist against an employer participating in the E-
82 | Verify system on the date of discharge of an employee
83 | under specified circumstances; providing for
84 | construction of the act; creating s. 287.136, F.S.;

85 | defining terms; requiring every public employer to
86 | register with and participate in the E-Verify system
87 | for specified purposes; prohibiting a public employer,
88 | contractor, or subcontractor from entering into a
89 | contract for the physical performance of services in
90 | this state unless the contractor or subcontractor
91 | registers and participates in the system; requiring
92 | that subcontractors certify certain information to
93 | contractors by specified means; requiring that a
94 | contractor maintain a copy of the certification for a
95 | specified period; authorizing a contractor to
96 | terminate a contract with a subcontractor under
97 | certain conditions; providing that such termination is
98 | not a breach of contract; authorizing a subcontractor
99 | to challenge a termination within a specified period;
100 | requiring that a public contractor terminate a
101 | contract if the contractor or subcontractor is in
102 | violation of the act; providing that such termination
103 | is not a breach of contract; authorizing a contractor
104 | or subcontractor to challenge such a termination
105 | within a specified period; providing guidelines for
106 | interpretation of the provisions of the act; creating
107 | s. 337.163, F.S.; defining terms; requiring the
108 | Department of Transportation to register with and
109 | participate in the E-Verify system for specified
110 | purposes; prohibiting the department, a contractor, or
111 | subcontractor from entering into a contract for the
112 | physical performance of services in this state under

113 ch. 337, F.S., unless the contractor or subcontractor
 114 registers and participates in the system; requiring
 115 that subcontractors certify certain information to
 116 contractors by specified means; requiring that a
 117 contractor maintain a copy of the certification for a
 118 specified period; authorizing a contractor to
 119 terminate a contract with a subcontractor under
 120 certain conditions; providing that such termination is
 121 not a breach of contract; authorizing a subcontractor
 122 to challenge a termination within a specified period;
 123 requiring that a public contractor terminate a
 124 contract if the contractor or subcontractor is in
 125 violation of the act; providing that such termination
 126 is not a breach of contract; authorizing a contractor
 127 or subcontractor to challenge such a termination
 128 within a specified period; providing guidelines for
 129 interpretation of the provisions of the act; providing
 130 for severability; providing an effective date.

131
 132 Be It Enacted by the Legislature of the State of Florida:

133
 134 Section 1. Use of E-Verify system required for private
 135 employers; business licensing enforcement; private right of
 136 action for wrongfully discharged worker.-

- 137 (1) DEFINITIONS.-As used in this section, the term:
 138 (a) "Agency" means an agency, department, board, or
 139 commission of this state or a county, municipality, or town
 140 issuing a license for the purpose of operating a business in

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141 this state.

142 (b) "E-Verify system" means the Employment Authorization
143 Program, formerly the "Basic Pilot Program," under Pub. L. No.
144 104-208, Div. C, Title IV, Subtitle A, 110 Stat. 3009-655 (Sept.
145 30, 1996), as amended, or any successor program designated by
146 the Federal Government for verification that an employee is an
147 unauthorized alien.

148 (c) "Employee" means any person who performs employment
149 services in this state for an employer pursuant to an employment
150 relationship between the person and employer. An employee does
151 not include an independent contractor as defined by federal law
152 and regulations.

153 (d) "Employer" means any person or entity transacting
154 business in this state that employs individuals. The term does
155 not include:

- 156 1. A government employer;
- 157 2. The occupant or owner of a private residence who hires
158 casual domestic labor to perform work customarily performed by a
159 homeowner entirely within a private residence;
- 160 3. That portion of labor and services provided to a person
161 or entity by a licensed independent contractor; or
- 162 4. An employee leasing company licensed pursuant to part
163 XI of chapter 468 that enters into a written agreement or
164 understanding with its client company which places the primary
165 obligation for compliance with this part upon its client
166 company. In the absence of a written agreement or understanding,
167 the contracting party, whether the licensed employee leasing
168 company or client company, that initially hires the leased

169 employee is responsible for the obligations set forth in this
 170 part. Such employee leasing company shall, at all times, remain
 171 an employer as otherwise specified by law.

172 (e) "Enforcing authority" has the same meaning as
 173 "agency," as defined in paragraph (a), if the agency has the
 174 mechanisms to conduct investigations of a licensee and to
 175 enforce discipline against a licensee. If the agency is not so
 176 equipped, then "enforcing authority" means the Department of
 177 Economic Opportunity.

