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HB 7007

2012 Legislature

1                   A reviser's bill to be entitled  
2           An act relating to the Florida Statutes; amending ss.  
3           11.45, 24.113, 25.077, 98.093, 106.011, 106.07,  
4           106.0703, 106.08, 106.143, 120.745, 121.021, 121.0515,  
5           121.4501, 163.06, 163.3184, 163.3213, 163.3245,  
6           163.3248, 189.421, 196.012, 212.096, 213.24, 215.198,  
7           215.425, 218.39, 255.21, 260.0142, 287.042, 287.0947,  
8           288.106, 288.1226, 288.706, 288.7102, 290.0401,  
9           290.0411, 290.042, 290.044, 290.048, 311.09, 311.105,  
10          316.302, 373.414, 376.3072, 376.86, 379.2255, 381.026,  
11          409.9122, 409.966, 409.972, 409.973, 409.974, 409.975,  
12          409.983, 409.984, 409.985, 420.602, 427.012, 440.45,  
13          443.036, 443.1216, 468.841, 474.203, 474.2125,  
14          493.6402, 499.012, 514.0315, 514.072, 526.207, 538.09,  
15          538.25, 553.79, 590.33, 604.50, 627.0628, 627.351,  
16          627.3511, 658.48, 667.003, 681.108, 753.03, 766.1065,  
17          794.056, 847.0141, 893.055, 893.138, 943.25, 984.03,  
18          985.0301, 985.14, 985.441, 1002.33, 1003.498, 1004.41,  
19          1007.28, 1010.82, 1011.71, 1011.81, 1013.33, 1013.36,  
20          and 1013.51, F.S.; reenacting and amending s.  
21          288.1089, F.S.; and reenacting s. 288.980, F.S.,  
22          deleting provisions that have expired, have become  
23          obsolete, have had their effect, have served their  
24          purpose, or have been impliedly repealed or  
25          superseded; replacing incorrect cross-references and  
26          citations; correcting grammatical, typographical, and  
27          like errors; removing inconsistencies, redundancies,  
28          and unnecessary repetition in the statutes; improving

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29 | the clarity of the statutes and facilitating their  
30 | correct interpretation; and confirming the restoration  
31 | of provisions unintentionally omitted from  
32 | republication in the acts of the Legislature during  
33 | the amendatory process; providing an effective date.  
34 |

35 | Be It Enacted by the Legislature of the State of Florida:  
36 |

37 | Section 1. Paragraph (i) of subsection (7) of section  
38 | 11.45, Florida Statutes, is amended to read:

39 | 11.45 Definitions; duties; authorities; reports; rules.—

40 | (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

41 | (i) Beginning in 2012, the Auditor General shall annually  
42 | transmit by July 15, to the President of the Senate, the Speaker  
43 | of the House of Representatives, and the Department of Financial  
44 | Services, a list of all school districts, charter schools,  
45 | charter technical career centers, Florida College System  
46 | institutions, state universities, and water management districts  
47 | that have failed to comply with the transparency requirements as  
48 | identified in the audit reports reviewed pursuant to paragraph  
49 | (b) and those conducted pursuant to subsection (2).

50 | Reviser's note.—Amended to confirm editorial insertion  
51 | of the word "subsection."

52 | Section 2. Subsection (1) of section 24.113, Florida  
53 | Statutes, is amended to read:

54 | 24.113 Minority participation.—

55 | (1) It is the intent of the Legislature that the  
56 | department encourage participation by minority business

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57 enterprises as defined in s. 288.703. Accordingly, 15 percent of  
58 the retailers shall be minority business enterprises as defined  
59 in s. 288.703(3) ~~288.703(2)~~; however, no more than 35 percent of  
60 such retailers shall be owned by the same type of minority  
61 person, as defined in s. 288.703(4) ~~288.703(3)~~. The department  
62 is encouraged to meet the minority business enterprise  
63 procurement goals set forth in s. 287.09451 in the procurement  
64 of commodities, contractual services, construction, and  
65 architectural and engineering services. This section shall not  
66 preclude or prohibit a minority person from competing for any  
67 other retailing or vending agreement awarded by the department.

68 Reviser's note.—Amended to conform to the  
69 redesignation of subsections within s. 288.703 by s.  
70 172, ch. 2011-142, Laws of Florida.

71 Section 3. Section 25.077, Florida Statutes, is amended to  
72 read:

73 25.077 Negligence case settlements and jury verdicts; case  
74 reporting.—Through the state's uniform case reporting system,  
75 the clerk of court shall report to the Office of the State  
76 Courts Administrator, beginning in 2003, information from each  
77 settlement or jury verdict and final judgment in negligence  
78 cases as defined in s. 768.81(1)(c) ~~768.81(4)~~, as the President  
79 of the Senate and the Speaker of the House of Representatives  
80 deem necessary from time to time. The information shall include,  
81 but need not be limited to: the name of each plaintiff and  
82 defendant; the verdict; the percentage of fault of each; the  
83 amount of economic damages and noneconomic damages awarded to  
84 each plaintiff, identifying those damages that are to be paid

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85 jointly and severally and by which defendants; and the amount of  
86 any punitive damages to be paid by each defendant.

87 Reviser's note.—Amended to conform to the amendment of  
88 s. 768.81 by s. 1, ch. 2011-215, Laws of Florida.

89 Former paragraph (4) (a) defining "negligence cases"  
90 was stricken by that law section, and a new paragraph  
91 (1) (c) defining "negligence action" was added.

92 Section 4. Paragraph (f) of subsection (2) of section  
93 98.093, Florida Statutes, is amended to read:

94 98.093 Duty of officials to furnish information relating  
95 to deceased persons, persons adjudicated mentally incapacitated,  
96 and persons convicted of a felony.—

97 (2) To the maximum extent feasible, state and local  
98 government agencies shall facilitate provision of information  
99 and access to data to the department, including, but not limited  
100 to, databases that contain reliable criminal records and records  
101 of deceased persons. State and local government agencies that  
102 provide such data shall do so without charge if the direct cost  
103 incurred by those agencies is not significant.

104 (f) The Department of Corrections shall identify those  
105 persons who have been convicted of a felony and committed to its  
106 custody or placed on community supervision. The information must  
107 be provided to the department at a time and in a manner that  
108 enables the department to identify registered voters who are  
109 convicted felons and to meet its obligations under state and  
110 federal law.

111 Reviser's note.—Amended to confirm editorial insertion  
112 of the word "a."

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113 Section 5. Subsection (3) of section 106.011, Florida  
114 Statutes, is amended to read:

115 106.011 Definitions.—As used in this chapter, the  
116 following terms have the following meanings unless the context  
117 clearly indicates otherwise:

118 (3) "Contribution" means:

119 (a) A gift, subscription, conveyance, deposit, loan,  
120 payment, or distribution of money or anything of value,  
121 including contributions in kind having an attributable monetary  
122 value in any form, made for the purpose of influencing the  
123 results of an election or making an electioneering  
124 communication.

125 (b) A transfer of funds between political committees,  
126 between committees of continuous existence, between  
127 electioneering communications organizations, or between any  
128 combination of these groups.

129 (c) The payment, by any person other than a candidate or  
130 political committee, of compensation for the personal services  
131 of another person which are rendered to a candidate or political  
132 committee without charge to the candidate or committee for such  
133 services.

134 (d) The transfer of funds by a campaign treasurer or  
135 deputy campaign treasurer between a primary depository and a  
136 separate interest-bearing account or certificate of deposit, and  
137 the term includes any interest earned on such account or  
138 certificate.

139  
140 Notwithstanding the foregoing meanings of "contribution," the

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141 term may not be construed to include services, including, but  
142 not limited to, legal and accounting services, provided without  
143 compensation by individuals volunteering a portion or all of  
144 their time on behalf of a candidate or political committee or  
145 editorial endorsements.

146 Reviser's note.—Amended to confirm editorial insertion  
147 of the word "or" to improve clarity.

148 Section 6. Paragraph (c) of subsection (8) of section  
149 106.07, Florida Statutes, is amended to read:

150 106.07 Reports; certification and filing.—

151 (8)

152 (c) Any candidate or chair of a political committee may  
153 appeal or dispute the fine, based upon, but not limited to,  
154 unusual circumstances surrounding the failure to file on the  
155 designated due date, and may request and shall be entitled to a  
156 hearing before the Florida Elections Commission, which shall  
157 have the authority to waive the fine in whole or in part. The  
158 Florida Elections Commission must consider the mitigating and  
159 aggravating circumstances contained in s. 106.265(2) ~~106.265(1)~~  
160 when determining the amount of a fine, if any, to be waived. Any  
161 such request shall be made within 20 days after receipt of the  
162 notice of payment due. In such case, the candidate or chair of  
163 the political committee shall, within the 20-day period, notify  
164 the filing officer in writing of his or her intention to bring  
165 the matter before the commission.

166 Reviser's note.—Amended to conform to the amendment of  
167 s. 106.265 by s. 72, ch. 2011-40, Laws of Florida,  
168 which split former subsection (1) into two

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169 subsections; new subsection (2) references mitigating  
170 and aggravating circumstances.

171 Section 7. Paragraph (c) of subsection (7) of section  
172 106.0703, Florida Statutes, is amended to read:

173 106.0703 Electioneering communications organizations;  
174 reporting requirements; certification and filing; penalties.—

175 (7)

176 (c) The treasurer of an electioneering communications  
177 organization may appeal or dispute the fine, based upon, but not  
178 limited to, unusual circumstances surrounding the failure to  
179 file on the designated due date, and may request and shall be  
180 entitled to a hearing before the Florida Elections Commission,  
181 which shall have the authority to waive the fine in whole or in  
182 part. The Florida Elections Commission must consider the  
183 mitigating and aggravating circumstances contained in s.

184 106.265(2) ~~106.265(1)~~ when determining the amount of a fine, if  
185 any, to be waived. Any such request shall be made within 20 days  
186 after receipt of the notice of payment due. In such case, the  
187 treasurer of the electioneering communications organization  
188 shall, within the 20-day period, notify the filing officer in  
189 writing of his or her intention to bring the matter before the  
190 commission.

191 Reviser's note.—Amended to conform to the amendment of  
192 s. 106.265 by s. 72, ch. 2011-40, Laws of Florida,  
193 which split former subsection (1) into two  
194 subsections; new subsection (2) references mitigating  
195 and aggravating circumstances.

196 Section 8. Paragraph (b) of subsection (3) of section

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197 106.08, Florida Statutes, is amended to read:

198 106.08 Contributions; limitations on.—

199 (3)

200 (b) ~~Except as otherwise provided in paragraph (c),~~ Any  
 201 contribution received by a candidate or by the campaign  
 202 treasurer or a deputy campaign treasurer of a candidate after  
 203 the date at which the candidate withdraws his or her candidacy,  
 204 or after the date the candidate is defeated, becomes unopposed,  
 205 or is elected to office must be returned to the person or  
 206 committee contributing it and may not be used or expended by or  
 207 on behalf of the candidate.

208 Reviser's note.—Amended to conform to the repeal of  
 209 paragraph (c) by s. 62, ch. 2011-40, Laws of Florida.

210 Section 9. Subsection (2) of section 106.143, Florida  
 211 Statutes, is amended to read:

212 106.143 Political advertisements circulated prior to  
 213 election; requirements.—

214 (2) Political advertisements made as in-kind contributions  
 215 from a political party must prominently state: "Paid political  
 216 advertisement paid for ~~by~~ in-kind by... (name of political  
 217 party).... Approved by ... (name of person, party affiliation,  
 218 and office sought in the political advertisement)...."

219 Reviser's note.—Amended to confirm editorial deletion  
 220 of the word "by."

221 Section 10. Paragraph (g) of subsection (2) and paragraph  
 222 (i) of subsection (3) of section 120.745, Florida Statutes, are  
 223 amended to read:

224 120.745 Legislative review of agency rules in effect on or



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225 | before November 16, 2010.—

226 |       (2) ENHANCED BIENNIAL REVIEW.—By December 1, 2011, each  
227 | agency shall complete an enhanced biennial review of the  
228 | agency's existing rules, which shall include, but is not limited  
229 | to:

230 |       (g) Identification of each rule for which the agency will  
231 | be required to prepare a compliance economic review, to include  
232 | each entire rule that:

233 |           1. The agency does not plan to repeal on or before  
234 | December 31, 2012;

235 |           2. Was effective on or before November 16, 2010; and

236 |           3. Probably will have any of the economic impacts  
237 | described in s. 120.541(2)(a), for 5 years beginning on July 1,  
238 | 2011, excluding in such estimation any part or subpart  
239 | identified for amendment under paragraph (f) ~~(e)~~.

240 |       (3) PUBLICATION OF REPORT.—No later than December 1, 2011,  
241 | each agency shall publish, in the manner provided in subsection  
242 | (7), a report of the entire enhanced biennial review pursuant to  
243 | subsection (2), including the results of the review; a complete  
244 | list of all rules the agency has placed in Group 1 or Group 2;  
245 | the name, physical address, fax number, and e-mail address for  
246 | the person the agency has designated to receive all inquiries,  
247 | public comments, and objections pertaining to the report; and  
248 | the certification of the agency head pursuant to paragraph  
249 | (2)(i). The report of results shall summarize certain  
250 | information required in subsection (2) in a table consisting of  
251 | the following columns:

252 |           (i) Column 9: Section 120.541(2)(a) impacts. Entries

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253 | should be "NA" if Column 8 is "N" or, if Column 6 is "Y," "NP"  
 254 | for not probable, based on the response required in subparagraph  
 255 | (2)(g)3. ~~(2)(f)3.~~, or "1" or "2," reflecting the group number  
 256 | assigned by the division required in paragraph (2)(h).

257 |       Reviser's note.—Paragraph (2)(g) is amended to conform  
 258 | to the location of material relating to identification  
 259 | of rules or subparts of rules in paragraph (2)(f) for  
 260 | purposes of amendment; paragraph (2)(e) relates to  
 261 | identification of rules for repeal. Paragraph (3)(i)  
 262 | is amended to conform to the fact that paragraph  
 263 | (2)(f) is not divided into subparagraphs; related  
 264 | material is located at subparagraph (2)(g)3.

265 |       Section 11. Subsection (12) of section 121.021, Florida  
 266 | Statutes, is amended to read:

267 |       121.021 Definitions.—The following words and phrases as  
 268 | used in this chapter have the respective meanings set forth  
 269 | unless a different meaning is plainly required by the context:

270 |       (12) "Member" means any officer or employee who is covered  
 271 | or who becomes covered under this system in accordance with this  
 272 | chapter. On and after December 1, 1970, all new members and  
 273 | those members transferring from existing systems shall be  
 274 | divided into the following classes: "Special Risk Class," as  
 275 | provided in s. 121.0515 ~~121.0515(2)~~; "Special Risk  
 276 | Administrative Support Class," as provided in s. 121.0515(8)  
 277 | ~~121.0515(7)~~; "Elected Officers' Class," as provided in s.  
 278 | 121.052; "Senior Management Service Class," as provided in s.  
 279 | 121.055; and "Regular Class," which consists of all members who  
 280 | are not in the Special Risk Class, Special Risk Administrative

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281 Support Class, Elected Officers' Class, or Senior Management  
282 Service Class.

283 Reviser's note.—Amended to conform to the addition of  
284 a new s. 121.0515(2) by s. 8, ch. 2011-68, Laws of  
285 Florida, and the renumbering of existing subsections  
286 to conform.

287 Section 12. Paragraph (k) of subsection (3) of section  
288 121.0515, Florida Statutes, is amended to read:

289 121.0515 Special Risk Class.—

290 (3) CRITERIA.—A member, to be designated as a special risk  
291 member, must meet the following criteria:

292 (k) The member must have already qualified for and be  
293 actively participating in special risk membership under  
294 paragraph (a), paragraph (b), or paragraph (c), must have  
295 suffered a qualifying injury as defined in this paragraph, must  
296 not be receiving disability retirement benefits as provided in  
297 s. 121.091(4), and must satisfy the requirements of this  
298 paragraph.

299 1. The ability to qualify for the class of membership  
300 defined in paragraph (2)(i) ~~(2)(f)~~ occurs when two licensed  
301 medical physicians, one of whom is a primary treating physician  
302 of the member, certify the existence of the physical injury and  
303 medical condition that constitute a qualifying injury as defined  
304 in this paragraph and that the member has reached maximum  
305 medical improvement after August 1, 2008. The certifications  
306 from the licensed medical physicians must include, at a minimum,  
307 that the injury to the special risk member has resulted in a  
308 physical loss, or loss of use, of at least two of the following:

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309 left arm, right arm, left leg, or right leg; and:  
 310 a. That this physical loss or loss of use is total and  
 311 permanent, except in the event that the loss of use is due to a  
 312 physical injury to the member's brain, in which event the loss  
 313 of use is permanent with at least 75 percent loss of motor  
 314 function with respect to each arm or leg affected.  
 315 b. That this physical loss or loss of use renders the  
 316 member physically unable to perform the essential job functions  
 317 of his or her special risk position.  
 318 c. That, notwithstanding this physical loss or loss of  
 319 use, the individual is able to perform the essential job  
 320 functions required by the member's new position, as provided in  
 321 subparagraph 3.  
 322 d. That use of artificial limbs is either not possible or  
 323 does not alter the member's ability to perform the essential job  
 324 functions of the member's position.  
 325 e. That the physical loss or loss of use is a direct  
 326 result of a physical injury and not a result of any mental,  
 327 psychological, or emotional injury.  
 328 2. For the purposes of this paragraph, "qualifying injury"  
 329 means an injury sustained in the line of duty, as certified by  
 330 the member's employing agency, by a special risk member that  
 331 does not result in total and permanent disability as defined in  
 332 s. 121.091(4)(b). An injury is a qualifying injury if the injury  
 333 is a physical injury to the member's physical body resulting in  
 334 a physical loss, or loss of use, of at least two of the  
 335 following: left arm, right arm, left leg, or right leg.  
 336 Notwithstanding any other provision of this section, an injury

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337 that would otherwise qualify as a qualifying injury is not  
338 considered a qualifying injury if and when the member ceases  
339 employment with the employer for whom he or she was providing  
340 special risk services on the date the injury occurred.

341 3. The new position, as described in sub-subparagraph  
342 1.c., that is required for qualification as a special risk  
343 member under this paragraph is not required to be a position  
344 with essential job functions that entitle an individual to  
345 special risk membership. Whether a new position as described in  
346 sub-subparagraph 1.c. exists and is available to the special  
347 risk member is a decision to be made solely by the employer in  
348 accordance with its hiring practices and applicable law.

349 4. This paragraph does not grant or create additional  
350 rights for any individual to continued employment or to be hired  
351 or rehired by his or her employer that are not already provided  
352 within the Florida Statutes, the State Constitution, the  
353 Americans with Disabilities Act, if applicable, or any other  
354 applicable state or federal law.

355 Reviser's note.—Amended to conform to ss. 6 and 8, ch.  
356 2011-68, Laws of Florida, which moved the referenced  
357 text from s. 121.021(15)(f) to s. 121.0515(2)(i), not  
358 s. 121.0515(2)(f).