178 (f) "License" means a license, permit, certificate,
 179 approval, registration, charter, or similar form of
 180 authorization required by law and issued by an agency for the
 181 purpose of operating a business in this state. A license
 182 includes, but is not limited to:

- 183 1. Articles of incorporation.
- 184 2. A certificate of partnership, a partnership
 185 registration, or articles of organization.
- 186 3. A grant of authority issued pursuant to state or
 187 federal law.
- 188 4. A transaction privilege tax license.

189 (g) "Unauthorized alien" means an alien is not authorized
 190 under federal law to be employed in the United States, as
 191 described in 8 U.S.C. s. 1324a(h) (3). This term shall be
 192 interpreted consistently with that section and any applicable
 193 federal rules or regulations.

194 (h) "Knowingly employ an unauthorized alien" has the same
 195 meaning as prescribed in 8 U.S.C. s. 1324a. The term shall be
 196 interpreted consistently with s. 1324a and any federal rule or

197 regulation applicable to the unlawful employment of aliens.

198 (2) VERIFICATION OF EMPLOYMENT ELIGIBILITY; SUSPENSION OF
 199 BUSINESS LICENSE.—

200 (a) Beginning January 1, 2013, every employer shall, after
 201 making an offer of employment which has been accepted by an
 202 employee, use the E-Verify system to verify the employment
 203 eligibility of the employee. Verification must occur within the
 204 period stipulated by federal law or regulations. However, an
 205 employer is not required to verify the employment eligibility of
 206 a continuing employee hired before the date of the employer's
 207 registration with the system.

208 (b) A business that has not complied with paragraph (a)
 209 shall lose its license to do business in this state until the
 210 business has registered with the E-Verify system and provided
 211 the department with an affidavit stating that the business has
 212 registered with the E-Verify system.

213 (3) EMPLOYMENT OF UNAUTHORIZED ALIENS; PROHIBITION; FALSE
 214 AND FRIVOLOUS COMPLAINTS; VIOLATION; CLASSIFICATION; SUSPENSION
 215 AND REVOCATION OF LICENSE.—

216 (a) An employer may not employ an unauthorized alien.

217 (b) A person who has actual or constructive knowledge that
 218 an employer employs, or has within the last 90 days employed, an
 219 unauthorized alien may file a complaint with the department or
 220 the Department of Economic Opportunity.

221 (c) A complaint may not be based on race, color, or
 222 national origin, except to the extent permitted by the United
 223 States Constitution or the State Constitution.

224 (d) A person who knowingly files a false and frivolous

225 complaint under this subsection commits a misdemeanor of the
 226 second degree, punishable as provided in s. 775.082 or s.
 227 775.083.

228 (e) Upon the receipt of a valid complaint of a violation
 229 of paragraph (a), the department or the Department of Economic
 230 Opportunity shall notify the employer of the complaint and
 231 direct the employer to notify any affected employees named in
 232 the complaint.

233 (f) The department or the Department of Economic
 234 Opportunity shall investigate whether a violation has occurred
 235 and hold an administrative hearing at which the employer may
 236 present any evidence he or she desires and at which the employer
 237 has the right to counsel. The department or the Department of
 238 Economic Opportunity shall request that the Federal Government
 239 verify, pursuant to 8 U.S.C. s. 1373(c), the employment status
 240 of any employee named in the complaint. The department or the
 241 Department of Economic Opportunity may not independently make a
 242 final determination as to whether a particular employee is an
 243 unauthorized alien. The department or the Department of Economic
 244 Opportunity shall rely upon verification of employment
 245 authorization provided by the Federal Government.

246 (g) The department or the Department of Economic
 247 Opportunity may issue a subpoena to produce employment records
 248 that relate to the recruitment, hiring, employment, or
 249 termination policies, practices, or acts of employment relating
 250 to the investigation of a valid complaint.

251 (h) If the department or the Department of Economic
 252 Opportunity confirms that the employer has employed an

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253 unauthorized alien, the department or the Department of Economic
 254 Opportunity shall notify:

255 1. The United States Immigration and Customs Enforcement
 256 Agency of the identity of the unauthorized alien and, if known,
 257 the alien's address or location in the state; and

258 2. The local law enforcement agency of the presence of the
 259 unauthorized alien in the jurisdiction.

260 (i) The department or the Department of Economic
 261 Opportunity may not act upon a complaint against any employer
 262 for any violation occurring before January 1, 2013.

263 (j)1. Upon finding that an employer has violated paragraph
 264 (a), the department or the Department of Economic Opportunity
 265 shall order the employer to:

266 a. Terminate the employment of all unauthorized aliens;
 267 and

268 b. File a sworn affidavit with the department within 10
 269 days after the receipt of the order. The affidavit must state
 270 that the employer has corrected the violation by:

271 (I) Terminating all known unauthorized alien's employment;

272 (II) Requesting that a second or additional verification
 273 of the alien's employment status be authorized, by using the E-
 274 Verify system; or

275 (III) Attempting to terminate the unauthorized alien's
 276 employment, and such termination has been challenged in a court
 277 of competent jurisdiction.

278 2. If the employer fails to file the required affidavit,
 279 the department or the Department of Economic Opportunity shall
 280 order the appropriate agencies to suspend all applicable

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281 licenses held by the employer. All such licenses suspended shall
282 remain suspended until the affidavit is filed. Notwithstanding
283 any other law, the suspended licenses shall be deemed to have
284 been reinstated upon the filing of the affidavit for the
285 purposes of this section. During the pendency of an action, the
286 10-day period shall be tolled. The 10-day period shall also be
287 tolled during any period during which the Federal Government
288 allows an alien to challenge the Federal Government's
289 determination of his or her immigration status or employment
290 authorization.

291 3. Licenses subject to suspension under this subsection
292 include all licenses that are held by the employer that are
293 necessary to operate the employer's business at the location at
294 which the unauthorized alien performed work. If a license is not
295 necessary to operate the employer's business at the specific
296 location at which the unauthorized alien performed work, but a
297 license is necessary to operate the employer's business in
298 general, the licenses subject to suspension under subparagraph
299 2. include all licenses held by the employer at the employer's
300 primary place of business.

301 (k) Upon finding a second or subsequent violation of
302 paragraph (a) during a 2-year period, the department or the
303 Department of Economic Opportunity shall order the appropriate
304 agencies to suspend, for at least 30 days, all licenses that are
305 held by the employer that are necessary to operate the
306 employer's business at the location at which the unauthorized
307 alien performed work. If a license is not necessary to operate
308 the employer's business at the specific location at which the

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309 unauthorized alien performed work, but a license is necessary to
310 operate the employer's business in general, the department or
311 the Department of Economic Opportunity shall order the
312 appropriate agencies to suspend all licenses held by the
313 employer at the employer's primary place of business. On receipt
314 of the order and notwithstanding any other law, the appropriate
315 agencies shall immediately suspend such licenses for at least 30
316 days.

317 (1)1. An employer registered with and participating in the
318 E-Verify system may not be held civilly liable in a cause of
319 action for the employer's:

320 a. Unlawful hiring of an unauthorized alien if the
321 information obtained in accordance with the E-Verify system
322 indicated that the employee's federal legal employment status
323 allowed the employer to hire the employee; or

324 b. Refusal to hire an individual if the information
325 obtained in accordance with the E-Verify system indicated that
326 the individual's federal legal employment status was that of an
327 unauthorized alien.

328 2. Any employer who properly complies with the E-Verify
329 system in good faith shall not be liable for any damages and
330 shall be immune from any legal cause of action brought by any
331 person or entity, including, but not limited to, former
332 employees, for use and reliance upon any incorrect information
333 provided by the E-Verify system when determining final action on
334 an employee's employment status.

335 3. An employer is considered to have complied with the
336 requirements of 8 U.S.C. s. 1324a(b), notwithstanding an

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337 isolated, sporadic, or accidental technical or procedural
338 failure to meet the requirements, if there is a good faith
339 attempt to comply with the requirements.

340 (m) The Department of Economic Opportunity shall maintain
341 a public database containing copies of all orders issued
342 pursuant to this section and make such information available on
343 its website.

344 (n) If the department or the Department of Economic
345 Opportunity determines that an agency or employer has failed to
346 comply with an order under this section, the department or the
347 Department of Economic Opportunity may apply to the circuit
348 court for a judicial order directing the agency or employer to
349 comply with the order of the department or Department of
350 Economic Opportunity.

351 (o) For the purposes of this section, compliance with
352 subsection (2) creates a rebuttable presumption that an employer
353 did not knowingly employ an unauthorized alien in violation of
354 paragraph (a).

355 (4) INJUNCTION.—At any time after the department or the
356 Department of Economic Opportunity has notified an employer that
357 a valid complaint was received and up to 30 days after the date
358 of service on the employer of the notice of determination by the
359 department or the Department of Economic Opportunity that the
360 employer violated paragraph (3)(a), the employer subject to the
361 complaint under this section, or any employee of the employer
362 who is alleged to be an unauthorized alien, may challenge and
363 seek to enjoin the enforcement of this section before a court of
364 competent jurisdiction.