359 Section 13. Paragraph (c) of subsection (15) of section  
360 121.4501, Florida Statutes, is amended to read:

361 121.4501 Florida Retirement System Investment Plan.—

362 (15) STATEMENT OF FIDUCIARY STANDARDS AND  
363 RESPONSIBILITIES.—

364 (c) Subparagraph (8)(b)2. and paragraph (b) incorporate

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365 the federal law concept of participant control, established by  
 366 regulations of the United States Department of Labor under s.  
 367 404(c) of the Employee Retirement Income Security Act of 1974  
 368 (ERISA). The purpose of this paragraph is to assist employers  
 369 and the state board in maintaining compliance with s. 404(c),  
 370 while avoiding unnecessary costs and eroding member benefits  
 371 under the investment plan. Pursuant to 29 C.F.R. s. 2550.404c-  
 372 1(b)(2)(i)(B)(1)(viii), the state board or its designated agents  
 373 shall deliver to members of the investment plan a copy of the  
 374 prospectus most recently provided to the plan, and, pursuant to  
 375 29 C.F.R. s. 2550.404c-1(b)(2)(i)(B)(2)(ii), shall provide such  
 376 members an opportunity to obtain this information, except that:

377 1. The requirement to deliver a prospectus shall be  
 378 satisfied by delivery of a fund profile or summary profile that  
 379 contains the information that would be included in a summary  
 380 prospectus as described by Rule 498 under the Securities Act of  
 381 1933, 17 C.F.R. s. 230.498. If the transaction fees, expense  
 382 information or other information provided by a mutual fund in  
 383 the prospectus does not reflect terms negotiated by the state  
 384 board or its designated agents, the requirement is satisfied by  
 385 delivery of a separate document described by Rule 498  
 386 substituting accurate information; and

387 2. Delivery shall be effected if delivery is through  
 388 electronic means and the following standards are satisfied:

389 a. Electronically-delivered documents are prepared and  
 390 provided consistent with style, format, and content requirements  
 391 applicable to printed documents;

392 b. Each member is provided timely and adequate notice of

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393 the documents that are to be delivered, and their significance  
394 thereof, and of the member's right to obtain a paper copy of  
395 such documents free of charge;

396 c. Members have adequate access to the electronic  
397 documents, at locations such as their worksites or public  
398 facilities, and have the ability to convert the documents to  
399 paper free of charge by the state board, and the board or its  
400 designated agents take appropriate and reasonable measures to  
401 ensure that the system for furnishing electronic documents  
402 results in actual receipt. Members have provided consent to  
403 receive information in electronic format, which consent may be  
404 revoked; and

405 d. The state board, or its designated agent, actually  
406 provides paper copies of the documents free of charge, upon  
407 request.

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

409 Section 14. Paragraph (i) of subsection (3) of section  
410 163.06, Florida Statutes, is amended to read:

411 163.06 Miami River Commission.—

412 (3) The policy committee shall have the following powers  
413 and duties:

414 (i) Establish the Miami River working group, appoint  
415 members to the group, and organize subcommittees, delegate  
416 tasks, and seek counsel ~~council~~ from members of the working  
417 group as necessary to carry out the powers and duties listed in  
418 this subsection.

419 Reviser's note.—Amended to confirm editorial  
420 substitution of the word "counsel" for the word

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421 "council."  
 422 Section 15. Paragraph (b) of subsection (8) of section  
 423 163.3184, Florida Statutes, is amended to read:  
 424 163.3184 Process for adoption of comprehensive plan or  
 425 plan amendment.—  
 426 (8) ADMINISTRATION COMMISSION.—  
 427 (b) The commission may specify the sanctions provided in  
 428 subparagraphs 1. and 2. to which the local government will be  
 429 subject if it elects to make the amendment effective  
 430 notwithstanding the determination of noncompliance.  
 431 1. The commission may direct state agencies not to provide  
 432 funds to increase the capacity of roads, bridges, or water and  
 433 sewer systems within the boundaries of those local governmental  
 434 entities which have comprehensive plans or plan elements that  
 435 are determined not to be in compliance. The commission order may  
 436 also specify that the local government is not eligible for  
 437 grants administered under the following programs:  
 438 a. The Florida Small Cities Community Development Block  
 439 Grant Program, as authorized by ss. 290.0401-290.048 ~~290.0401-~~  
 440 ~~290.049~~.  
 441 b. The Florida Recreation Development Assistance Program,  
 442 as authorized by chapter 375.  
 443 c. Revenue sharing pursuant to ss. 206.60, 210.20, and  
 444 218.61 and chapter 212, to the extent not pledged to pay back  
 445 bonds.  
 446 2. If the local government is one which is required to  
 447 include a coastal management element in its comprehensive plan  
 448 pursuant to s. 163.3177(6)(g), the commission order may also



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449 specify that the local government is not eligible for funding  
450 pursuant to s. 161.091. The commission order may also specify  
451 that the fact that the coastal management element has been  
452 determined to be not in compliance shall be a consideration when  
453 the department considers permits under s. 161.053 and when the  
454 Board of Trustees of the Internal Improvement Trust Fund  
455 considers whether to sell, convey any interest in, or lease any  
456 sovereignty lands or submerged lands until the element is  
457 brought into compliance.

458 3. The sanctions provided by subparagraphs 1. and 2. do  
459 not apply to a local government regarding any plan amendment,  
460 except for plan amendments that amend plans that have not been  
461 finally determined to be in compliance with this part, and  
462 except as provided in this paragraph.

463 Reviser's note.—Amended to conform to the repeal of s.  
464 290.049 by s. 44, ch. 2001-89, Laws of Florida, and s.  
465 25, ch. 2001-201, Laws of Florida. Section 290.048 is  
466 now the last section in the range.

467 Section 16. Subsection (6) of section 163.3213, Florida  
468 Statutes, is amended to read:

469 163.3213 Administrative review of land development  
470 regulations.—

471 (6) If the administrative law judge in his or her order  
472 finds the land development regulation to be inconsistent with  
473 the local comprehensive plan, the order will be submitted to the  
474 Administration Commission. An appeal pursuant to s. 120.68 may  
475 not be taken until the Administration Commission acts pursuant  
476 to this subsection. The Administration Commission shall hold a

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477 hearing no earlier than 30 days or later than 60 days after the  
 478 administrative law judge renders his or her final order. The  
 479 sole issue before the Administration Commission shall be the  
 480 extent to which any of the sanctions described in s.  
 481 163.3184(8) (a) or (b)1. or 2. ~~163.3184(11)(a) or (b)~~ shall be  
 482 applicable to the local government whose land development  
 483 regulation has been found to be inconsistent with its  
 484 comprehensive plan. If a land development regulation is not  
 485 challenged within 12 months, it shall be deemed to be consistent  
 486 with the adopted local plan.

487 Reviser's note.—Amended to conform to the  
 488 redesignation of material in s. 163.3184(11) (a) and  
 489 (b) as s. 163.3184(8) (a) and (b)1. and 2. by s. 17,  
 490 ch. 2011-139, Laws of Florida.

491 Section 17. Subsection (9) of section 163.3245, Florida  
 492 Statutes, is amended to read:

493 163.3245 Sector plans.—

494 (9) Any owner of property within the planning area of a  
 495 proposed long-term master plan may withdraw his or her consent  
 496 to the master plan at any time prior to local government  
 497 adoption, and the local government shall exclude such parcels  
 498 from the adopted master plan. Thereafter, the long-term master  
 499 plan, any detailed specific area plan, and the exemption from  
 500 development-of-regional-impact review under this section do not  
 501 apply to the subject parcels. After adoption of a long-term  
 502 master plan, an owner may withdraw his or her property from the  
 503 master plan only with the approval of the local government by  
 504 plan amendment adopted and reviewed pursuant to s. 163.3184.

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505 Reviser's note.—Amended pursuant to the directive of  
506 the Legislature in s. 1, ch. 93-199, Laws of Florida,  
507 to remove gender-specific references applicable to  
508 human beings from the Florida Statutes without  
509 substantive change in legal effect.

510 Section 18. Subsection (6) of section 163.3248, Florida  
511 Statutes, is amended to read:

512 163.3248 Rural land stewardship areas.—

513 (6) A receiving area may be designated only pursuant to  
514 procedures established in the local government's land  
515 development regulations. If receiving area designation requires  
516 the approval of the ~~county~~ board of county commissioners, such  
517 approval shall be by resolution with a simple majority vote.  
518 Before the commencement of development within a stewardship  
519 receiving area, a listed species survey must be performed for  
520 the area proposed for development. If listed species occur on  
521 the receiving area development site, the applicant must  
522 coordinate with each appropriate local, state, or federal agency  
523 to determine if adequate provisions have been made to protect  
524 those species in accordance with applicable regulations. In  
525 determining the adequacy of provisions for the protection of  
526 listed species and their habitats, the rural land stewardship  
527 area shall be considered as a whole, and the potential impacts  
528 and protective measures taken within areas to be developed as  
529 receiving areas shall be considered in conjunction with and  
530 compensated by lands set aside and protective measures taken  
531 within the designated sending areas.

532 Reviser's note.—Amended to confirm editorial deletion

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533 of the word "county" to eliminate unnecessary  
534 repetition.

535 Section 19. Paragraph (b) of subsection (1) of section  
536 189.421, Florida Statutes, is amended to read:

537 189.421 Failure of district to disclose financial  
538 reports.—

539 (1)

540 (b) A special district that is unable to meet the 60-day  
541 reporting deadline must provide written notice to the department  
542 before the expiration of the deadline stating the reason the  
543 special district is unable to comply with the deadline, the  
544 steps the special district is taking to prevent the  
545 noncompliance from reoccurring, and the estimated date that the  
546 special district will file the report with the appropriate  
547 agency. The district's written response does not constitute an  
548 extension by the department; however, the department shall  
549 forward the written response to:

550 1. If the written response refers to the reports required  
551 under s. 218.32 or s. 218.39, the Legislative Auditing Committee  
552 for its consideration in determining whether the special  
553 district should be subject to further state action in accordance  
554 with s. 11.40(2)(b) ~~11.40(5)(b)~~.

555 2. If the written response refers to the reports or  
556 information requirements listed in s. 189.419(1), the local  
557 general-purpose government or governments for their  
558 consideration in determining whether the oversight review  
559 process set forth in s. 189.428 should be undertaken.

560 3. If the written response refers to the reports or

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561 information required under s. 112.63, the Department of  
562 Management Services for its consideration in determining whether  
563 the special district should be subject to further state action  
564 in accordance with s. 112.63(4)(d)2.

565 Reviser's note.—Amended to conform to the  
566 redesignation of s. 11.40(5)(b) as s. 11.40(2)(b) by  
567 s. 12, ch. 2011-34, Laws of Florida.

568 Section 20. Paragraph (a) of subsection (15) of section  
569 196.012, Florida Statutes, is amended to read:

570 196.012 Definitions.—For the purpose of this chapter, the  
571 following terms are defined as follows, except where the context  
572 clearly indicates otherwise:

573 (15) "New business" means:

574 (a)1. A business or organization establishing 10 or more  
575 new jobs to employ 10 or more full-time employees in this state,  
576 paying an average wage for such new jobs that is above the  
577 average wage in the area, which principally engages in any one  
578 or more of the following operations:

579 a. Manufactures, processes, compounds, fabricates, or  
580 produces for sale items of tangible personal property at a fixed  
581 location and which comprises an industrial or manufacturing  
582 plant; or

583 b. Is a target industry business as defined in s.  
584 288.106(2)(g) ~~288.106(2)(t)~~;

585 2. A business or organization establishing 25 or more new  
586 jobs to employ 25 or more full-time employees in this state, the  
587 sales factor of which, as defined by s. 220.15(5), for the  
588 facility with respect to which it requests an economic

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589 development ad valorem tax exemption is less than 0.50 for each  
590 year the exemption is claimed; or

591 3. An office space in this state owned and used by a  
592 business or organization newly domiciled in this state; provided  
593 such office space houses 50 or more full-time employees of such  
594 business or organization; provided that such business or  
595 organization office first begins operation on a site clearly  
596 separate from any other commercial or industrial operation owned  
597 by the same business or organization.

598 Reviser's note.—Amended to conform to the  
599 redesignation of s. 288.106(2)(t) as s. 288.106(2)(q)  
600 by s. 150, ch. 2011-142, Laws of Florida.

601 Section 21. Paragraph (g) of subsection (3) of section  
602 212.096, Florida Statutes, is amended to read:

603 212.096 Sales, rental, storage, use tax; enterprise zone  
604 jobs credit against sales tax.—

605 (3) In order to claim this credit, an eligible business  
606 must file under oath with the governing body or enterprise zone  
607 development agency having jurisdiction over the enterprise zone  
608 where the business is located, as applicable, a statement which  
609 includes:

610 (g) Whether the business is a small business as defined by  
611 s. 288.703(6) ~~288.703(1)~~.

612 Reviser's note.—Amended to conform to the  
613 redesignation of s. 288.703(1) as s. 288.703(6) by s.  
614 172, ch. 2011-142, Laws of Florida.

615 Section 22. Paragraph (d) of subsection (3) of section  
616 213.24, Florida Statutes, is amended to read:

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617 213.24 Accrual of penalties and interest on deficiencies;  
618 deficiency billing costs.—

619 (3) An administrative collection processing fee shall be  
620 imposed to offset payment processing and administrative costs  
621 incurred by the state due to late payment of a collection event.

622 (d) Fees collected pursuant to this subsection shall be  
623 distributed each fiscal year as follows:

624 1. The first \$6.2 million collected shall be deposited  
625 into the department's Operating ~~Operations~~ Trust Fund.

626 2. Any amount collected above \$6.2 million shall be  
627 deposited into the General Revenue Fund.

628 Reviser's note.—Amended to confirm editorial  
629 substitution of the word "Operating" for the word  
630 "Operations" to conform to the renaming of the trust  
631 fund by s. 1, ch. 2011-28, Laws of Florida.

632 Section 23. Section 215.198, Florida Statutes, is amended  
633 to read:

634 215.198 Operating ~~Operations~~ Trust Fund.—

635 (1) The Operating ~~Operations~~ Trust Fund is created within  
636 the Department of Revenue.

637 (2) The fund is established for use as a depository for  
638 funds to be used for program operations funded by program  
639 revenues. Funds shall be expended only pursuant to legislative  
640 appropriation or an approved amendment to the department's  
641 operating budget pursuant to the provisions of chapter 216.

642 Reviser's note.—Amended to confirm editorial  
643 substitution of the word "Operating" for the word  
644 "Operations" to conform to the renaming of the trust

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645 fund by s. 1, ch. 2011-28, Laws of Florida.

646 Section 24. Paragraph (a) of subsection (4) of section  
647 215.425, Florida Statutes, is amended to read:

648 215.425 Extra compensation claims prohibited; bonuses;  
649 severance pay.—

650 (4) (a) On or after July 1, 2011, a unit of government that  
651 enters into a contract or employment agreement, or renewal or  
652 renegotiation of an existing contract or employment agreement,  
653 that contains a provision for severance pay with an officer,  
654 agent, employee, or contractor must include the following  
655 provisions in the contract:

656 1. A requirement that severance pay provided may not  
657 exceed an amount greater than 20 weeks of compensation.

658 2. A prohibition of provision of severance pay when the  
659 officer, agent, employee, or contractor has been fired for  
660 misconduct, as defined in s. 443.036(30) ~~443.036(29)~~, by the  
661 unit of government.

662 Reviser's note.—Amended to conform to the addition of  
663 a new subsection (26) and the redesignation of  
664 following subsections within s. 443.036 by s. 3, ch.  
665 2011-235, Laws of Florida.

666 Section 25. Paragraph (c) of subsection (8) of section  
667 218.39, Florida Statutes, is amended to read:

668 218.39 Annual financial audit reports.—

669 (8) The Auditor General shall notify the Legislative  
670 Auditing Committee of any audit report prepared pursuant to this  
671 section which indicates that an audited entity has failed to  
672 take full corrective action in response to a recommendation that



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673 | was included in the two preceding financial audit reports.

674 |       (c) If the committee determines that an audited entity has  
675 | failed to take full corrective action for which there is no  
676 | justifiable reason for not taking such action, or has failed to  
677 | comply with committee requests made pursuant to this section,  
678 | the committee may proceed in accordance with s. 11.40(2)  
679 | ~~11.40(5)~~.

680 |       Reviser's note.—Amended to conform to the  
681 | redesignation of s. 11.40(5) as s. 11.40(2) by s. 12,  
682 | ch. 2011-34, Laws of Florida.

683 |       Section 26. Section 255.21, Florida Statutes, is amended  
684 | to read:

685 |       255.21 Special facilities for physically disabled.—Any  
686 | building or facility intended for use by the general public  
687 | which, in whole or in part, is constructed or altered or  
688 | operated as a lessee, by or on behalf of the state or any  
689 | political subdivision, municipality, or special district thereof  
690 | or any public administrative board or authority of the state  
691 | shall, with respect to the altered or newly constructed or  
692 | leased portion of such building or facility, comply with  
693 | standards and specifications established by part II ~~V~~ of chapter  
694 | 553.

695 |       Reviser's note.—Amended to conform to the location of  
696 | material relating to accessibility by handicapped  
697 | persons in part II of chapter 553; part V of chapter  
698 | 553 relates to thermal efficiency standards.

699 |       Section 27. Subsection (1) of section 260.0142, Florida  
700 | Statutes, is amended to read:

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701           260.0142 Florida Greenways and Trails Council;  
702 composition; powers and duties.—

703           (1) There is created within the department the Florida  
704 Greenways and Trails Council which shall advise the department  
705 in the execution of the department's powers and duties under  
706 this chapter. The council shall be composed of 20 members,  
707 consisting of:

708           (a)1. Five members appointed by the Governor, with two  
709 members representing the trail user community, two members  
710 representing the greenway user community, and one member  
711 representing private landowners.

712           2.~~(b)~~ Three members appointed by the President of the  
713 Senate, with one member representing the trail user community  
714 and two members representing the greenway user community.

715           3.~~(e)~~ Three members appointed by the Speaker of the House  
716 of Representatives, with two members representing the trail user  
717 community and one member representing the greenway user  
718 community.

719  
720 Those eligible to represent the trail user community shall be  
721 chosen from, but not be limited to, paved trail users, hikers,  
722 off-road bicyclists, users of off-highway vehicles, paddlers,  
723 equestrians, disabled outdoor recreational users, and commercial  
724 recreational interests. Those eligible to represent the greenway  
725 user community shall be chosen from, but not be limited to,  
726 conservation organizations, nature study organizations, and  
727 scientists and university experts.

728           (b)~~(d)~~ The 9 remaining members shall include:

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- 729           1. The Secretary of Environmental Protection or a  
730   designee.
- 731           2. The executive director of the Fish and Wildlife  
732   Conservation Commission or a designee.
- 733           3. The Secretary of Transportation or a designee.
- 734           4. The Director of the Division of Forestry of the  
735   Department of Agriculture and Consumer Services or a designee.
- 736           5. The director of the Division of Historical Resources of  
737   the Department of State or a designee.
- 738           6. A representative of the water management districts.  
739   Membership on the council shall rotate among the five districts.  
740   The districts shall determine the order of rotation.
- 741           7. A representative of a federal land management agency.  
742   The Secretary of Environmental Protection shall identify the  
743   appropriate federal agency and request designation of a  
744   representative from the agency to serve on the council.
- 745           8. A representative of the regional planning councils to  
746   be appointed by the Secretary of Environmental Protection.  
747   Membership on the council shall rotate among the seven regional  
748   planning councils. The regional planning councils shall  
749   determine the order of rotation.
- 750           9. A representative of local governments to be appointed  
751   by the Secretary of Environmental Protection. Membership shall  
752   alternate between a county representative and a municipal  
753   representative.
- 754           Reviser's note.—Amended to redesignate subunits to  
755   conform to Florida Statutes style. The flush left  
756   language between what was designated as paragraphs (c)

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757 and (d) only goes to material in the first three  
758 paragraphs.

759 Section 28. Paragraph (h) of subsection (3) and paragraph  
760 (b) of subsection (4) of section 287.042, Florida Statutes, are  
761 amended to read:

762 287.042 Powers, duties, and functions.—The department  
763 shall have the following powers, duties, and functions:

764 (3) To establish a system of coordinated, uniform  
765 procurement policies, procedures, and practices to be used by  
766 agencies in acquiring commodities and contractual services,  
767 which shall include, but not be limited to:

768 (h) Development of procedures to be used by state agencies  
769 when procuring information technology commodities and  
770 contractual services that ensure compliance with public records  
771 requirements and records retention and archiving requirements.

772 (4)

773 (b) To prescribe procedures for procuring information  
774 technology and information technology consultant services that  
775 provide for public announcement and qualification, competitive  
776 solicitations, contract award, and prohibition against  
777 contingent fees. Such procedures are limited to information  
778 technology consultant contracts for which the total project  
779 costs, or planning or study activities, are estimated to exceed  
780 the threshold amount provided in s. 287.017, for CATEGORY TWO.

781 Reviser's note.—Amended to confirm editorial insertion  
782 of the word "that" to provide clarity.

783 Section 29. Subsection (1) of section 287.0947, Florida  
784 Statutes, is amended to read:

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785 | 287.0947 Florida Advisory Council on Small and Minority  
786 | Business Development; creation; membership; duties.—  
787 | (1) The Secretary of Management Services may create the  
788 | Florida Advisory Council on Small and Minority Business  
789 | Development with the purpose of advising and assisting the  
790 | secretary in carrying out the secretary's duties with respect to  
791 | minority businesses and economic and business development. It is  
792 | the intent of the Legislature that the membership of such  
793 | council include practitioners, laypersons, financiers, and  
794 | others with business development experience who can provide  
795 | invaluable insight and expertise for this state in the  
796 | diversification of its markets and networking of business  
797 | opportunities. The council shall initially consist of 19  
798 | persons, each of whom is or has been actively engaged in small  
799 | and minority business development, either in private industry,  
800 | in governmental service, or as a scholar of recognized  
801 | achievement in the study of such matters. Initially, the council  
802 | shall consist of members representing all regions of the state  
803 | and shall include at least one member from each group identified  
804 | within the definition of "minority person" in s. 288.703(4)  
805 | ~~288.703(3)~~, considering also gender and nationality subgroups,  
806 | and shall consist of the following:  
807 | (a) Four members consisting of representatives of local  
808 | and federal small and minority business assistance programs or  
809 | community development programs.  
810 | (b) Eight members composed of representatives of the  
811 | minority private business sector, including certified minority  
812 | business enterprises and minority supplier development councils,

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813 among whom at least two shall be women and at least four shall  
814 be minority persons.

815 (c) Two representatives of local government, one of whom  
816 shall be a representative of a large local government, and one  
817 of whom shall be a representative of a small local government.

818 (d) Two representatives from the banking and insurance  
819 industry.

820 (e) Two members from the private business sector,  
821 representing the construction and commodities industries.

822 (f) A member from the board of directors of Enterprise  
823 Florida, Inc.

824

825 A candidate for appointment may be considered if eligible to be  
826 certified as an owner of a minority business enterprise, or if  
827 otherwise qualified under the criteria above. Vacancies may be  
828 filled by appointment of the secretary, in the manner of the  
829 original appointment.

830 Reviser's note.—Amended to conform to the  
831 redesignation of s. 288.703(3) as s. 288.703(4) by s.  
832 172, ch. 2011-142, Laws of Florida.

833 Section 30. Paragraph (f) of subsection (4) of section  
834 288.106, Florida Statutes, is amended to read:

835 288.106 Tax refund program for qualified target industry  
836 businesses.—

837 (4) APPLICATION AND APPROVAL PROCESS.—

838 (f) Effective July 1, 2011, notwithstanding paragraph  
839 (2) (j) ~~(2) (k)~~, the office may reduce the local financial support  
840 requirements of this section by one-half for a qualified target

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841 industry business located in Bay County, Escambia County,  
842 Franklin County, Gadsden County, Gulf County, Jefferson County,  
843 Leon County, Okaloosa County, Santa Rosa County, Wakulla County,  
844 or Walton County, if the office determines that such reduction  
845 of the local financial support requirements is in the best  
846 interest of the state and facilitates economic development,  
847 growth, or new employment opportunities in such county. This  
848 paragraph expires June 30, 2014.

849 Reviser's note.—Amended to conform to the  
850 redesignation of paragraph (2)(k) as paragraph (2)(j)  
851 by s. 150, ch. 2011-142, Laws of Florida.

852 Section 31. Paragraph (e) of subsection (2) of section  
853 288.1089, Florida Statutes, is reenacted and amended to read:

854 288.1089 Innovation Incentive Program.—

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

856 (d) ~~(e)~~ "Cumulative investment" means cumulative capital  
857 investment and all eligible capital costs, as defined in s.  
858 220.191.

859 Reviser's note.—Section 155, ch. 2011-142, purported  
860 to amend paragraphs (2)(b), (d), (e), (f), and (o),  
861 but did not publish paragraph (e). To conform to the  
862 deletion of former paragraph (2)(d) by s. 155, ch.

863 2011-142, Laws of Florida, paragraph (2)(e) was  
864 redesignated as paragraph (2)(d) by the editors.

865 Absent affirmative evidence of legislative intent to  
866 repeal it, the paragraph is reenacted and amended as  
867 paragraph (2)(d), to confirm the omission was not  
868 intended.

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869 Section 32. Subsection (6) of section 288.1226, Florida  
870 Statutes, is amended to read:

871 288.1226 Florida Tourism Industry Marketing Corporation;  
872 use of property; board of directors; duties; audit.—

873 (6) ANNUAL AUDIT.—The corporation shall provide for an  
874 annual financial audit in accordance with s. 215.981. The annual  
875 audit report shall be submitted to the Auditor General; the  
876 Office of Program Policy Analysis and Government Accountability;  
877 Enterprise Florida, Inc.; and the department for review. The  
878 Office of Program Policy Analysis and Government Accountability;  
879 Enterprise Florida, Inc.; the department; and the Auditor  
880 General have the authority to require and receive from the  
881 corporation or from its independent auditor any detail or  
882 supplemental data relative to the operation of the corporation.  
883 The department shall annually certify whether the corporation is  
884 operating in a manner and achieving the objectives that are  
885 consistent with the policies and goals of Enterprise Florida,  
886 Inc., and its long-range marketing plan. The identity of a donor  
887 or prospective donor to the corporation who desires to remain  
888 anonymous and all information identifying such donor or  
889 prospective donor are confidential and exempt from the  
890 provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
891 Constitution. Such anonymity shall be maintained in the  
892 auditor's report.

893 Reviser's note.—Amended to confirm editorial insertion  
894 of the word "Program" to conform to the complete name  
895 of the office.

896 Section 33. Subsection (2) of section 288.706, Florida



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897 Statutes, is amended to read:

898       288.706 Florida Minority Business Loan Mobilization  
899 Program.—

900       (2) The Florida Minority Business Loan Mobilization  
901 Program is created to promote the development of minority  
902 business enterprises, as defined in s. 288.703(3) ~~288.703(2)~~,  
903 increase the ability of minority business enterprises to compete  
904 for state contracts, and sustain the economic growth of minority  
905 business enterprises in this state. The goal of the program is  
906 to assist minority business enterprises by facilitating working  
907 capital loans to minority business enterprises that are vendors  
908 on state agency contracts. The Department of Management Services  
909 shall administer the program.

910       Reviser's note.—Amended to conform to the  
911 redesignation of s. 288.703(2) as s. 288.703(3) by s.  
912 172, ch. 2011-142, Laws of Florida.

913       Section 34. Paragraph (b) of subsection (4) of section  
914 288.7102, Florida Statutes, is amended to read:

915       288.7102 Black Business Loan Program.—

916       (4) To be eligible to receive funds and provide loans,  
917 loan guarantees, or investments under this section, a recipient  
918 must:

919       (b) For an existing recipient, annually submit to the  
920 department a financial audit performed by an independent  
921 certified public accountant ~~account~~ for the most recently  
922 completed fiscal year, which audit does not reveal any material  
923 weaknesses or instances of material noncompliance.

924       Reviser's note.—Amended to confirm editorial

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925 substitution of the word "accountant" for the word  
926 "account" to conform to context.  
927 Section 35. Subsection (3) of section 288.980, Florida  
928 Statutes, is reenacted to read:

929 288.980 Military base retention; legislative intent;  
930 grants program.—

931 (3) The Florida Economic Reinvestment Initiative is  
932 established to respond to the need for this state and defense-  
933 dependent communities in this state to develop alternative  
934 economic diversification strategies to lessen reliance on  
935 national defense dollars in the wake of base closures and  
936 reduced federal defense expenditures and the need to formulate  
937 specific base reuse plans and identify any specific  
938 infrastructure needed to facilitate reuse. The initiative shall  
939 consist of the following two distinct grant programs to be  
940 administered by the department:

941 (a) The Florida Defense Planning Grant Program, through  
942 which funds shall be used to analyze the extent to which the  
943 state is dependent on defense dollars and defense infrastructure  
944 and prepare alternative economic development strategies. The  
945 state shall work in conjunction with defense-dependent  
946 communities in developing strategies and approaches that will  
947 help communities make the transition from a defense economy to a  
948 nondefense economy. Grant awards may not exceed \$250,000 per  
949 applicant and shall be available on a competitive basis.

950 (b) The Florida Defense Implementation Grant Program,  
951 through which funds shall be made available to defense-dependent  
952 communities to implement the diversification strategies

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953 developed pursuant to paragraph (a). Eligible applicants include  
954 defense-dependent counties and cities, and local economic  
955 development councils located within such communities. Grant  
956 awards may not exceed \$100,000 per applicant and shall be  
957 available on a competitive basis. Awards shall be matched on a  
958 one-to-one basis.

959 (c) The Florida Military Installation Reuse Planning and  
960 Marketing Grant Program, through which funds shall be used to  
961 help counties, cities, and local economic development councils  
962 develop and implement plans for the reuse of closed or realigned  
963 military installations, including any necessary infrastructure  
964 improvements needed to facilitate reuse and related marketing  
965 activities.

966  
967 Applications for grants under this subsection must include a  
968 coordinated program of work or plan of action delineating how  
969 the eligible project will be administered and accomplished,  
970 which must include a plan for ensuring close cooperation between  
971 civilian and military authorities in the conduct of the funded  
972 activities and a plan for public involvement.

973 Reviser's note.—Section 194, ch. 2011-142, Laws of  
974 Florida, amended subsection (3) without publishing  
975 paragraph (c). Absent affirmative evidence of  
976 legislative intent to repeal paragraph (c), subsection  
977 (3) is reenacted to confirm the omission was not  
978 intended.

979 Section 36. Section 290.0401, Florida Statutes, is amended  
980 to read:

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981           290.0401 Florida Small Cities Community Development Block  
982 Grant Program Act; short title.—Sections       290.0401-290.048  
983       ~~290.0401-290.049~~ may be cited as the "Florida Small Cities  
984 Community Development Block Grant Program Act."  
985           Reviser's note.—Amended to conform to the repeal of s.  
986       290.049 by s. 44, ch. 2001-89, Laws of Florida, and s.  
987       25, ch. 2001-201, Laws of Florida. Section 290.048 is  
988       now the last section in the range.  
989           Section 37. Section 290.0411, Florida Statutes, is amended  
990 to read:  
991           290.0411 Legislative intent and purpose of ss. 290.0401-  
992 290.048 ~~290.0401-290.049~~.—It is the intent of the Legislature to  
993 provide the necessary means to develop, preserve, redevelop, and  
994 revitalize Florida communities exhibiting signs of decline or  
995 distress by enabling local governments to undertake the  
996 necessary community development programs. The overall objective  
997 is to create viable communities by eliminating slum and blight,  
998 fortifying communities in urgent need, providing decent housing  
999 and suitable living environments, and expanding economic  
1000 opportunities, principally for persons of low or moderate  
1001 income. The purpose of ss. 290.0401-290.048 ~~290.0401-290.049~~ is  
1002 to assist local governments in carrying out effective community  
1003 development and project planning and design activities to arrest  
1004 and reverse community decline and restore community vitality.  
1005 Community development and project planning activities to  
1006 maintain viable communities, revitalize existing communities,  
1007 expand economic development and employment opportunities, and  
1008 improve housing conditions and expand housing opportunities,

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1009 providing direct benefit to persons of low or moderate income,  
1010 are the primary purposes of ss. 290.0401-290.048 ~~290.0401-~~  
1011 ~~290.049~~. The Legislature, therefore, declares that the  
1012 development, redevelopment, preservation, and revitalization of  
1013 communities in this state and all the purposes of ss. 290.0401-  
1014 290.048 ~~290.0401-290.049~~ are public purposes for which public  
1015 money may be borrowed, expended, loaned, pledged to guarantee  
1016 loans, and granted.

1017 Reviser's note.—Amended to conform to the repeal of s.  
1018 290.049 by s. 44, ch. 2001-89, Laws of Florida, and s.  
1019 25, ch. 2001-201, Laws of Florida. Section 290.048 is  
1020 now the last section in the range.

1021 Section 38. Section 290.042, Florida Statutes, is amended  
1022 to read:

1023 290.042 Definitions relating to Florida Small Cities  
1024 Community Development Block Grant Program Act.—As used in ss.  
1025 290.0401-290.048 ~~290.0401-290.049~~, the term:

1026 (1) "Administrative closeout" means the notification of a  
1027 grantee by the department that all applicable administrative  
1028 actions and all required work of the grant have been completed  
1029 with the exception of the final audit.

1030 (2) "Administrative costs" means the payment of all  
1031 reasonable costs of management, coordination, monitoring, and  
1032 evaluation, and similar costs and carrying charges, related to  
1033 the planning and execution of community development activities  
1034 which are funded in whole or in part under the Florida Small  
1035 Cities Community Development Block Grant Program. Administrative  
1036 costs shall include all costs of administration, including

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1037 | general administration, planning and urban design, and project  
1038 | administration costs.

1039 |       (3) "Department" means the Department of Economic  
1040 | Opportunity.

1041 |       (4) "Eligible activities" means those community  
1042 | development activities authorized in s. 105(a) of Title I of the  
1043 | Housing and Community Development Act of 1974, as amended, and  
1044 | applicable federal regulations.

1045 |       (5) "Eligible local government" means any local government  
1046 | which qualifies as eligible to participate in the Florida Small  
1047 | Cities Community Development Block Grant Program in accordance  
1048 | with s. 102(a)(7) of Title I of the Housing and Community  
1049 | Development Act of 1974, as amended, and applicable federal  
1050 | regulations, and any eligibility requirements which may be  
1051 | imposed by this act or by department rule.

1052 |       (6) "Person of low or moderate income" means any person  
1053 | who meets the definition established by the department in  
1054 | accordance with the guidelines established in Title I of the  
1055 | Housing and Community Development Act of 1974, as amended.

1056 |       (7) "Service area" means the total geographic area to be  
1057 | directly or indirectly served by a community development block  
1058 | grant project where at least 51 percent of the residents are  
1059 | low-income and moderate-income persons.

1060 |       Reviser's note.—Amended to conform to the repeal of s.  
1061 | 290.049 by s. 44, ch. 2001-89, Laws of Florida, and s.  
1062 | 25, ch. 2001-201, Laws of Florida. Section 290.048 is  
1063 | now the last section in the range.

1064 |       Section 39. Subsection (1) of section 290.044, Florida

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1065 Statutes, is amended to read:  
 1066       290.044 Florida Small Cities Community Development Block  
 1067 Grant Program Fund; administration; distribution.—  
 1068       (1) The Florida Small Cities Community Development Block  
 1069 Grant Program Fund is created. All revenue designated for  
 1070 deposit in such fund shall be deposited by the appropriate  
 1071 agency. The department shall administer this fund as a grant and  
 1072 loan guarantee program for carrying out the purposes of ss.  
 1073 290.0401-290.048 ~~290.0401-290.049~~.  
 1074       Reviser's note.—Amended to conform to the repeal of s.  
 1075 290.049 by s. 44, ch. 2001-89, Laws of Florida, and s.  
 1076 25, ch. 2001-201, Laws of Florida. Section 290.048 is  
 1077 now the last section in the range.  
 1078       Section 40. Subsections (1), (3), and (4) of section  
 1079 290.048, Florida Statutes, are amended to read:  
 1080       290.048 General powers of department under ss. 290.0401-  
 1081 290.048 ~~290.0401-290.049~~.—The department has all the powers  
 1082 necessary or appropriate to carry out the purposes and  
 1083 provisions of the program, including the power to:  
 1084       (1) Make contracts and agreements with the Federal  
 1085 Government; other agencies of the state; any other public  
 1086 agency; or any other public person, association, corporation,  
 1087 local government, or entity in exercising its powers and  
 1088 performing its duties under ss. 290.0401-290.048 ~~290.0401-~~  
 1089 ~~290.049~~.  
 1090       (3) Adopt and enforce rules not inconsistent with ss.  
 1091 290.0401-290.048 ~~290.0401-290.049~~ for the administration of the  
 1092 fund.

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1093 (4) Assist in training employees of local governing  
1094 authorities to help achieve and increase their capacity to  
1095 administer programs pursuant to ss. 290.0401-290.048 ~~290.0401-~~  
1096 ~~290.049~~ and provide technical assistance and advice to local  
1097 governing authorities involved with these programs.

1098 Reviser's note.—Amended to conform to the repeal of s.  
1099 290.049 by s. 44, ch. 2001-89, Laws of Florida, and s.  
1100 25, ch. 2001-201, Laws of Florida. Section 290.048 is  
1101 now the last section in the range.

1102 Section 41. Subsection (1) of section 311.09, Florida  
1103 Statutes, is amended to read:

1104 311.09 Florida Seaport Transportation and Economic  
1105 Development Council.—

1106 (1) The Florida Seaport Transportation and Economic  
1107 Development Council is created within the Department of  
1108 Transportation. The council consists of the following 17 ~~18~~  
1109 members: the port director, or the port director's designee, of  
1110 each of the ports of Jacksonville, Port Canaveral, Port Citrus,  
1111 Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee,  
1112 St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key  
1113 West, and Fernandina; the secretary of the Department of  
1114 Transportation or his or her designee; and the director of the  
1115 Department of Economic Opportunity or his or her designee.

1116 Reviser's note.—Amended to conform to the deletion of  
1117 the secretary of the Department of Community Affairs  
1118 from the list of members by s. 227, ch. 2011-142, Laws  
1119 of Florida, which changed the number of members on the  
1120 council.



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1121 Section 42. Paragraph (b) of subsection (1) of section  
1122 311.105, Florida Statutes, is amended to read:

1123 311.105 Florida Seaport Environmental Management  
1124 Committee; permitting; mitigation.—

1125 (1)

1126 (b) The committee shall consist of the following members:  
1127 the Secretary of Environmental Protection, or his or her  
1128 designee, as an ex officio, nonvoting member; a designee from  
1129 the United States Army Corps of Engineers, as an ex officio,  
1130 nonvoting member; a designee from the Florida Inland Navigation  
1131 District, as an ex officio, nonvoting member; the executive  
1132 director of the Department of Economic Opportunity, or his or  
1133 her designee, as an ex officio, nonvoting member; and five or  
1134 more port directors, as voting members, appointed to the  
1135 committee by the council chair, who shall also designate one  
1136 such member as committee chair.