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365 (5) DECEPTIVE AND UNFAIR TRADE PRACTICE.—

366 (a) An employer commits a deceptive and unfair trade
367 practice in violation of part II of chapter 501, Florida
368 Statutes, if he or she discharges a United States citizen or
369 legal permanent resident alien employee who has applied for
370 naturalization, if, on the date of discharge, an unauthorized
371 alien worker was employed by the employer at the same job site
372 or in the same job classification elsewhere in the state, if
373 such discharge is made knowingly or with reckless disregard for
374 the fact that such alien worker lacked federal employment
375 authorization.

376 (b) The discharged employee has a private cause of action
377 against the employer for civil penalties and attorney's fees for
378 the deceptive and unfair trade practice.

379 (c) The available remedies to a wrongfully discharged
380 employee are limited to reinstatement, back pay, court costs,
381 and attorneys fees. Criminal or civil sanctions, including
382 finances, shall not be imposed against an employer for a violation
383 of this subsection.

384 (d) A cause of action under this subsection does not exist
385 against an employer who, on the date of discharge, was enrolled
386 and participating in the E-Verify system and used the system to
387 verify the employee hired on the date of discharge who was an
388 unauthorized alien worker employed by the employer at the same
389 job site or in the same job classification elsewhere in the
390 state.

391 (6) CONSTRUCTION.—This section shall be enforced without
392 regard to race or national origin and shall be construed in a

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393 manner so as to be fully consistent with any applicable
394 provisions of federal law.

395 Section 2. Section 287.136, Florida Statutes, is created
396 to read:

397 287.136 Verification of immigration status; public
398 employers.-

399 (1) As used in the section, the term:

400 (a) "Contractor" means a person who has entered or is
401 attempting to enter into a public contract for services with a
402 state agency or political subdivision.

403 (b) "E-Verify system" means the electronic verification of
404 the work-authorization program of the Illegal Immigration Reform
405 and Immigration Responsibility Act of 1996, Pub. L. No. 104-208,
406 Division C, Title IV, s. 403(a), as amended, and operated by the
407 United States Department of Homeland Security, or a successor
408 work-authorization program designated by the department or other
409 federal agency authorized to verify the work-authorization
410 status of newly hired employees pursuant to the Immigration
411 Reform and Control Act of 1986, Pub. L. No. 99-603.

412 (c) "Public employer" means any department, agency, or
413 political subdivision of the state.

414 (d) "Subcontractor" means any supplier, distributor,
415 vendor, staffing agency, or firm furnishing supplies or services
416 to or for a contractor or another subcontractor.

417 (e) "Unauthorized alien" means an alien is not authorized
418 under federal law to be employed in the United States, as
419 described in 8 U.S.C. s. 1324a(h) (3). This term shall be
420 interpreted consistently with that section and any applicable

421 federal rules or regulations.

422 (2) (a) Every public employer shall register with and
423 participate in the E-Verify system for the purpose of verifying
424 the work authorization status of all new employees.

425 (b)1. A public employer may not enter into a contract for
426 the physical performance of services within this state unless
427 the contractor registers and participates in the E-Verify
428 system.

429 2. A contractor or subcontractor may not enter into a
430 contract or subcontract with a public employer in connection
431 with the physical performance of services within this state
432 unless the contractor or subcontractor registers with and uses
433 the E-Verify system for the purpose of verifying information of
434 all new employees employed within the state.

435 (3) (a) If a contractor uses a subcontractor, the
436 subcontractor shall certify to the contractor in a manner that
437 does not violate federal law that the subcontractor, at the time
438 of certification, does not employ or contract with an
439 unauthorized alien.

440 (b) A contractor shall maintain a copy of the
441 certification of a subcontractor throughout the duration of the
442 term of a contract with the subcontractor.

443 (4) (a) If a contractor knows that a subcontractor is in
444 violation of this section, the contractor shall terminate a
445 contract with the subcontractor for the violation.

446 (b) A contract terminated pursuant to paragraph (a) is not
447 a breach of contract and may not be considered as such by the
448 contractor or the subcontractor.

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449 (c) A subcontractor may file an action with a circuit or
450 county court having jurisdiction in the county to challenge a
451 termination of a contract under paragraph (a) no later than 20
452 days after the date on which the contractor terminates the
453 contract with the subcontractor.

454 (5) (a) If a public employer knows that a contractor is
455 knowingly in violation of this section, the public employer
456 shall immediately terminate the contract with the contractor and
457 the contractor is not eligible for public contracts for 1 year
458 after the date of termination. If the public employer has
459 knowledge that a subcontractor has violated this section, and
460 the contractor has otherwise complied with this section, the
461 public employer shall promptly notify the contractor and order
462 the contractor to terminate the contract with the noncompliant
463 subcontractor.