1137 Reviser's note.—Amended to confirm editorial insertion  
1138 of the words "the Department of" to conform to the  
1139 complete name of the department.

1140 Section 43. Paragraph (c) of subsection (2) of section  
1141 316.302, Florida Statutes, is amended to read:

1142 316.302 Commercial motor vehicles; safety regulations;  
1143 transporters and shippers of hazardous materials; enforcement.—

1144 (2)

1145 (c) Except as provided in 49 C.F.R. s. 395.1, a person who  
1146 operates a commercial motor vehicle solely in intrastate  
1147 commerce not transporting any hazardous material in amounts that  
1148 require placarding pursuant to 49 C.F.R. part 172 may not drive

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1149 after having been on duty more than 70 hours in any period of 7  
 1150 consecutive days or more than 80 hours in any period of 8  
 1151 consecutive days if the motor carrier operates every day of the  
 1152 week. Thirty-four consecutive hours off duty shall constitute  
 1153 the end of any such period of 7 or 8 consecutive days. This  
 1154 weekly limit does not apply to a person who operates a  
 1155 commercial motor vehicle solely within this state while  
 1156 transporting, during harvest periods, any unprocessed  
 1157 agricultural products or unprocessed food or fiber that is  
 1158 subject to seasonal harvesting from place of harvest to the  
 1159 first place of processing or storage or from place of harvest  
 1160 directly to market or while transporting livestock, livestock  
 1161 feed, or farm supplies directly related to growing or harvesting  
 1162 agricultural products. Upon request of the Department of Highway  
 1163 Safety and Motor Vehicles ~~Transportation~~, motor carriers shall  
 1164 furnish time records or other written verification to that  
 1165 department so that the Department of Highway Safety and Motor  
 1166 Vehicles ~~Transportation~~ can determine compliance with this  
 1167 subsection. These time records must be furnished to the  
 1168 Department of Highway Safety and Motor Vehicles ~~Transportation~~  
 1169 within 2 days after receipt of that department's request.  
 1170 Falsification of such information is subject to a civil penalty  
 1171 not to exceed \$100. The provisions of this paragraph do not  
 1172 apply to drivers of utility service vehicles as defined in 49  
 1173 C.F.R. s. 395.2.

1174 Reviser's note.—Amended to conform to the transfer of  
 1175 motor carrier compliance safety regulation from the  
 1176 Department of Transportation to the Department of

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1177 Highway Safety and Motor Vehicles by ch. 2011-66, Laws  
 1178 of Florida.  
 1179 Section 44. Subsection (13) of section 373.414, Florida  
 1180 Statutes, is amended to read:  
 1181 373.414 Additional criteria for activities in surface  
 1182 waters and wetlands.—  
 1183 (13) Any declaratory statement issued by the department  
 1184 under s. 403.914, 1984 Supplement to the Florida Statutes 1983,  
 1185 as amended, or pursuant to rules adopted thereunder, or by a  
 1186 water management district under s. 373.421, in response to a  
 1187 petition filed on or before June 1, 1994, shall continue to be  
 1188 valid for the duration of such declaratory statement. Any such  
 1189 petition pending on June 1, 1994, shall be exempt from the  
 1190 methodology ratified in s. 373.4211, but the rules of the  
 1191 department or the relevant water management district, as  
 1192 applicable, in effect prior to the effective date of s.  
 1193 373.4211, shall apply. Until May 1, 1998, activities within the  
 1194 boundaries of an area subject to a petition pending on June 1,  
 1195 1994, and prior to final agency action on such petition, shall  
 1196 be reviewed under the rules adopted pursuant to ss. 403.91-  
 1197 403.929, 1984 Supplement to the Florida Statutes 1983, as  
 1198 amended, and this part, in existence prior to the effective date  
 1199 of the rules adopted under subsection (9), unless the applicant  
 1200 elects to have such activities reviewed under the rules adopted  
 1201 under this part, as amended in accordance with subsection (9).  
 1202 In the event that a jurisdictional declaratory statement  
 1203 pursuant to the vegetative index in effect prior to the  
 1204 effective date of chapter 84-79, Laws of Florida, has been

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1205 | obtained and is valid prior to the effective date of the rules  
 1206 | adopted under subsection (9) or July 1, 1994, whichever is  
 1207 | later, and the affected lands are part of a project for which a  
 1208 | master development order has been issued pursuant to s.  
 1209 | 380.06(21), the declaratory statement shall remain valid for the  
 1210 | duration of the buildout period of the project. Any  
 1211 | jurisdictional determination validated by the department  
 1212 | pursuant to rule 17-301.400(8), Florida Administrative Code, as  
 1213 | it existed in rule 17-4.022, Florida Administrative Code, on  
 1214 | April 1, 1985, shall remain in effect for a period of 5 years  
 1215 | following the effective date of this act if proof of such  
 1216 | validation is submitted to the department prior to January 1,  
 1217 | 1995. In the event that a jurisdictional determination has been  
 1218 | revalidated by the department pursuant to this subsection and  
 1219 | the affected lands are part of a project for which a development  
 1220 | order has been issued pursuant to s. 380.06(15), a final  
 1221 | development order to which s. 163.3167(5) ~~163.3167(8)~~ applies  
 1222 | has been issued, or a vested rights determination has been  
 1223 | issued pursuant to s. 380.06(20), the jurisdictional  
 1224 | determination shall remain valid until the completion of the  
 1225 | project, provided proof of such validation and documentation  
 1226 | establishing that the project meets the requirements of this  
 1227 | sentence are submitted to the department prior to January 1,  
 1228 | 1995. Activities proposed within the boundaries of a valid  
 1229 | declaratory statement issued pursuant to a petition submitted to  
 1230 | either the department or the relevant water management district  
 1231 | on or before June 1, 1994, or a revalidated jurisdictional  
 1232 | determination, prior to its expiration shall continue thereafter

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1233 to be exempt from the methodology ratified in s. 373.4211 and to  
 1234 be reviewed under the rules adopted pursuant to ss. 403.91-  
 1235 403.929, 1984 Supplement to the Florida Statutes 1983, as  
 1236 amended, and this part, in existence prior to the effective date  
 1237 of the rules adopted under subsection (9), unless the applicant  
 1238 elects to have such activities reviewed under the rules adopted  
 1239 under this part, as amended in accordance with subsection (9).

1240 Reviser's note.—Amended to conform to the renumbering  
 1241 of subunits within s. 163.3167 by s. 7, ch. 2011-139,  
 1242 Laws of Florida.

1243 Section 45. Paragraph (a) of subsection (2) of section  
 1244 376.3072, Florida Statutes, is amended to read:

1245 376.3072 Florida Petroleum Liability and Restoration  
 1246 Insurance Program.—

1247 (2) (a) Any owner or operator of a petroleum storage system  
 1248 may become an insured in the restoration insurance program at a  
 1249 facility provided:

1250 1. A site at which an incident has occurred shall be  
 1251 eligible for restoration if the insured is a participant in the  
 1252 third-party liability insurance program or otherwise meets  
 1253 applicable financial responsibility requirements. After July 1,  
 1254 1993, the insured must also provide the required excess  
 1255 insurance coverage or self-insurance for restoration to achieve  
 1256 the financial responsibility requirements of 40 C.F.R. s.  
 1257 280.97, subpart H, not covered by paragraph (d).

1258 2. A site which had a discharge reported prior to January  
 1259 1, 1989, for which notice was given pursuant to s. 376.3071(9)  
 1260 or (12), and which is ineligible for the third-party liability

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1261 insurance program solely due to that discharge shall be eligible  
1262 for participation in the restoration program for any incident  
1263 occurring on or after January 1, 1989, in accordance with  
1264 subsection (3). Restoration funding for an eligible contaminated  
1265 site will be provided without participation in the third-party  
1266 liability insurance program until the site is restored as  
1267 required by the department or until the department determines  
1268 that the site does not require restoration.

1269 3. Notwithstanding paragraph (b), a site where an  
1270 application is filed with the department prior to January 1,  
1271 1995, where the owner is a small business under s. 288.703(6)  
1272 ~~288.703(1)~~, a state community college with less than 2,500 FTE,  
1273 a religious institution as defined by s. 212.08(7)(m), a  
1274 charitable institution as defined by s. 212.08(7)(p), or a  
1275 county or municipality with a population of less than 50,000,  
1276 shall be eligible for up to \$400,000 of eligible restoration  
1277 costs, less a deductible of \$10,000 for small businesses,  
1278 eligible community colleges, and religious or charitable  
1279 institutions, and \$30,000 for eligible counties and  
1280 municipalities, provided that:

1281 a. Except as provided in sub-subparagraph e., the facility  
1282 was in compliance with department rules at the time of the  
1283 discharge.

1284 b. The owner or operator has, upon discovery of a  
1285 discharge, promptly reported the discharge to the department,  
1286 and drained and removed the system from service, if necessary.

1287 c. The owner or operator has not intentionally caused or  
1288 concealed a discharge or disabled leak detection equipment.

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1289           d. The owner or operator proceeds to complete initial  
1290 remedial action as defined by department rules.

1291           e. The owner or operator, if required and if it has not  
1292 already done so, applies for third-party liability coverage for  
1293 the facility within 30 days of receipt of an eligibility order  
1294 issued by the department pursuant to this provision.

1295  
1296 However, the department may consider in-kind services from  
1297 eligible counties and municipalities in lieu of the \$30,000  
1298 deductible. The cost of conducting initial remedial action as  
1299 defined by department rules shall be an eligible restoration  
1300 cost pursuant to this provision.

1301           4.a. By January 1, 1997, facilities at sites with existing  
1302 contamination shall be required to have methods of release  
1303 detection to be eligible for restoration insurance coverage for  
1304 new discharges subject to department rules for secondary  
1305 containment. Annual storage system testing, in conjunction with  
1306 inventory control, shall be considered to be a method of release  
1307 detection until the later of December 22, 1998, or 10 years  
1308 after the date of installation or the last upgrade. Other  
1309 methods of release detection for storage tanks which meet such  
1310 requirement are:

1311           (I) Interstitial monitoring of tank and integral piping  
1312 secondary containment systems;

1313           (II) Automatic tank gauging systems; or

1314           (III) A statistical inventory reconciliation system with a  
1315 tank test every 3 years.

1316           b. For pressurized integral piping systems, the owner or

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1317 operator must use:

1318 (I) An automatic in-line leak detector with flow

1319 restriction meeting the requirements of department rules used in

1320 conjunction with an annual tightness or pressure test; or

1321 (II) An automatic in-line leak detector with electronic

1322 flow shut-off meeting the requirements of department rules.

1323 c. For suction integral piping systems, the owner or

1324 operator must use:

1325 (I) A single check valve installed directly below the

1326 suction pump, provided there are no other valves between the

1327 dispenser and the tank; or

1328 (II) An annual tightness test or other approved test.

1329 d. Owners of facilities with existing contamination that

1330 install internal release detection systems in accordance with

1331 sub-subparagraph a. shall permanently close their external

1332 groundwater and vapor monitoring wells in accordance with

1333 department rules by December 31, 1998. Upon installation of the

1334 internal release detection system, these wells shall be secured

1335 and taken out of service until permanent closure.

1336 e. Facilities with vapor levels of contamination meeting

1337 the requirements of or below the concentrations specified in the

1338 performance standards for release detection methods specified in

1339 department rules may continue to use vapor monitoring wells for

1340 release detection.

1341 f. The department may approve other methods of release

1342 detection for storage tanks and integral piping which have at

1343 least the same capability to detect a new release as the methods

1344 specified in this subparagraph.



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1345 Reviser's note.—Amended to conform to the renumbering  
1346 of subunits within s. 288.703 by s. 172, ch. 2011-142,  
1347 Laws of Florida.

1348 Section 46. Subsection (2) of section 376.86, Florida  
1349 Statutes, is amended to read:

1350 376.86 Brownfield Areas Loan Guarantee Program.—

1351 (2) The council shall consist of the secretary of the  
1352 Department of Environmental Protection or the secretary's  
1353 designee, the State Surgeon General or the State Surgeon  
1354 General's designee, the executive director of the State Board of  
1355 Administration or the executive director's designee, the  
1356 executive director of the Florida Housing Finance Corporation or  
1357 the executive director's designee, and the executive director of  
1358 the Department of Economic Opportunity or the director's  
1359 designee. The executive director of the Department of Economic  
1360 Opportunity or the director's designee shall serve as chair of  
1361 the council. Staff services for activities of the council shall  
1362 be provided as needed by the member agencies.

1363 Reviser's note.—Amended to confirm editorial insertion  
1364 of the words "the Department of" to conform to the  
1365 complete name of the department.

1366 Section 47. Section 379.2255, Florida Statutes, is amended  
1367 to read:

1368 379.2255 Wildlife Violator Compact Act.—The Wildlife  
1369 Violator Compact is created and entered into with all other  
1370 jurisdictions legally joining therein in the form substantially  
1371 as follows:

1372

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ARTICLE I

Findings and Purpose

(1) The participating states find that:

(a) Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors.

(b) The protection of the wildlife resources of a state is materially affected by the degree of compliance with state statutes, laws, regulations, ordinances, and administrative rules relating to the management of such resources.

(c) The preservation, protection, management, and restoration of wildlife contributes immeasurably to the aesthetic, recreational, and economic aspects of such natural resources.

(d) Wildlife resources are valuable without regard to political boundaries; therefore, every person should be required to comply with wildlife preservation, protection, management, and restoration laws, ordinances, and administrative rules and regulations of the participating states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife.

(e) Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property.

(f) The mobility of many wildlife law violators necessitates the maintenance of channels of communication among the various states.

(g) In most instances, a person who is cited for a

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1401 wildlife violation in a state other than his or her home state  
1402 is:

1403 1. Required to post collateral or a bond to secure  
1404 appearance for a trial at a later date;

1405 2. Taken into custody until the collateral or bond is  
1406 posted; or

1407 3. Taken directly to court for an immediate appearance.

1408 (h) The purpose of the enforcement practices set forth in  
1409 paragraph (g) is to ensure compliance with the terms of a  
1410 wildlife citation by the cited person who, if permitted to  
1411 continue on his or her way after receiving the citation, could  
1412 return to his or her home state and disregard his or her duty  
1413 under the terms of the citation.

1414 (i) In most instances, a person receiving a wildlife  
1415 citation in his or her home state is permitted to accept the  
1416 citation from the officer at the scene of the violation and  
1417 immediately continue on his or her way after agreeing or being  
1418 instructed to comply with the terms of the citation.

1419 (j) The practices described in paragraph (g) cause  
1420 unnecessary inconvenience and, at times, a hardship for the  
1421 person who is unable at the time to post collateral, furnish a  
1422 bond, stand trial, or pay a fine, and thus is compelled to  
1423 remain in custody until some alternative arrangement is made.

1424 (k) The enforcement practices described in paragraph (g)  
1425 consume an undue amount of time of law enforcement agencies.

1426 (2) It is the policy of the participating states to:

1427 (a) Promote compliance with the statutes, laws,  
1428 ordinances, regulations, and administrative rules relating to

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1429 | the management of wildlife resources in their respective states.

1430 |       (b) Recognize a suspension of the wildlife license  
1431 | privileges of any person whose license privileges have been  
1432 | suspended by a participating state and treat such suspension as  
1433 | if it had occurred in each respective state.

1434 |       (c) Allow a violator, except as provided in subsection (2)  
1435 | of Article III, to accept a wildlife citation and, without  
1436 | delay, proceed on his or her way, whether or not the violator is  
1437 | a resident of the state in which the citation was issued, if the  
1438 | violator's home state is party to this compact.

1439 |       (d) Report to the appropriate participating state, as  
1440 | provided in the compact manual, any conviction recorded against  
1441 | any person whose home state was not the issuing state.

1442 |       (e) Allow the home state to recognize and treat  
1443 | convictions recorded against its residents, which convictions  
1444 | occurred in a participating state, as though they had occurred  
1445 | in the home state.

1446 |       (f) Extend cooperation to its fullest extent among the  
1447 | participating states for enforcing compliance with the terms of  
1448 | a wildlife citation issued in one participating state to a  
1449 | resident of another participating state.

1450 |       (g) Maximize the effective use of law enforcement  
1451 | personnel and information.

1452 |       (h) Assist court systems in the efficient disposition of  
1453 | wildlife violations.

1454 |       (3) The purpose of this compact is to:

1455 |       (a) Provide a means through which participating states may  
1456 | join in a reciprocal program to effectuate the policies

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1457 enumerated in subsection (2) in a uniform and orderly manner.

1458 (b) Provide for the fair and impartial treatment of  
1459 wildlife violators operating within participating states in  
1460 recognition of the violator's right to due process and the  
1461 sovereign status of a participating state.

1462

1463 ARTICLE II  
1464 Definitions

1465

1466 As used in this compact, the term:

1467 (1) "Citation" means any summons, complaint, summons and  
1468 complaint, ticket, penalty assessment, or other official  
1469 document issued to a person by a wildlife officer or other peace  
1470 officer for a wildlife violation which contains an order  
1471 requiring the person to respond.

1472 (2) "Collateral" means any cash or other security  
1473 deposited to secure an appearance for trial in connection with  
1474 the issuance by a wildlife officer or other peace officer of a  
1475 citation for a wildlife violation.

1476 (3) "Compliance" with respect to a citation means the act  
1477 of answering a citation through an appearance in a court or  
1478 tribunal, or through the payment of fines, costs, and  
1479 surcharges, if any.

1480 (4) "Conviction" means a conviction that results in  
1481 suspension or revocation of a license, including any court  
1482 conviction, for any offense related to the preservation,  
1483 protection, management, or restoration of wildlife which is  
1484 prohibited by state statute, law, regulation, ordinance, or

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1485 administrative rule. The term also includes the forfeiture of  
1486 any bail, bond, or other security deposited to secure appearance  
1487 by a person charged with having committed any such offense, the  
1488 payment of a penalty assessment, a plea of nolo contendere, or  
1489 the imposition of a deferred or suspended sentence by the court.

1490 (5) "Court" means a court of law, including magistrate's  
1491 court and the justice of the peace court.

1492 (6) "Home state" means the state of primary residence of a  
1493 person.

1494 (7) "Issuing state" means the participating state that  
1495 issues a wildlife citation to the violator.

1496 (8) "License" means any license, permit, or other public  
1497 document that conveys to the person to whom it was issued the  
1498 privilege of pursuing, possessing, or taking any wildlife  
1499 regulated by statute, law, regulation, ordinance, or  
1500 administrative rule of a participating state; any privilege to  
1501 obtain such license, permit, or other public document; or any  
1502 statutory exemption from the requirement to obtain such license,  
1503 permit, or other public document. However, when applied to a  
1504 license, permit, or privilege issued or granted by the State of  
1505 Florida, only a license or permit issued under s. 379.354, or a  
1506 privilege granted under s. 379.353, shall be considered a  
1507 license.

1508 (9) "Licensing authority" means the department or division  
1509 within each participating state which is authorized by law to  
1510 issue or approve licenses or permits to hunt, fish, trap, or  
1511 possess wildlife.

1512 (10) "Participating state" means any state that enacts

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1513 | legislation to become a member of this wildlife compact.  
 1514 |       (11) "Personal recognizance" means an agreement by a  
 1515 | person made at the time of issuance of the wildlife citation  
 1516 | that such person will comply with the terms of the citation.  
 1517 |       (12) "State" means any state, territory, or possession of  
 1518 | the United States, the District of Columbia, the Commonwealth of  
 1519 | Puerto Rico, the Provinces of Canada, and other countries.  
 1520 |       (13) "Suspension" means any revocation, denial, or  
 1521 | withdrawal of any or all license privileges, including the  
 1522 | privilege to apply for, purchase, or exercise the benefits  
 1523 | conferred by any license.  
 1524 |       (14) "Terms of the citation" means those conditions and  
 1525 | options expressly stated upon the citation.  
 1526 |       (15) "Wildlife" means all species of animals, including,  
 1527 | but not limited to, mammals, birds, fish, reptiles, amphibians,  
 1528 | mollusks, and crustaceans, which are defined as "wildlife" and  
 1529 | are protected or otherwise regulated by statute, law,  
 1530 | regulation, ordinance, or administrative rule in a participating  
 1531 | state. Species included in the definition of "wildlife" vary  
 1532 | from state to state and the determination of whether a species  
 1533 | is "wildlife" for the purposes of this compact shall be based on  
 1534 | local law.  
 1535 |       (16) "Wildlife law" means any statute, law, regulation,  
 1536 | ordinance, or administrative rule developed and enacted for the  
 1537 | management of wildlife resources and the uses thereof.  
 1538 |       (17) "Wildlife officer" means any individual authorized by  
 1539 | a participating state to issue a citation for a wildlife  
 1540 | violation.

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1541 (18) "Wildlife violation" means any cited violation of a  
1542 statute, law, regulation, ordinance, or administrative rule  
1543 developed and enacted for the management of wildlife resources  
1544 and the uses thereof.

1545

1546

ARTICLE III

1547

Procedures for Issuing State

1548

1549

(1) When issuing a citation for a wildlife violation, a  
1550 wildlife officer shall issue a citation to any person whose  
1551 primary residence is in a participating state in the same manner  
1552 as though the person were a resident of the issuing state and  
1553 shall not require such person to post collateral to secure  
1554 appearance, subject to the exceptions noted in subsection (2),  
1555 if the officer receives the recognizance of such person that he  
1556 will comply with the terms of the citation.

1557

(2) Personal recognizance is acceptable if not prohibited  
1558 by local law; by policy, procedure, or regulation of the issuing  
1559 agency; or by the compact manual and if the violator provides  
1560 adequate proof of identification to the wildlife officer.

1561

(3) Upon conviction or failure of a person to comply with  
1562 the terms of a wildlife citation, the appropriate official shall  
1563 report the conviction or failure to comply to the licensing  
1564 authority of the participating state in which the wildlife  
1565 citation was issued. The report shall be made in accordance with  
1566 procedures specified by the issuing state and must contain  
1567 information as specified in the compact manual as minimum  
1568 requirements for effective processing by the home state.





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ARTICLE V

Reciprocal Recognition of Suspension

(1) Each participating state may recognize the suspension of license privileges of any person by any other participating state as though the violation resulting in the suspension had occurred in that state and would have been the basis for suspension of license privileges in that state.

(2) Each participating state shall communicate suspension information to other participating states in the form and content contained in the compact manual.

ARTICLE VI

Applicability of Other Laws

Except as expressly required by provisions of this compact, this compact does not affect the right of any participating state to apply any of its laws relating to license privileges to any person or circumstance or to invalidate or prevent any agreement or other cooperative arrangement between a participating state and a nonparticipating state concerning the enforcement of wildlife laws.

ARTICLE VII

Compact Administrator Procedures

(1) For the purpose of administering the provisions of

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1625 | this compact and to serve as a governing body for the resolution  
 1626 | of all matters relating to the operation of this compact, a  
 1627 | board of compact administrators is established. The board shall  
 1628 | be composed of one representative from each of the participating  
 1629 | states to be known as the compact administrator. The compact  
 1630 | administrator shall be appointed by the head of the licensing  
 1631 | authority of each participating state and shall serve and be  
 1632 | subject to removal in accordance with the laws of the state he  
 1633 | or she represents. A compact administrator may provide for the  
 1634 | discharge of his or her duties and the performance of his or her  
 1635 | functions as a board member by an alternate. An alternate is not  
 1636 | entitled to serve unless written notification of his or her  
 1637 | identity has been given to the board.

1638 |         (2) Each member of the board of compact administrators  
 1639 | shall be entitled to one vote. No action of the board shall be  
 1640 | binding unless taken at a meeting at which a majority of the  
 1641 | total number of the board's votes are cast in favor thereof.  
 1642 | Action by the board shall be only at a meeting at which a  
 1643 | majority of the participating states are represented.

1644 |         (3) The board shall elect annually from its membership a  
 1645 | chairperson ~~chairman~~ and vice chairperson ~~chairman~~.

1646 |         (4) The board shall adopt bylaws not inconsistent with the  
 1647 | provisions of this compact or the laws of a participating state  
 1648 | for the conduct of its business and shall have the power to  
 1649 | amend and rescind its bylaws.

1650 |         (5) The board may accept for any of its purposes and  
 1651 | functions under this compact any and all donations and grants of  
 1652 | moneys, equipment, supplies, materials, and services,

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1653 conditional or otherwise, from any state, the United States, or  
1654 any governmental agency, and may receive, use, and dispose of  
1655 the same.

1656 (6) The board may contract with, or accept services or  
1657 personnel from, any governmental or intergovernmental agency,  
1658 individual, firm, corporation, or private nonprofit organization  
1659 or institution.

1660 (7) The board shall formulate all necessary procedures and  
1661 develop uniform forms and documents for administering the  
1662 provisions of this compact. All procedures and forms adopted  
1663 pursuant to board action shall be contained in a compact manual.

1664  
1665 ARTICLE VIII

1666 Entry into Compact and Withdrawal

1667  
1668 (1) This compact shall become effective at such time as it  
1669 is adopted in substantially similar form by two or more states.

1670 (2)

1671 (a) Entry into the compact shall be made by resolution of  
1672 ratification executed by the authorized officials of the  
1673 applying state and submitted to the chairperson ~~chairman~~ of the  
1674 board.

1675 (b) The resolution shall substantially be in the form and  
1676 content as provided in the compact manual and must include the  
1677 following:

1678 1. A citation of the authority from which the state is  
1679 empowered to become a party to this compact;

1680 2. An agreement of compliance with the terms and

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1681 provisions of this compact; and

1682 3. An agreement that compact entry is with all states  
1683 participating in the compact and with all additional states  
1684 legally becoming a party to the compact.

1685 (c) The effective date of entry shall be specified by the  
1686 applying state, but may not be less than 60 days after notice  
1687 has been given by the chairperson ~~chairman~~ of the board of the  
1688 compact administrators or by the secretariat of the board to  
1689 each participating state that the resolution from the applying  
1690 state has been received.

1691 (3) A participating state may withdraw from participation  
1692 in this compact by official written notice to each participating  
1693 state, but withdrawal shall not become effective until 90 days  
1694 after the notice of withdrawal is given. The notice must be  
1695 directed to the compact administrator of each member state. The  
1696 withdrawal of any state does not affect the validity of this  
1697 compact as to the remaining participating states.

1698  
1699 ARTICLE IX

1700 Amendments to the Compact

1701  
1702 (1) This compact may be amended from time to time.  
1703 Amendments shall be presented in resolution form to the  
1704 chairperson ~~chairman~~ of the board of compact administrators and  
1705 shall be initiated by one or more participating states.

1706 (2) Adoption of an amendment shall require endorsement by  
1707 all participating states and shall become effective 30 days  
1708 after the date of the last endorsement.

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ARTICLE X

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact are severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States, or if the applicability thereof to any government, agency, individual, or circumstance is held invalid, the validity of the remainder of this compact shall not be affected thereby. If this compact is held contrary to the constitution of any participating state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the participating state affected as to all severable matters.

ARTICLE XI

Title

This compact shall be known as the "Wildlife Violator Compact."

Reviser's note.—Amended pursuant to the directive of the Legislature in s. 1, ch. 93-199, Laws of Florida, to remove gender-specific references applicable to human beings from the Florida Statutes without substantive change in legal effect.  
Section 48. Paragraphs (b) and (c) of subsection (4) of

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1737 section 381.026, Florida Statutes, are amended to read:  
 1738       381.026 Florida Patient's Bill of Rights and  
 1739 Responsibilities.—  
 1740       (4) RIGHTS OF PATIENTS.—Each health care facility or  
 1741 provider shall observe the following standards:  
 1742       (b) Information.—  
 1743       1. A patient has the right to know the name, function, and  
 1744 qualifications of each health care provider who is providing  
 1745 medical services to the patient. A patient may request such  
 1746 information from his or her responsible provider or the health  
 1747 care facility in which he or she is receiving medical services.  
 1748       2. A patient in a health care facility has the right to  
 1749 know what patient support services are available in the  
 1750 facility.  
 1751       3. A patient has the right to be given by his or her  
 1752 health care provider information concerning diagnosis, planned  
 1753 course of treatment, alternatives, risks, and prognosis, unless  
 1754 it is medically inadvisable or impossible to give this  
 1755 information to the patient, in which case the information must  
 1756 be given to the patient's guardian or a person designated as the  
 1757 patient's representative. A patient has the right to refuse this  
 1758 information.  
 1759       4. A patient has the right to refuse any treatment based  
 1760 on information required by this paragraph, except as otherwise  
 1761 provided by law. The responsible provider shall document any  
 1762 such refusal.  
 1763       5. A patient in a health care facility has the right to  
 1764 know what facility rules and regulations apply to patient

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1765 | conduct.

1766 |         6. A patient has the right to express grievances to a  
1767 | health care provider, a health care facility, or the appropriate  
1768 | state licensing agency regarding alleged violations of patients'  
1769 | rights. A patient has the right to know the health care  
1770 | provider's or health care facility's procedures for expressing a  
1771 | grievance.

1772 |         7. A patient in a health care facility who does not speak  
1773 | English has the right to be provided an interpreter when  
1774 | receiving medical services if the facility has a person readily  
1775 | available who can interpret on behalf of the patient.

1776 |         8. A health care provider or health care facility shall  
1777 | respect a patient's right to privacy and should refrain from  
1778 | making a written inquiry or asking questions concerning the  
1779 | ownership of a firearm or ammunition by the patient or by a  
1780 | family member of the patient, or the presence of a firearm in a  
1781 | private home or other domicile of the patient or a family member  
1782 | of the patient. Notwithstanding this provision, a health care  
1783 | provider or health care facility that in good faith believes  
1784 | that this information is relevant to the patient's medical care  
1785 | or safety, or safety of ~~or~~ others, may make such a verbal or  
1786 | written inquiry.

1787 |         9. A patient may decline to answer or provide any  
1788 | information regarding ownership of a firearm by the patient or a  
1789 | family member of the patient, or the presence of a firearm in  
1790 | the domicile of the patient or a family member of the patient. A  
1791 | patient's decision not to answer a question relating to the  
1792 | presence or ownership of a firearm does not alter existing law



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1793 regarding a physician's authorization to choose his or her  
1794 patients.

1795 10. A health care provider or health care facility may not  
1796 discriminate against a patient based solely upon the patient's  
1797 exercise of the constitutional right to own and possess firearms  
1798 or ammunition.

1799 11. A health care provider or health care facility shall  
1800 respect a patient's legal right to own or possess a firearm and  
1801 should refrain from unnecessarily harassing a patient about  
1802 firearm ownership during an examination.

1803 (c) Financial information and disclosure.-

1804 1. A patient has the right to be given, upon request, by  
1805 the responsible provider, his or her designee, or a  
1806 representative of the health care facility full information and  
1807 necessary counseling on the availability of known financial  
1808 resources for the patient's health care.

1809 2. A health care provider or a health care facility shall,  
1810 upon request, disclose to each patient who is eligible for  
1811 Medicare, before treatment, whether the health care provider or  
1812 the health care facility in which the patient is receiving  
1813 medical services accepts assignment under Medicare reimbursement  
1814 as payment in full for medical services and treatment rendered  
1815 in the health care provider's office or health care facility.

1816 3. A primary care provider may publish a schedule of  
1817 charges for the medical services that the provider offers to  
1818 patients. The schedule must include the prices charged to an  
1819 uninsured person paying for such services by cash, check, credit  
1820 card, or debit card. The schedule must be posted in a

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1821 conspicuous place in the reception area of the provider's office  
1822 and must include, but is not limited to, the 50 services most  
1823 frequently provided by the primary care provider. The schedule  
1824 may group services by three price levels, listing services in  
1825 each price level. The posting must be at least 15 square feet in  
1826 size. A primary care provider who publishes and maintains a  
1827 schedule of charges for medical services is exempt from the  
1828 license fee requirements for a single period of renewal of a  
1829 professional license under chapter 456 for that licensure term  
1830 and is exempt from the continuing education requirements of  
1831 chapter 456 and the rules implementing those requirements for a  
1832 single 2-year period.

1833 4. If a primary care provider publishes a schedule of  
1834 charges pursuant to subparagraph 3., he or she must continually  
1835 post it at all times for the duration of active licensure in  
1836 this state when primary care services are provided to patients.  
1837 If a primary care provider fails to post the schedule of charges  
1838 in accordance with this subparagraph, the provider shall be  
1839 required to pay any license fee and comply with any continuing  
1840 education requirements for which an exemption was received.

1841 5. A health care provider or a health care facility shall,  
1842 upon request, furnish a person, before the provision of medical  
1843 services, a reasonable estimate of charges for such services.  
1844 The health care provider or the health care facility shall  
1845 provide an uninsured person, before the provision of a planned  
1846 nonemergency medical service, a reasonable estimate of charges  
1847 for such service and information regarding the provider's or  
1848 facility's discount or charity policies for which the uninsured

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1849 person may be eligible. Such estimates by a primary care  
1850 provider must be consistent with the schedule posted under  
1851 subparagraph 3. Estimates shall, to the extent possible, be  
1852 written in a language comprehensible to an ordinary layperson.  
1853 Such reasonable estimate does not preclude the health care  
1854 provider or health care facility from exceeding the estimate or  
1855 making additional charges based on changes in the patient's  
1856 condition or treatment needs.

1857         6. Each licensed facility not operated by the state shall  
1858 make available to the public on its Internet website or by other  
1859 electronic means a description of and a link to the performance  
1860 outcome and financial data that is published by the agency  
1861 pursuant to s. 408.05(3)(k). The facility shall place a notice  
1862 in the reception area that such information is available  
1863 electronically and the website address. The licensed facility  
1864 may indicate that the pricing information is based on a  
1865 compilation of charges for the average patient and that each  
1866 patient's bill may vary from the average depending upon the  
1867 severity of illness and individual resources consumed. The  
1868 licensed facility may also indicate that the price of service is  
1869 negotiable for eligible patients based upon the patient's  
1870 ability to pay.

1871         7. A patient has the right to receive a copy of an  
1872 itemized bill upon request. A patient has a right to be given an  
1873 explanation of charges upon request.

1874         Reviser's note.—Paragraph (4)(b) is amended to confirm  
1875 editorial substitution of the word "of" for the word  
1876 "or." Paragraph (4)(c) is amended to delete the word

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1877 "a" to improve clarity.

1878 Section 49. Subsection (17) of section 409.9122, Florida  
1879 Statutes, is amended to read:

1880 409.9122 Mandatory Medicaid managed care enrollment;  
1881 programs and procedures.—

1882 (17) The agency shall establish and maintain an  
1883 information system to make encounter data, financial data, and  
1884 other measures of plan performance available to the public and  
1885 any interested party.

1886 (a) Information submitted by the managed care plans shall  
1887 be available online as well as in other formats.

1888 (b) Periodic agency reports shall be published that  
1889 include ~~provide~~ summary as well as plan specific measures of  
1890 financial performance and service utilization.

1891 (c) Any release of the financial and encounter data  
1892 submitted by managed care plans shall ensure the confidentiality  
1893 of personal health information.

1894 Reviser's note.—Amended to confirm editorial insertion  
1895 of the word "available" and deletion of the word  
1896 "provide."

1897 Section 50. Paragraphs (c) and (e) of subsection (3) of  
1898 section 409.966, Florida Statutes, are amended to read:

1899 409.966 Eligible plans; selection.—

1900 (3) QUALITY SELECTION CRITERIA.—

1901 (c) After negotiations are conducted, the agency shall  
1902 select the eligible plans that are determined to be responsive  
1903 and provide the best value to the state. Preference shall be  
1904 given to plans that:

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- 1905           1. Have signed contracts with primary and specialty  
1906 physicians in sufficient numbers to meet the specific standards  
1907 established pursuant to s. 409.967(2)(c) ~~409.967(2)(b)~~.
- 1908           2. Have well-defined programs for recognizing patient-  
1909 centered medical homes and providing for increased compensation  
1910 for recognized medical homes, as defined by the plan.
- 1911           3. Are organizations that are based in and perform  
1912 operational functions in this state, in-house or through  
1913 contractual arrangements, by staff located in this state. Using  
1914 a tiered approach, the highest number of points shall be awarded  
1915 to a plan that has all or substantially all of its operational  
1916 functions performed in the state. The second highest number of  
1917 points shall be awarded to a plan that has a majority of its  
1918 operational functions performed in the state. The agency may  
1919 establish a third tier; however, preference points may not be  
1920 awarded to plans that perform only community outreach, medical  
1921 director functions, and state administrative functions in the  
1922 state. For purposes of this subparagraph, operational functions  
1923 include claims processing, member services, provider relations,  
1924 utilization and prior authorization, case management, disease  
1925 and quality functions, and finance and administration. For  
1926 purposes of this subparagraph, the term "based in this state"  
1927 means that the entity's principal office is in this state and  
1928 the plan is not a subsidiary, directly or indirectly through one  
1929 or more subsidiaries of, or a joint venture with, any other  
1930 entity whose principal office is not located in the state.
- 1931           4. Have contracts or other arrangements for cancer disease  
1932 management programs that have a proven record of clinical

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1933 efficiencies and cost savings.

1934           5. Have contracts or other arrangements for diabetes  
1935 disease management programs that have a proven record of  
1936 clinical efficiencies and cost savings.

1937           6. Have a claims payment process that ensures that claims  
1938 that are not contested or denied will be promptly paid pursuant  
1939 to s. 641.3155.

1940           (e) To ensure managed care plan participation in Regions 1  
1941 and 2, the agency shall award an additional contract to each  
1942 plan with a contract award in Region 1 or Region 2. Such  
1943 contract shall be in any other region in which the plan  
1944 submitted a responsive bid and negotiates a rate acceptable to  
1945 the agency. If a plan that is awarded an additional contract  
1946 pursuant to this paragraph is subject to penalties pursuant to  
1947 s. 409.967(2)(h) ~~s. 409.967(2)(g)~~ for activities in Region 1 or  
1948 Region 2, the additional contract is automatically terminated  
1949 180 days after the imposition of the penalties. The plan must  
1950 reimburse the agency for the cost of enrollment changes and  
1951 other transition activities.

1952           Reviser's note.—Paragraph (3)(c) is amended to  
1953 substitute a reference to s. 409.967(2)(c) for a  
1954 reference to s. 409.967(2)(b). Section 409.967(2)(c)  
1955 establishes standards for access to care. Section  
1956 409.967(2)(b) references emergency services. Paragraph  
1957 (3)(e) is amended to substitute a reference to s.  
1958 409.967(2)(h) for a reference to s. 409.967(2)(g).  
1959 Section 409.967(2)(h) relates to penalties. Section  
1960 409.967(2)(g) relates to grievance resolution.