464 (b) A contract terminated pursuant to paragraph (a) is not
465 a breach of contract and may not be considered as such by the
466 contractor or subcontractor.

467 (c) A contractor or subcontractor may file an action with
468 a circuit or county court having jurisdiction in the county to
469 challenge a termination of a contract under paragraph (a) no
470 later than 20 days after the date on which the contract or
471 subcontract was terminated.

472 (6) The provisions of this section shall be construed in a
473 manner so as to be fully consistent with any applicable federal
474 law.

475 Section 3. Section 337.163, Florida Statutes, is created
476 to read:

477 337.163 Verification of immigration status.—

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

479 (a) "Contractor" means a person who has entered or is
 480 attempting to enter into a contract with the department for
 481 services under this chapter.

482 (b) "E-Verify system" means the electronic verification of
 483 the work-authorization program of the Illegal Immigration Reform
 484 and Immigration Responsibility Act of 1996, Pub. L. No. 104-208,
 485 Division C, Title IV, s. 403(a), as amended, and operated by the
 486 United States Department of Homeland Security, or a successor
 487 work-authorization program designated by the department or other
 488 federal agency authorized to verify the work-authorization
 489 status of newly hired employees pursuant to the Immigration
 490 Reform and Control Act of 1986, Pub. L. No. 99-603.

491 (c) "Subcontractor" means any supplier, distributor,
 492 vendor, staffing agency, or firm furnishing supplies or services
 493 to or for a contractor or another subcontractor under this
 494 chapter.

495 (d) "Unauthorized alien" means an alien is not authorized
 496 under federal law to be employed in the United States, as
 497 described in 8 U.S.C. s. 1324a(h) (3). This term shall be
 498 interpreted consistently with that section and any applicable
 499 federal rules or regulations.

500 (2) (a) The department shall register with and participate
 501 in the E-Verify system for the purpose of verifying the work
 502 authorization status of all new employees.

503 (b)1. The department may not enter into a contract for the
 504 physical performance of services within this state unless the

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505 contractor registers and participates in the E-Verify system.

506 2. A contractor or subcontractor may not enter into a
507 contract or subcontract with the department in connection with
508 the physical performance of services within this state unless
509 the contractor or subcontractor registers with and uses the E-
510 Verify system for the purpose of verifying information of all
511 new employees employed within the state.

512 (3) (a) If a contractor uses a subcontractor, the
513 subcontractor shall certify to the contractor in a manner that
514 does not violate federal law that the subcontractor, at the time
515 of certification, does not employ or contract with an
516 unauthorized alien.

517 (b) A contractor shall maintain a copy of the
518 certification of a subcontractor throughout the duration of the
519 term of a contract with the subcontractor.

520 (4) (a) If a contractor knows that a subcontractor is in
521 violation of this section, the contractor shall terminate a
522 contract with the subcontractor for the violation.

523 (b) A contract terminated pursuant to paragraph (a) is not
524 a breach of contract and may not be considered as such by the
525 contractor or the subcontractor.

526 (c) A subcontractor may file an action with a circuit or
527 county court having jurisdiction in the county to challenge a
528 termination of a contract under paragraph (a) no later than 20
529 days after the date on which the contractor terminates the
530 contract with the subcontractor.

531 (5) (a) If the department knows that a contractor is
532 knowingly in violation of this section, the department shall

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533 immediately terminate the contract with the contractor and the
534 contractor is not eligible for public contracts for 1 year after
535 the date of termination. If the department has knowledge that a
536 subcontractor has violated this section, and the contractor has
537 otherwise complied with this section, the department shall
538 promptly notify the contractor and order the contractor to
539 terminate the contract with the noncompliant subcontractor.

540 (b) A contract terminated pursuant to paragraph (a) is not
541 a breach of contract and may not be considered as such by the
542 contractor or subcontractor.

543 (c) A contractor or subcontractor may file an action with
544 a circuit or county court having jurisdiction in the county to
545 challenge a termination of a contract under paragraph (a) no
546 later than 20 days after the date on which the contract or
547 subcontract was terminated.

548 (6) The provisions of this section shall be construed in a
549 manner so as to be fully consistent with any applicable federal
550 law.

551 Section 4. If any provision of this act or its application
552 to any person or circumstance is held invalid, the invalidity
553 does not affect the remaining provisions or applications of the
554 act which can be given effect without the invalid provision or
555 application, and to this end the provisions of this act are
556 severable.

557 Section 5. This act shall take effect July 1, 2012.