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1961 Section 51. Subsection (1) of section 409.972, Florida  
1962 Statutes, is amended to read:  
1963 409.972 Mandatory and voluntary enrollment.—  
1964 (1) Persons eligible for the program known as "medically  
1965 needy" pursuant to s. 409.904(2) ~~409.904(2)(a)~~ shall enroll in  
1966 managed care plans. Medically needy recipients shall meet the  
1967 share of the cost by paying the plan premium, up to the share of  
1968 the cost amount, contingent upon federal approval.

1969 Reviser's note.—Amended to conform to the repeal of s.  
1970 409.904(2)(b) by s. 3, ch. 2011-61, Laws of Florida,  
1971 which resulted in subsection (2) having no subunits.

1972 Section 52. Paragraph (e) of subsection (4) of section  
1973 409.973, Florida Statutes, is amended to read:

1974 409.973 Benefits.—

1975 (4) PRIMARY CARE INITIATIVE.—Each plan operating in the  
1976 managed medical assistance program shall establish a program to  
1977 encourage enrollees to establish a relationship with their  
1978 primary care provider. Each plan shall:

1979 (e) Report to the agency the number of emergency room  
1980 visits by enrollees who have not had at ~~a~~ least one appointment  
1981 with their primary care provider.

1982 Reviser's note.—Amended to confirm editorial  
1983 substitution of the word "at" for the word "a."

1984 Section 53. Subsection (2) of section 409.974, Florida  
1985 Statutes, is amended to read:

1986 409.974 Eligible plans.—

1987 (2) QUALITY SELECTION CRITERIA.—In addition to the  
1988 criteria established in s. 409.966, the agency shall consider

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1989 | evidence that an eligible plan has written agreements or signed  
1990 | contracts or has made substantial progress in establishing  
1991 | relationships with providers before the plan submitting a  
1992 | response. The agency shall evaluate and give special weight to  
1993 | evidence of signed contracts with essential providers as defined  
1994 | by the agency pursuant to s. 409.975(1) ~~409.975(2)~~. The agency  
1995 | shall exercise a preference for plans with a provider network in  
1996 | which over 10 percent of the providers use electronic health  
1997 | records, as defined in s. 408.051. When all other factors are  
1998 | equal, the agency shall consider whether the organization has a  
1999 | contract to provide managed long-term care services in the same  
2000 | region and shall exercise a preference for such plans.

2001 |       Reviser's note.—Amended to substitute a reference to  
2002 |       s. 409.975(1) for a reference to s. 409.975(2).

2003 |       Material concerning essential providers is in s.  
2004 |       409.975(1). Section 409.975(2) relates to the Florida  
2005 |       Medical Schools Quality Network.

2006 |       Section 54. Subsection (1) of section 409.975, Florida  
2007 |       Statutes, is amended to read:

2008 |       409.975 Managed care plan accountability.—In addition to  
2009 |       the requirements of s. 409.967, plans and providers  
2010 |       participating in the managed medical assistance program shall  
2011 |       comply with the requirements of this section.

2012 |       (1) PROVIDER NETWORKS.—Managed care plans must develop and  
2013 |       maintain provider networks that meet the medical needs of their  
2014 |       enrollees in accordance with standards established pursuant to  
2015 |       s. 409.967(2)(c) ~~409.967(2)(b)~~. Except as provided in this  
2016 |       section, managed care plans may limit the providers in their



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2017 networks based on credentials, quality indicators, and price.  
 2018 (a) Plans must include all providers in the region that  
 2019 are classified by the agency as essential Medicaid providers,  
 2020 unless the agency approves, in writing, an alternative  
 2021 arrangement for securing the types of services offered by the  
 2022 essential providers. Providers are essential for serving  
 2023 Medicaid enrollees if they offer services that are not available  
 2024 from any other provider within a reasonable access standard, or  
 2025 if they provided a substantial share of the total units of a  
 2026 particular service used by Medicaid patients within the region  
 2027 during the last 3 years and the combined capacity of other  
 2028 service providers in the region is insufficient to meet the  
 2029 total needs of the Medicaid patients. The agency may not  
 2030 classify physicians and other practitioners as essential  
 2031 providers. The agency, at a minimum, shall determine which  
 2032 providers in the following categories are essential Medicaid  
 2033 providers:  
 2034 1. Federally qualified health centers.  
 2035 2. Statutory teaching hospitals as defined in s.  
 2036 408.07(45).  
 2037 3. Hospitals that are trauma centers as defined in s.  
 2038 395.4001(14).  
 2039 4. Hospitals located at least 25 miles from any other  
 2040 hospital with similar services.  
 2041  
 2042 Managed care plans that have not contracted with all essential  
 2043 providers in the region as of the first date of recipient  
 2044 enrollment, or with whom an essential provider has terminated

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2045 its contract, must negotiate in good faith with such essential  
 2046 providers for 1 year or until an agreement is reached, whichever  
 2047 is first. Payments for services rendered by a nonparticipating  
 2048 essential provider shall be made at the applicable Medicaid rate  
 2049 as of the first day of the contract between the agency and the  
 2050 plan. A rate schedule for all essential providers shall be  
 2051 attached to the contract between the agency and the plan. After  
 2052 1 year, managed care plans that are unable to contract with  
 2053 essential providers shall notify the agency and propose an  
 2054 alternative arrangement for securing the essential services for  
 2055 Medicaid enrollees. The arrangement must rely on contracts with  
 2056 other participating providers, regardless of whether those  
 2057 providers are located within the same region as the  
 2058 nonparticipating essential service provider. If the alternative  
 2059 arrangement is approved by the agency, payments to  
 2060 nonparticipating essential providers after the date of the  
 2061 agency's approval shall equal 90 percent of the applicable  
 2062 Medicaid rate. If the alternative arrangement is not approved by  
 2063 the agency, payment to nonparticipating essential providers  
 2064 shall equal 110 percent of the applicable Medicaid rate.

2065 (b) Certain providers are statewide resources and  
 2066 essential providers for all managed care plans in all regions.  
 2067 All managed care plans must include these essential providers in  
 2068 their networks. Statewide essential providers include:

- 2069 1. Faculty plans of Florida medical schools.
- 2070 2. Regional perinatal intensive care centers as defined in  
 2071 s. 383.16(2).
- 2072 3. Hospitals licensed as specialty children's hospitals as

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2073 defined in s. 395.002(28).

2074 4. Accredited and integrated systems serving medically  
2075 complex children that are comprised of separately licensed, but  
2076 commonly owned, health care providers delivering at least the  
2077 following services: medical group home, in-home and outpatient  
2078 nursing care and therapies, pharmacy services, durable medical  
2079 equipment, and Prescribed Pediatric Extended Care.

2080

2081 Managed care plans that have not contracted with all statewide  
2082 essential providers in all regions as of the first date of  
2083 recipient enrollment must continue to negotiate in good faith.  
2084 Payments to physicians on the faculty of nonparticipating  
2085 Florida medical schools shall be made at the applicable Medicaid  
2086 rate. Payments for services rendered by regional perinatal  
2087 intensive care centers shall be made at the applicable Medicaid  
2088 rate as of the first day of the contract between the agency and  
2089 the plan. Payments to nonparticipating specialty children's  
2090 hospitals shall equal the highest rate established by contract  
2091 between that provider and any other Medicaid managed care plan.

2092 (c) After 12 months of active participation in a plan's  
2093 network, the plan may exclude any essential provider from the  
2094 network for failure to meet quality or performance criteria. If  
2095 the plan excludes an essential provider from the plan, the plan  
2096 must provide written notice to all recipients who have chosen  
2097 that provider for care. The notice shall be provided at least 30  
2098 days before the effective date of the exclusion.

2099 (d) Each managed care plan must offer a network contract  
2100 to each home medical equipment and supplies provider in the

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2101 region which meets quality and fraud prevention and detection  
2102 standards established by the plan and which agrees to accept the  
2103 lowest price previously negotiated between the plan and another  
2104 such provider.

2105 Reviser's note.—Amended to substitute a reference to  
2106 s. 409.967(2)(c) for a reference to s. 409.967(2)(b).  
2107 Section 409.967(2)(c) establishes standards for access  
2108 to care. Section 409.067(2)(b) references emergency  
2109 services.

2110 Section 55. Paragraph (b) of subsection (4) of section  
2111 409.983, Florida Statutes, is amended to read:

2112 409.983 Long-term care managed care plan payment.—In  
2113 addition to the payment provisions of s. 409.968, the agency  
2114 shall provide payment to plans in the long-term care managed  
2115 care program pursuant to this section.

2116 (4) The initial assessment of an enrollee's level of care  
2117 shall be made by the Comprehensive Assessment and Review for  
2118 Long-Term-Care Services (CARES) program, which shall assign the  
2119 recipient into one of the following levels of care:

2120 (b) Level of care 2 consists of recipients at imminent  
2121 risk of nursing home placement, as evidenced by the need for the  
2122 constant availability of routine medical and nursing treatment  
2123 and care, and who require extensive health-related care and  
2124 services because of mental or physical incapacitation.

2125  
2126 The agency shall periodically adjust payment rates to account  
2127 for changes in the level of care profile for each managed care  
2128 plan based on encounter data.

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2129 Reviser's note.—Amended to confirm editorial insertion  
2130 of the word "who."

2131 Section 56. Subsection (3) of section 409.984, Florida  
2132 Statutes, is amended to read:

2133 409.984 Enrollment in a long-term care managed care plan.—

2134 (3) Notwithstanding s. 409.969(2) ~~409.969(3)(c)~~, if a  
2135 recipient is referred for hospice services, the recipient has 30  
2136 days during which the recipient may select to enroll in another  
2137 managed care plan to access the hospice provider of the  
2138 recipient's choice.

2139 Reviser's note.—Amended to substitute a reference to  
2140 s. 409.969(2) for a reference to s. 409.969(3)(c).

2141 Section 409.969(2) references a 90-day period during  
2142 which a Medicaid recipient may disenroll and select  
2143 another plan. Section 409.969(3)(c) does not exist.

2144 Section 57. Paragraph (b) of subsection (3) of section  
2145 409.985, Florida Statutes, is amended to read:

2146 409.985 Comprehensive Assessment and Review for Long-Term  
2147 Care Services (CARES) Program.—

2148 (3) The CARES program shall determine if an individual  
2149 requires nursing facility care and, if the individual requires  
2150 such care, assign the individual to a level of care as described  
2151 in s. 409.983(4). When determining the need for nursing facility  
2152 care, consideration shall be given to the nature of the services  
2153 prescribed and which level of nursing or other health care  
2154 personnel meets the qualifications necessary to provide such  
2155 services and the availability to and access by the individual of  
2156 community or alternative resources. For the purposes of the

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2157 long-term care managed care program, the term "nursing facility  
2158 care" means the individual:

2159 (b) Requires or is at imminent risk of nursing home  
2160 placement as evidenced by the need for observation throughout a  
2161 24-hour period and care and the constant availability of medical  
2162 and nursing treatment and requires services on a daily or  
2163 intermittent basis that are to be performed under the  
2164 supervision of licensed nursing or other health professionals  
2165 because the individual ~~who~~ is incapacitated mentally or  
2166 physically; or

2167 Reviser's note.—Amended to confirm editorial deletion  
2168 of the word "who."

2169 Section 58. Subsection (1) of section 420.602, Florida  
2170 Statutes, is amended to read:

2171 420.602 Definitions.—As used in this part, the following  
2172 terms shall have the following meanings, unless the context  
2173 otherwise requires:

2174 (1) "Adjusted for family size" means adjusted in a manner  
2175 which results in an income eligibility level which is lower for  
2176 households with fewer than four people, or higher for households  
2177 with more than four people, than the base income eligibility  
2178 level determined as provided in subsection (9) ~~(8)~~, subsection  
2179 (10) ~~(9)~~, or subsection (12), based upon a formula as  
2180 established by rule of the corporation.

2181 Reviser's note.—Amended to conform to the  
2182 redesignation of subsections (8) and (9) as  
2183 subsections (9) and (10) by s. 333, ch. 2011-142, Laws  
2184 of Florida.

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2185 Section 59. Paragraph (g) of subsection (1) of section  
2186 427.012, Florida Statutes, is amended to read:

2187 427.012 The Commission for the Transportation  
2188 Disadvantaged.—There is created the Commission for the  
2189 Transportation Disadvantaged in the Department of  
2190 Transportation.

2191 (1) The commission shall consist of seven members, all of  
2192 whom shall be appointed by the Governor, in accordance with the  
2193 requirements of s. 20.052.

2194 (g) The Secretary of Transportation, the Secretary of  
2195 Children and Family Services, the executive director of the  
2196 Department of Economic Opportunity, the executive director of  
2197 the Department of Veterans' Affairs, the Secretary of Elderly  
2198 Affairs, the Secretary of Health Care Administration, the  
2199 director of the Agency for Persons with Disabilities, and a  
2200 county manager or administrator who is appointed by the  
2201 Governor, or a senior management level representative of each,  
2202 shall serve as ex officio, nonvoting advisors to the commission.

2203 Reviser's note.—Amended to confirm editorial insertion  
2204 of the words "the Department of" to conform to the  
2205 complete name of the department.

2206 Section 60. Paragraph (b) of subsection (2) of section  
2207 440.45, Florida Statutes, is amended to read:

2208 440.45 Office of the Judges of Compensation Claims.—

2209 (2)

2210 (b) Except as provided in paragraph (c), the Governor  
2211 shall appoint a judge of compensation claims from a list of  
2212 three persons nominated by a statewide nominating commission.

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2213 The statewide nominating commission shall be composed of the  
2214 following:

2215 1. Five members, at least one of whom must be a member of  
2216 a minority group as defined in s. 288.703, one of each who  
2217 resides in each of the territorial jurisdictions of the district  
2218 courts of appeal, appointed by the Board of Governors of The  
2219 Florida Bar from among The Florida Bar members who are engaged  
2220 in the practice of law. ~~On July 1, 1999, the term of office of~~  
2221 ~~each person appointed by the Board of Governors of The Florida~~  
2222 ~~Bar to the commission expires.~~ The Board of Governors shall  
2223 appoint members who reside in the odd-numbered district court of  
2224 appeal jurisdictions to 4-year terms each, beginning July 1,  
2225 1999, and members who reside in the even-numbered district court  
2226 of appeal jurisdictions to 2-year terms each, beginning July 1,  
2227 1999. Thereafter, each member shall be appointed for a 4-year  
2228 term;

2229 2. Five electors, at least one of whom must be a member of  
2230 a minority group as defined in s. 288.703, one of each who  
2231 resides in each of the territorial jurisdictions of the district  
2232 courts of appeal, appointed by the Governor. ~~On July 1, 1999,~~  
2233 ~~the term of office of each person appointed by the Governor to~~  
2234 ~~the commission expires.~~ The Governor shall appoint members who  
2235 reside in the odd-numbered district court of appeal  
2236 jurisdictions to 2-year terms each, beginning July 1, 1999, and  
2237 members who reside in the even-numbered district court of appeal  
2238 jurisdictions to 4-year terms each, beginning July 1, 1999.  
2239 Thereafter, each member shall be appointed for a 4-year term;  
2240 and



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2241           3. Five electors, at least one of whom must be a member of  
2242 a minority group as defined in s. 288.703, one of each who  
2243 resides in the territorial jurisdictions of the district courts  
2244 of appeal, selected and appointed by a majority vote of the  
2245 other 10 members of the commission. ~~On October 1, 1999, the term~~  
2246 ~~of office of each person appointed to the commission by its~~  
2247 ~~other members expires.~~ A majority of the other members of the  
2248 commission shall appoint members who reside in the odd-numbered  
2249 district court of appeal jurisdictions to 2-year terms each,  
2250 beginning October 1, 1999, and members who reside in the even-  
2251 numbered district court of appeal jurisdictions to 4-year terms  
2252 each, beginning October 1, 1999. Thereafter, each member shall  
2253 be appointed for a 4-year term.

2254  
2255 A vacancy occurring on the commission shall be filled by the  
2256 original appointing authority for the unexpired balance of the  
2257 term. No attorney who appears before any judge of compensation  
2258 claims more than four times a year is eligible to serve on the  
2259 statewide nominating commission. The meetings and determinations  
2260 of the nominating commission as to the judges of compensation  
2261 claims shall be open to the public.

2262           Reviser's note.—Amended to delete obsolete provisions.

2263           Section 61. Subsection (26) of section 443.036, Florida  
2264 Statutes, is amended to read:

2265           443.036 Definitions.—As used in this chapter, the term:

2266           (26) "Initial skills review" means an online education or  
2267 training program, such as that established under s. 445.06  
2268 ~~1004.99~~, that is approved by the Agency for Workforce Innovation

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2269 and designed to measure an individual's mastery level of  
2270 workplace skills.

2271 Reviser's note.—Amended to conform to the transfer of  
2272 s. 1004.99 to s. 445.06 by s. 476, ch. 2011-142, Laws  
2273 of Florida.

2274 Section 62. Paragraph (f) of subsection (13) of section  
2275 443.1216, Florida Statutes, is amended to read:

2276 443.1216 Employment.—Employment, as defined in s. 443.036,  
2277 is subject to this chapter under the following conditions:

2278 (13) The following are exempt from coverage under this  
2279 chapter:

2280 (f) Service performed in the employ of a public employer  
2281 as defined in s. 443.036, except as provided in subsection (2),  
2282 and service performed in the employ of an instrumentality of a  
2283 public employer as described in s. 443.036(36)(b) or (c)  
2284 ~~443.036(35)(b) or (c)~~, to the extent that the instrumentality is  
2285 immune under the United States Constitution from the tax imposed  
2286 by s. 3301 of the Internal Revenue Code for that service.

2287 Reviser's note.—Amended to conform to the  
2288 redesignation of subunits within s. 443.036 by s. 3,  
2289 ch. 2011-235, Laws of Florida.

2290 Section 63. Paragraph (d) of subsection (1) of section  
2291 468.841, Florida Statutes, is amended to read:

2292 468.841 Exemptions.—

2293 (1) The following persons are not required to comply with  
2294 any provisions of this part relating to mold assessment:

2295 (d) Persons or business organizations acting within the  
2296 scope of the respective licenses required under part XV of this

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2297 chapter, chapter 471, part I of chapter 481, chapter 482, or  
 2298 chapter 489 ~~or part XV of this chapter~~ are acting on behalf of  
 2299 an insurer under part VI of chapter 626, or are persons in the  
 2300 manufactured housing industry who are licensed under chapter  
 2301 320, except when any such persons or business organizations hold  
 2302 themselves out for hire to the public as a "certified mold  
 2303 assessor," "registered mold assessor," "licensed mold assessor,"  
 2304 "mold assessor," "professional mold assessor," or any  
 2305 combination thereof stating or implying licensure under this  
 2306 part.

2307 Reviser's note.—Amended to confirm editorial deletion  
 2308 of the words "or part XV of this chapter" to eliminate  
 2309 redundancy.

2310 Section 64. Paragraph (a) of subsection (5) of section  
 2311 474.203, Florida Statutes, is amended to read:

2312 474.203 Exemptions.—This chapter does not apply to:

2313 (5) (a) Any person, or the person's regular employee,  
 2314 administering to the ills or injuries of her or his own animals,  
 2315 including, but not limited to, castration, spaying, and  
 2316 dehorning of herd animals, unless title is transferred or  
 2317 employment provided for the purpose of circumventing this law.  
 2318 This exemption does not apply to any person licensed as a  
 2319 veterinarian in another state or foreign jurisdiction and ~~is~~  
 2320 practicing temporarily in this state. However, only a  
 2321 veterinarian may immunize or treat an animal for diseases that  
 2322 are communicable to humans and that are of public health  
 2323 significance.

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2325 For the purposes of chapters 465 and 893, persons exempt  
2326 pursuant to subsection (1), subsection (2), or subsection (4)  
2327 are deemed to be duly licensed practitioners authorized by the  
2328 laws of this state to prescribe drugs or medicinal supplies.

2329 Reviser's note.—Amended to confirm editorial deletion  
2330 of the word "is."

2331 Section 65. Subsection (1) of section 474.2125, Florida  
2332 Statutes, is amended to read:

2333 474.2125 Temporary license.—

2334 (1) The board shall adopt rules providing for the issuance  
2335 of a temporary license to a licensed veterinarian of another  
2336 state for the purpose of enabling her or him to provide  
2337 veterinary medical services in this state for the animals of a  
2338 specific owner or, as may be needed in an emergency as defined  
2339 in s. 252.34(3) ~~252.34(2)~~, for the animals of multiple owners,  
2340 provided the applicant would qualify for licensure by  
2341 endorsement under s. 474.217. No temporary license shall be  
2342 valid for more than 30 days after its issuance, and no license  
2343 shall cover more than the treatment of the animals of one owner  
2344 except in an emergency as defined in s. 252.34(3) ~~252.34(2)~~.  
2345 After the expiration of 30 days, a new license is required.

2346 Reviser's note.—Amended to conform to the correct  
2347 location of the definition of the word "emergency."

2348 Section 66. Subsection (3) of section 493.6402, Florida  
2349 Statutes, is amended to read:

2350 493.6402 Fees.—

2351 (3) The fees set forth in this section must be paid by  
2352 check or money order, or, at the discretion of the department,

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2353 | by ~~or~~ electronic funds transfer at the time the application is  
2354 | approved, except that the applicant for a Class "E," Class "EE,"  
2355 | or Class "MR" license must pay the license fee at the time the  
2356 | application is made. If a license is revoked or denied, or if an  
2357 | application is withdrawn, the license fee is nonrefundable.

2358 |       Reviser's note.—Amended to confirm editorial deletion  
2359 |       of the word "or."

2360 |       Section 67. Paragraph (o) of subsection (8) of section  
2361 | 499.012, Florida Statutes, is amended to read:

2362 |       499.012 Permit application requirements.—

2363 |       (8) An application for a permit or to renew a permit for a  
2364 | prescription drug wholesale distributor or an out-of-state  
2365 | prescription drug wholesale distributor submitted to the  
2366 | department must include:

2367 |       (o) Documentation of the credentialing policies and  
2368 | procedures required by s. 499.0121(15) ~~499.0121(14)~~.

2369 |       Reviser's note.—Amended to correct an apparent error.  
2370 |       Section 499.0121(15) references credentialing. Section  
2371 | 499.0121(14) references distribution reporting.

2372 |       Section 68. Subsection (2) of section 514.0315, Florida  
2373 | Statutes, is amended to read:

2374 |       514.0315 Required safety features for public swimming  
2375 | pools and spas.—

2376 |       (2) A public swimming pool or spa built before January 1,  
2377 | 1993, with a single main drain other than an unblockable drain  
2378 | must be equipped with at least one of the following features  
2379 | that complies with any American Society of Mechanical Engineers,  
2380 | American National Standards Institute, American Society Standard

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2381 for Testing and Materials, or other applicable consumer product  
2382 safety standard for such system or device and protects against  
2383 evisceration and body-and-limb suction entrapment:

2384 (a) A safety vacuum release system that ceases operation  
2385 of the pump, reverses the circulation flow, or otherwise  
2386 provides a vacuum release at a suction outlet when a blockage is  
2387 detected and that has been tested by an independent third party  
2388 and found to conform to American Society of Mechanical  
2389 Engineers/American National Standards Institute standard  
2390 A112.19.17, American Society Standard for Testing and Materials  
2391 standard ~~26~~ F2387, or any successor standard.

2392 (b) A suction-limiting vent system with a tamper-resistant  
2393 atmospheric opening.

2394 (c) A gravity drainage system that uses a collector tank.

2395 (d) An automatic pump shut-off system.

2396 (e) A device or system that disables the drain.

2397 Reviser's note.—The introductory paragraph of  
2398 subsection (2) and paragraph (2)(a) are amended to  
2399 confirm editorial substitution of the word "Society"  
2400 for the word "Standard" to conform to the correct name  
2401 of the society. Paragraph (2)(a) is also amended to  
2402 confirm editorial deletion of the number "26" to  
2403 conform to the fact that there is no standard 26  
2404 F2387, only a standard F2387.

2405 Section 69. Section 514.072, Florida Statutes, is amended  
2406 to read:

2407 514.072 Certification of swimming instructors for people  
2408 who have developmental disabilities required.—Any person working

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2409 | at a swimming pool who holds himself or herself out as a  
 2410 | swimming instructor specializing in training people who have  
 2411 | developmental disabilities, as defined in s. 393.063(9)  
 2412 | ~~393.063(10)~~, may be certified by the Dan Marino Foundation,  
 2413 | Inc., in addition to being certified under s. 514.071. The Dan  
 2414 | Marino Foundation, Inc., must develop certification requirements  
 2415 | and a training curriculum for swimming instructors for people  
 2416 | who have developmental disabilities and must submit the  
 2417 | certification requirements to the Department of Health for  
 2418 | review by January 1, 2007. A person certified under s. 514.071  
 2419 | before July 1, 2007, must meet the additional certification  
 2420 | requirements of this section before January 1, 2008. A person  
 2421 | certified under s. 514.071 on or after July 1, 2007, must meet  
 2422 | the additional certification requirements of this section within  
 2423 | 6 months after receiving certification under s. 514.071.

2424 |       Reviser's note.—Amended to correct an apparent error  
 2425 |       and facilitate correct interpretation. "Developmental  
 2426 |       disabilities center" is defined in s. 393.063(10);  
 2427 |       "developmental disability" is defined in s.  
 2428 |       393.063(9).

2429 |       Section 70. Section 526.207, Florida Statutes, is amended  
 2430 | to read:

2431 |       526.207 Studies and reports.—

2432 |       ~~(1)~~ The Department of Agriculture and Consumer Services  
 2433 | shall conduct a study to evaluate and recommend the life-cycle  
 2434 | greenhouse gas emissions associated with all renewable fuels,  
 2435 | including, but not limited to, biodiesel, renewable diesel,  
 2436 | biobutanol, and ethanol derived from any source. In addition,

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2437 | the department shall evaluate and recommend a requirement that  
 2438 | all renewable fuels introduced into commerce in the state, as a  
 2439 | result of the renewable fuel standard, shall reduce the life-  
 2440 | cycle greenhouse gas emissions by an average percentage. The  
 2441 | department may also evaluate and recommend any benefits  
 2442 | associated with the creation, banking, transfer, and sale of  
 2443 | credits among fuel refiners, blenders, and importers.

2444 | ~~(2) The Department of Agriculture and Consumer Services~~  
 2445 | ~~shall submit a report containing specific recommendations to the~~  
 2446 | ~~President of the Senate and the Speaker of the House of~~  
 2447 | ~~Representatives no later than December 31, 2010.~~

2448 | Reviser's note.—Amended to delete a provision that has  
 2449 | served its purpose.

2450 | Section 71. Subsection (1) of section 538.09, Florida  
 2451 | Statutes, is amended to read:

2452 | 538.09 Registration.—

2453 | (1) A secondhand dealer shall not engage in the business  
 2454 | of purchasing, consigning, or trading secondhand goods from any  
 2455 | location without registering with the Department of Revenue. A  
 2456 | fee equal to the federal and state costs for processing required  
 2457 | fingerprints must be submitted to the department with each  
 2458 | application for registration. One application is required for  
 2459 | each dealer. If a secondhand dealer is the owner of more than  
 2460 | one secondhand store location, the application must list each  
 2461 | location, and the department shall issue a duplicate  
 2462 | registration for each location. For purposes of subsections (4)  
 2463 | and (5) of this section, these duplicate registrations shall be  
 2464 | deemed individual registrations. A dealer shall pay a fee of \$6



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2465 per location at the time of registration and an annual renewal  
 2466 fee of \$6 per location on October 1 of each year. All fees  
 2467 collected, less costs of administration, shall be transferred  
 2468 into the Operating ~~Operations~~ Trust Fund. The Department of  
 2469 Revenue shall forward the full set of fingerprints to the  
 2470 Department of Law Enforcement for state and federal processing,  
 2471 provided the federal service is available, to be processed for  
 2472 any criminal justice information as defined in s. 943.045. The  
 2473 cost of processing such fingerprints shall be payable to the  
 2474 Department of Law Enforcement by the Department of Revenue. The  
 2475 department may issue a temporary registration to each location  
 2476 pending completion of the background check by state and federal  
 2477 law enforcement agencies, but shall revoke such temporary  
 2478 registration if the completed background check reveals a  
 2479 prohibited criminal background. An applicant for a secondhand  
 2480 dealer registration must be a natural person who has reached the  
 2481 age of 18 years.

2482 (a) If the applicant is a partnership, all the partners  
 2483 must apply.

2484 (b) If the applicant is a joint venture, association, or  
 2485 other noncorporate entity, all members of such joint venture,  
 2486 association, or other noncorporate entity must make application  
 2487 for registration as natural persons.

2488 (c) If the applicant is a corporation, the registration  
 2489 must include the name and address of such corporation's  
 2490 registered agent for service of process in the state and a  
 2491 certified copy of statement from the Secretary of State that the  
 2492 corporation is duly organized in the state or, if the

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2493 corporation is organized in a state other than Florida, a  
2494 certified copy of statement from the Secretary of State that the  
2495 corporation is duly qualified to do business in this state. If  
2496 the dealer has more than one location, the application must list  
2497 each location owned by the same legal entity and the department  
2498 shall issue a duplicate registration for each location.

2499 Reviser's note.—Amended to confirm editorial  
2500 substitution of the word "Operating" for the word  
2501 "Operations" to conform to the renaming of the trust  
2502 fund by s. 1, ch. 2011-28, Laws of Florida.

2503 Section 72. Paragraph (a) of subsection (1) of section  
2504 538.25, Florida Statutes, is amended to read:

2505 538.25 Registration.—

2506 (1) No person shall engage in business as a secondary  
2507 metals recycler at any location without registering with the  
2508 department.

2509 (a) A fee equal to the federal and state costs for  
2510 processing required fingerprints must be submitted to the  
2511 department with each application for registration. One  
2512 application is required for each secondary metals recycler. If a  
2513 secondary metals recycler is the owner of more than one  
2514 secondary metals recycling location, the application must list  
2515 each location, and the department shall issue a duplicate  
2516 registration for each location. For purposes of subsections (3),  
2517 (4), and (5), these duplicate registrations shall be deemed  
2518 individual registrations. A secondary metals recycler shall pay  
2519 a fee of \$6 per location at the time of registration and an  
2520 annual renewal fee of \$6 per location on October 1 of each year.

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2521 All fees collected, less costs of administration, shall be  
2522 transferred into the Operating ~~Operations~~ Trust Fund.

2523 Reviser's note.—Amended to confirm editorial  
2524 substitution of the word "Operating" for the word  
2525 "Operations" to conform to the renaming of the trust  
2526 fund by s. 1, ch. 2011-28, Laws of Florida.

2527 Section 73. Paragraph (a) of subsection (5) and subsection  
2528 (11) of section 553.79, Florida Statutes, are amended to read:

2529 553.79 Permits; applications; issuance; inspections.—

2530 (5) (a) The enforcing agency shall require a special  
2531 inspector to perform structural inspections on a threshold  
2532 building pursuant to a structural inspection plan prepared by  
2533 the engineer or architect of record. The structural inspection  
2534 plan must be submitted to and approved by the enforcing agency  
2535 prior to the issuance of a building permit for the construction  
2536 of a threshold building. The purpose of the structural  
2537 inspection plan is to provide specific inspection procedures and  
2538 schedules so that the building can be adequately inspected for  
2539 compliance with the permitted documents. The special inspector  
2540 may not serve as a surrogate in carrying out the  
2541 responsibilities of the building official, the architect, or the  
2542 engineer of record. The contractor's contractual or statutory  
2543 obligations are not relieved by any action of the special  
2544 inspector. The special inspector shall determine that a  
2545 professional engineer who specializes in shoring design has  
2546 inspected the shoring and reshoring for conformance with the  
2547 shoring and reshoring plans submitted to the enforcing agency. A  
2548 fee simple title owner of a building, which does not meet the

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2549 | minimum size, height, occupancy, occupancy classification, or  
 2550 | number-of-stories criteria which would result in classification  
 2551 | as a threshold building under s. 553.71(11) ~~553.71(7)~~, may  
 2552 | designate such building as a threshold building, subject to more  
 2553 | than the minimum number of inspections required by the Florida  
 2554 | Building Code.

2555 |       (11) Nothing in this section shall be construed to alter  
 2556 | or supplement the provisions of part I ~~IV~~ of this chapter  
 2557 | relating to manufactured buildings.

2558 |       Reviser's note.—Paragraph (5)(a) is amended to conform  
 2559 | to the redesignation of s. 553.71(7) as s. 553.71(11)  
 2560 | by s. 413, ch. 2011-142, Laws of Florida. Subsection  
 2561 | (11) is amended to conform to context; part I of  
 2562 | chapter 553 relates to manufactured buildings; part IV  
 2563 | relates to the Florida Building Code.

2564 |       Section 74. Section 590.33, Florida Statutes, is amended  
 2565 | to read:

2566 |       590.33 State compact administrator; compact advisory  
 2567 | committee.—In pursuance of art. III of the compact, the director  
 2568 | of the division shall act as compact administrator for Florida  
 2569 | of the Southeastern Interstate Forest Fire Protection Compact  
 2570 | during his or her term of office as director, and his or her  
 2571 | successor as compact administrator shall be his or her successor  
 2572 | as director of the division. As compact administrator, he or she  
 2573 | shall be an ex officio member of the advisory committee of the  
 2574 | Southeastern Interstate Forest Fire Protection Compact, and  
 2575 | chair ex officio of the Florida members of the advisory  
 2576 | committee. There shall be four members of the Southeastern

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2577 Interstate Forest Fire Protection Compact Advisory Committee  
2578 from Florida. Two of the members from Florida shall be members  
2579 of the Legislature of Florida, one from the Senate designated by  
2580 the President of the Senate and one from the House of  
2581 Representatives designated by the Speaker of the House of  
2582 Representatives, and the terms of any such members shall  
2583 terminate at the time they cease to hold legislative office, and  
2584 their successors as members shall be named in like manner. The  
2585 Governor shall appoint the other two members from Florida, one  
2586 of whom shall be associated with forestry or forest products  
2587 industries. The terms of such members shall be 3 years and such  
2588 members shall hold office until their respective successors  
2589 shall be appointed and qualified. Vacancies occurring in the  
2590 office of such members from any reason or cause shall be filled  
2591 by appointment by the Governor for the unexpired term. The  
2592 director of the division as compact administrator for Florida  
2593 may delegate, from time to time, to any deputy or other  
2594 subordinate in his or her department or office, the power to be  
2595 present and participate, including voting as his or her  
2596 representative or substitute at any meeting of or hearing by or  
2597 other proceeding of the compact administrators or of the  
2598 advisory committee. The terms of each of the initial four  
2599 memberships, whether appointed at said time or not, shall begin  
2600 upon the date upon which the compact shall become effective in  
2601 accordance with art. II of said compact. Any member of the  
2602 advisory committee may be removed from office by the Governor  
2603 upon charges and after a hearing.

2604 Reviser's note.—Amended to confirm editorial insertion

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2605 | of the words "of Representatives."  
 2606 | Section 75. Paragraph (a) of subsection (2) of section  
 2607 | 604.50, Florida Statutes, is amended to read:  
 2608 | 604.50 Nonresidential farm buildings and farm fences.—  
 2609 | (2) As used in this section, the term:  
 2610 | (a) "Nonresidential farm building" means any temporary or  
 2611 | permanent building or support structure that is classified as a  
 2612 | nonresidential farm building on a farm under s. 553.73(10)(c)  
 2613 | ~~553.73(9)(e)~~ or that is used primarily for agricultural  
 2614 | purposes, is located on land that is an integral part of a farm  
 2615 | operation or is classified as agricultural land under s.  
 2616 | 193.461, and is not intended to be used as a residential  
 2617 | dwelling. The term may include, but is not limited to, a barn,  
 2618 | greenhouse, shade house, farm office, storage building, or  
 2619 | poultry house.  
 2620 | Reviser's note.—Amended to conform to the  
 2621 | redesignation of s. 553.73(9)(c) as s. 553.73(10)(c)  
 2622 | by s. 32, ch. 2010-176, Laws of Florida.  
 2623 | Section 76. Subsection (4) of section 627.0628, Florida  
 2624 | Statutes, is amended to read:  
 2625 | 627.0628 Florida Commission on Hurricane Loss Projection  
 2626 | Methodology; public records exemption; public meetings  
 2627 | exemption.—  
 2628 | ~~(4) REVIEW OF DISCOUNTS, CREDITS, OTHER RATE~~  
 2629 | ~~DIFFERENTIALS, AND REDUCTIONS IN DEDUCTIBLES RELATING TO~~  
 2630 | ~~WINDSTORM MITIGATION. The commission shall hold public meetings~~  
 2631 | ~~for the purpose of receiving testimony and data regarding the~~  
 2632 | ~~implementation of windstorm mitigation discounts, credits, other~~

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2633 ~~rate differentials, and appropriate reductions in deductibles~~  
 2634 ~~pursuant to s. 627.0629. After reviewing the testimony and data~~  
 2635 ~~as well as any other information the commission deems~~  
 2636 ~~appropriate, the commission shall present a report by February~~  
 2637 ~~1, 2010, to the Governor, the Cabinet, the President of the~~  
 2638 ~~Senate, and the Speaker of the House of Representatives,~~  
 2639 ~~including recommendations on improving the process of assessing,~~  
 2640 ~~determining, and applying windstorm mitigation discounts,~~  
 2641 ~~credits, other rate differentials, and appropriate reductions in~~  
 2642 ~~deductibles pursuant to s. 627.0629.~~

2643 Reviser's note.—Amended to delete a provision that has  
 2644 served its purpose.

2645 Section 77. Paragraph (b) of subsection (2) and paragraphs  
 2646 (b), (c), (q), and (v) of subsection (6) of section 627.351,  
 2647 Florida Statutes, are amended to read:

2648 627.351 Insurance risk apportionment plans.—

2649 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

2650 (b) The department shall require all insurers holding a  
 2651 certificate of authority to transact property insurance on a  
 2652 direct basis in this state, other than joint underwriting  
 2653 associations and other entities formed pursuant to this section,  
 2654 to provide windstorm coverage to applicants from areas  
 2655 determined to be eligible pursuant to paragraph (c) who in good  
 2656 faith are entitled to, but are unable to procure, such coverage  
 2657 through ordinary means; or it shall adopt a reasonable plan or  
 2658 plans for the equitable apportionment or sharing among such  
 2659 insurers of windstorm coverage, which may include formation of  
 2660 an association for this purpose. As used in this subsection, the

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2661 term "property insurance" means insurance on real or personal  
 2662 property, as defined in s. 624.604, including insurance for  
 2663 fire, industrial fire, allied lines, farmowners multiperil,  
 2664 homeowners' multiperil, commercial multiperil, and mobile homes,  
 2665 and including liability coverages on all such insurance, but  
 2666 excluding inland marine as defined in s. 624.607(3) and  
 2667 excluding vehicle insurance as defined in s. 624.605(1)(a) other  
 2668 than insurance on mobile homes used as permanent dwellings. The  
 2669 department shall adopt rules that provide a formula for the  
 2670 recovery and repayment of any deferred assessments.

2671 1. For the purpose of this section, properties eligible  
 2672 for such windstorm coverage are defined as dwellings, buildings,  
 2673 and other structures, including mobile homes which are used as  
 2674 dwellings and which are tied down in compliance with mobile home  
 2675 tie-down requirements prescribed by the Department of Highway  
 2676 Safety and Motor Vehicles pursuant to s. 320.8325, and the  
 2677 contents of all such properties. An applicant or policyholder is  
 2678 eligible for coverage only if an offer of coverage cannot be  
 2679 obtained by or for the applicant or policyholder from an  
 2680 admitted insurer at approved rates.

2681 2.a.(I) All insurers required to be members of such  
 2682 association shall participate in its writings, expenses, and  
 2683 losses. Surplus of the association shall be retained for the  
 2684 payment of claims and shall not be distributed to the member  
 2685 insurers. Such participation by member insurers shall be in the  
 2686 proportion that the net direct premiums of each member insurer  
 2687 written for property insurance in this state during the  
 2688 preceding calendar year bear to the aggregate net direct



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2689 premiums for property insurance of all member insurers, as  
 2690 reduced by any credits for voluntary writings, in this state  
 2691 during the preceding calendar year. For the purposes of this  
 2692 subsection, the term "net direct premiums" means direct written  
 2693 premiums for property insurance, reduced by premium for  
 2694 liability coverage and for the following if included in allied  
 2695 lines: rain and hail on growing crops; livestock; association  
 2696 direct premiums booked; National Flood Insurance Program direct  
 2697 premiums; and similar deductions specifically authorized by the  
 2698 plan of operation and approved by the department. A member's  
 2699 participation shall begin on the first day of the calendar year  
 2700 following the year in which it is issued a certificate of  
 2701 authority to transact property insurance in the state and shall  
 2702 terminate 1 year after the end of the calendar year during which  
 2703 it no longer holds a certificate of authority to transact  
 2704 property insurance in the state. The commissioner, after review  
 2705 of annual statements, other reports, and any other statistics  
 2706 that the commissioner deems necessary, shall certify to the  
 2707 association the aggregate direct premiums written for property  
 2708 insurance in this state by all member insurers.

2709 (II) Effective July 1, 2002, the association shall operate  
 2710 subject to the supervision and approval of a board of governors  
 2711 who are the same individuals that have been appointed by the  
 2712 Treasurer to serve on the board of governors of the Citizens  
 2713 Property Insurance Corporation.

2714 (III) The plan of operation shall provide a formula  
 2715 whereby a company voluntarily providing windstorm coverage in  
 2716 affected areas will be relieved wholly or partially from

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2717 | apportionment of a regular assessment pursuant to sub-sub-  
2718 | subparagraph d.(I) or sub-sub-subparagraph d.(II).

2719 |         (IV) A company which is a member of a group of companies  
2720 | under common management may elect to have its credits applied on  
2721 | a group basis, and any company or group may elect to have its  
2722 | credits applied to any other company or group.

2723 |         (V) There shall be no credits or relief from apportionment  
2724 | to a company for emergency assessments collected from its  
2725 | policyholders under sub-sub-subparagraph d.(III).

2726 |         (VI) The plan of operation may also provide for the award  
2727 | of credits, for a period not to exceed 3 years, from a regular  
2728 | assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-  
2729 | subparagraph d.(II) as an incentive for taking policies out of  
2730 | the Residential Property and Casualty Joint Underwriting  
2731 | Association. In order to qualify for the exemption under this  
2732 | sub-sub-subparagraph, the take-out plan must provide that at  
2733 | least 40 percent of the policies removed from the Residential  
2734 | Property and Casualty Joint Underwriting Association cover risks  
2735 | located in Miami-Dade, Broward, and Palm Beach Counties or at  
2736 | least 30 percent of the policies so removed cover risks located  
2737 | in Miami-Dade, Broward, and Palm Beach Counties and an  
2738 | additional 50 percent of the policies so removed cover risks  
2739 | located in other coastal counties, and must also provide that no  
2740 | more than 15 percent of the policies so removed may exclude  
2741 | windstorm coverage. With the approval of the department, the  
2742 | association may waive these geographic criteria for a take-out  
2743 | plan that removes at least the lesser of 100,000 Residential  
2744 | Property and Casualty Joint Underwriting Association policies or

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2745 15 percent of the total number of Residential Property and  
 2746 Casualty Joint Underwriting Association policies, provided the  
 2747 governing board of the Residential Property and Casualty Joint  
 2748 Underwriting Association certifies that the take-out plan will  
 2749 materially reduce the Residential Property and Casualty Joint  
 2750 Underwriting Association's 100-year probable maximum loss from  
 2751 hurricanes. With the approval of the department, the board may  
 2752 extend such credits for an additional year if the insurer  
 2753 guarantees an additional year of renewability for all policies  
 2754 removed from the Residential Property and Casualty Joint  
 2755 Underwriting Association, or for 2 additional years if the  
 2756 insurer guarantees 2 additional years of renewability for all  
 2757 policies removed from the Residential Property and Casualty  
 2758 Joint Underwriting Association.

2759       b. Assessments to pay deficits in the association under  
 2760 this subparagraph shall be included as an appropriate factor in  
 2761 the making of rates as provided in s. 627.3512.

2762       c. The Legislature finds that the potential for unlimited  
 2763 deficit assessments under this subparagraph may induce insurers  
 2764 to attempt to reduce their writings in the voluntary market, and  
 2765 that such actions would worsen the availability problems that  
 2766 the association was created to remedy. It is the intent of the  
 2767 Legislature that insurers remain fully responsible for paying  
 2768 regular assessments and collecting emergency assessments for any  
 2769 deficits of the association; however, it is also the intent of  
 2770 the Legislature to provide a means by which assessment  
 2771 liabilities may be amortized over a period of years.

2772       d.(I) When the deficit incurred in a particular calendar

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2773 | year is 10 percent or less of the aggregate statewide direct  
2774 | written premium for property insurance for the prior calendar  
2775 | year for all member insurers, the association shall levy an  
2776 | assessment on member insurers in an amount equal to the deficit.

2777 |       (II) When the deficit incurred in a particular calendar  
2778 | year exceeds 10 percent of the aggregate statewide direct  
2779 | written premium for property insurance for the prior calendar  
2780 | year for all member insurers, the association shall levy an  
2781 | assessment on member insurers in an amount equal to the greater  
2782 | of 10 percent of the deficit or 10 percent of the aggregate  
2783 | statewide direct written premium for property insurance for the  
2784 | prior calendar year for member insurers. Any remaining deficit  
2785 | shall be recovered through emergency assessments under sub-sub-  
2786 | subparagraph (III).

2787 |       (III) Upon a determination by the board of directors that  
2788 | a deficit exceeds the amount that will be recovered through  
2789 | regular assessments on member insurers, pursuant to sub-sub-  
2790 | subparagraph (I) or sub-sub-subparagraph (II), the board shall  
2791 | levy, after verification by the department, emergency  
2792 | assessments to be collected by member insurers and by  
2793 | underwriting associations created pursuant to this section which  
2794 | write property insurance, upon issuance or renewal of property  
2795 | insurance policies other than National Flood Insurance policies  
2796 | in the year or years following levy of the regular assessments.  
2797 | The amount of the emergency assessment collected in a particular  
2798 | year shall be a uniform percentage of that year's direct written  
2799 | premium for property insurance for all member insurers and  
2800 | underwriting associations, excluding National Flood Insurance

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2801 policy premiums, as annually determined by the board and  
2802 verified by the department. The department shall verify the  
2803 arithmetic calculations involved in the board's determination  
2804 within 30 days after receipt of the information on which the  
2805 determination was based. Notwithstanding any other provision of  
2806 law, each member insurer and each underwriting association  
2807 created pursuant to this section shall collect emergency  
2808 assessments from its policyholders without such obligation being  
2809 affected by any credit, limitation, exemption, or deferment. The  
2810 emergency assessments so collected shall be transferred directly  
2811 to the association on a periodic basis as determined by the  
2812 association. The aggregate amount of emergency assessments  
2813 levied under this sub-sub-subparagraph in any calendar year may  
2814 not exceed the greater of 10 percent of the amount needed to  
2815 cover the original deficit, plus interest, fees, commissions,  
2816 required reserves, and other costs associated with financing of  
2817 the original deficit, or 10 percent of the aggregate statewide  
2818 direct written premium for property insurance written by member  
2819 insurers and underwriting associations for the prior year, plus  
2820 interest, fees, commissions, required reserves, and other costs  
2821 associated with financing the original deficit. The board may  
2822 pledge the proceeds of the emergency assessments under this sub-  
2823 sub-subparagraph as the source of revenue for bonds, to retire  
2824 any other debt incurred as a result of the deficit or events  
2825 giving rise to the deficit, or in any other way that the board  
2826 determines will efficiently recover the deficit. The emergency  
2827 assessments under this sub-sub-subparagraph shall continue as  
2828 long as any bonds issued or other indebtedness incurred with

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2829 | respect to a deficit for which the assessment was imposed remain  
 2830 | outstanding, unless adequate provision has been made for the  
 2831 | payment of such bonds or other indebtedness pursuant to the  
 2832 | document governing such bonds or other indebtedness. Emergency  
 2833 | assessments collected under this sub-sub-subparagraph are not  
 2834 | part of an insurer's rates, are not premium, and are not subject  
 2835 | to premium tax, fees, or commissions; however, failure to pay  
 2836 | the emergency assessment shall be treated as failure to pay  
 2837 | premium.

2838 |         (IV) Each member insurer's share of the total regular  
 2839 | assessments under sub-sub-subparagraph (I) or sub-sub-  
 2840 | subparagraph (II) shall be in the proportion that the insurer's  
 2841 | net direct premium for property insurance in this state, for the  
 2842 | year preceding the assessment bears to the aggregate statewide  
 2843 | net direct premium for property insurance of all member  
 2844 | insurers, as reduced by any credits for voluntary writings for  
 2845 | that year.

2846 |         (V) If regular deficit assessments are made under sub-sub-  
 2847 | subparagraph (I) or sub-sub-subparagraph (II), or by the  
 2848 | Residential Property and Casualty Joint Underwriting Association  
 2849 | under sub-subparagraph (6) (b) 3.a. ~~or sub-subparagraph~~  
 2850 | ~~(6) (b) 3.b.~~, the association shall levy upon the association's  
 2851 | policyholders, as part of its next rate filing, or by a separate  
 2852 | rate filing solely for this purpose, a market equalization  
 2853 | surcharge in a percentage equal to the total amount of such  
 2854 | regular assessments divided by the aggregate statewide direct  
 2855 | written premium for property insurance for member insurers for  
 2856 | the prior calendar year. Market equalization surcharges under

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2857 | this sub-sub-subparagraph are not considered premium and are not  
2858 | subject to commissions, fees, or premium taxes; however, failure  
2859 | to pay a market equalization surcharge shall be treated as  
2860 | failure to pay premium.

2861 |       e. The governing body of any unit of local government, any  
2862 | residents of which are insured under the plan, may issue bonds  
2863 | as defined in s. 125.013 or s. 166.101 to fund an assistance  
2864 | program, in conjunction with the association, for the purpose of  
2865 | defraying deficits of the association. In order to avoid  
2866 | needless and indiscriminate proliferation, duplication, and  
2867 | fragmentation of such assistance programs, any unit of local  
2868 | government, any residents of which are insured by the  
2869 | association, may provide for the payment of losses, regardless  
2870 | of whether or not the losses occurred within or outside of the  
2871 | territorial jurisdiction of the local government. Revenue bonds  
2872 | may not be issued until validated pursuant to chapter 75, unless  
2873 | a state of emergency is declared by executive order or  
2874 | proclamation of the Governor pursuant to s. 252.36 making such  
2875 | findings as are necessary to determine that it is in the best  
2876 | interests of, and necessary for, the protection of the public  
2877 | health, safety, and general welfare of residents of this state  
2878 | and the protection and preservation of the economic stability of  
2879 | insurers operating in this state, and declaring it an essential  
2880 | public purpose to permit certain municipalities or counties to  
2881 | issue bonds as will provide relief to claimants and  
2882 | policyholders of the association and insurers responsible for  
2883 | apportionment of plan losses. Any such unit of local government  
2884 | may enter into such contracts with the association and with any

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2885 | other entity created pursuant to this subsection as are  
2886 | necessary to carry out this paragraph. Any bonds issued under  
2887 | this sub-subparagraph shall be payable from and secured by  
2888 | moneys received by the association from assessments under this  
2889 | subparagraph, and assigned and pledged to or on behalf of the  
2890 | unit of local government for the benefit of the holders of such  
2891 | bonds. The funds, credit, property, and taxing power of the  
2892 | state or of the unit of local government shall not be pledged  
2893 | for the payment of such bonds. If any of the bonds remain unsold  
2894 | 60 days after issuance, the department shall require all  
2895 | insurers subject to assessment to purchase the bonds, which  
2896 | shall be treated as admitted assets; each insurer shall be  
2897 | required to purchase that percentage of the unsold portion of  
2898 | the bond issue that equals the insurer's relative share of  
2899 | assessment liability under this subsection. An insurer shall not  
2900 | be required to purchase the bonds to the extent that the  
2901 | department determines that the purchase would endanger or impair  
2902 | the solvency of the insurer. The authority granted by this sub-  
2903 | subparagraph is additional to any bonding authority granted by  
2904 | subparagraph 6.

2905 |         3. The plan shall also provide that any member with a  
2906 | surplus as to policyholders of \$20 million or less writing 25  
2907 | percent or more of its total countrywide property insurance  
2908 | premiums in this state may petition the department, within the  
2909 | first 90 days of each calendar year, to qualify as a limited  
2910 | apportionment company. The apportionment of such a member  
2911 | company in any calendar year for which it is qualified shall not  
2912 | exceed its gross participation, which shall not be affected by



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2913 | the formula for voluntary writings. In no event shall a limited  
 2914 | apportionment company be required to participate in any  
 2915 | apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)  
 2916 | or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds  
 2917 | \$50 million after payment of available plan funds in any  
 2918 | calendar year. However, a limited apportionment company shall  
 2919 | collect from its policyholders any emergency assessment imposed  
 2920 | under sub-sub-subparagraph 2.d.(III). The plan shall provide  
 2921 | that, if the department determines that any regular assessment  
 2922 | will result in an impairment of the surplus of a limited  
 2923 | apportionment company, the department may direct that all or  
 2924 | part of such assessment be deferred. However, there shall be no  
 2925 | limitation or deferment of an emergency assessment to be  
 2926 | collected from policyholders under sub-sub-subparagraph  
 2927 | 2.d.(III).

2928 |         4. The plan shall provide for the deferment, in whole or  
 2929 | in part, of a regular assessment of a member insurer under sub-  
 2930 | sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but  
 2931 | not for an emergency assessment collected from policyholders  
 2932 | under sub-sub-subparagraph 2.d.(III), if, in the opinion of the  
 2933 | commissioner, payment of such regular assessment would endanger  
 2934 | or impair the solvency of the member insurer. In the event a  
 2935 | regular assessment against a member insurer is deferred in whole  
 2936 | or in part, the amount by which such assessment is deferred may  
 2937 | be assessed against the other member insurers in a manner  
 2938 | consistent with the basis for assessments set forth in sub-sub-  
 2939 | subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

2940 |         5.a. The plan of operation may include deductibles and

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2941 rules for classification of risks and rate modifications  
2942 consistent with the objective of providing and maintaining funds  
2943 sufficient to pay catastrophe losses.

2944 b. It is the intent of the Legislature that the rates for  
2945 coverage provided by the association be actuarially sound and  
2946 not competitive with approved rates charged in the admitted  
2947 voluntary market such that the association functions as a  
2948 residual market mechanism to provide insurance only when the  
2949 insurance cannot be procured in the voluntary market. The plan  
2950 of operation shall provide a mechanism to assure that, beginning  
2951 no later than January 1, 1999, the rates charged by the  
2952 association for each line of business are reflective of approved  
2953 rates in the voluntary market for hurricane coverage for each  
2954 line of business in the various areas eligible for association  
2955 coverage.

2956 c. The association shall provide for windstorm coverage on  
2957 residential properties in limits up to \$10 million for  
2958 commercial lines residential risks and up to \$1 million for  
2959 personal lines residential risks. If coverage with the  
2960 association is sought for a residential risk valued in excess of  
2961 these limits, coverage shall be available to the risk up to the  
2962 replacement cost or actual cash value of the property, at the  
2963 option of the insured, if coverage for the risk cannot be  
2964 located in the authorized market. The association must accept a  
2965 commercial lines residential risk with limits above \$10 million  
2966 or a personal lines residential risk with limits above \$1  
2967 million if coverage is not available in the authorized market.  
2968 The association may write coverage above the limits specified in

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2969 | this subparagraph with or without facultative or other  
2970 | reinsurance coverage, as the association determines appropriate.

2971 |         d. The plan of operation must provide objective criteria  
2972 | and procedures, approved by the department, to be uniformly  
2973 | applied for all applicants in determining whether an individual  
2974 | risk is so hazardous as to be uninsurable. In making this  
2975 | determination and in establishing the criteria and procedures,  
2976 | the following shall be considered:

2977 |             (I) Whether the likelihood of a loss for the individual  
2978 | risk is substantially higher than for other risks of the same  
2979 | class; and

2980 |             (II) Whether the uncertainty associated with the  
2981 | individual risk is such that an appropriate premium cannot be  
2982 | determined.

2983 |  
2984 | The acceptance or rejection of a risk by the association  
2985 | pursuant to such criteria and procedures must be construed as  
2986 | the private placement of insurance, and the provisions of  
2987 | chapter 120 do not apply.

2988 |         e. If the risk accepts an offer of coverage through the  
2989 | market assistance program or through a mechanism established by  
2990 | the association, either before the policy is issued by the  
2991 | association or during the first 30 days of coverage by the  
2992 | association, and the producing agent who submitted the  
2993 | application to the association is not currently appointed by the  
2994 | insurer, the insurer shall:

2995 |             (I) Pay to the producing agent of record of the policy,  
2996 | for the first year, an amount that is the greater of the

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2997 insurer's usual and customary commission for the type of policy  
2998 written or a fee equal to the usual and customary commission of  
2999 the association; or

3000 (II) Offer to allow the producing agent of record of the  
3001 policy to continue servicing the policy for a period of not less  
3002 than 1 year and offer to pay the agent the greater of the  
3003 insurer's or the association's usual and customary commission  
3004 for the type of policy written.

3005  
3006 If the producing agent is unwilling or unable to accept  
3007 appointment, the new insurer shall pay the agent in accordance  
3008 with sub-sub-subparagraph (I). Subject to the provisions of s.  
3009 627.3517, the policies issued by the association must provide  
3010 that if the association obtains an offer from an authorized  
3011 insurer to cover the risk at its approved rates under either a  
3012 standard policy including wind coverage or, if consistent with  
3013 the insurer's underwriting rules as filed with the department, a  
3014 basic policy including wind coverage, the risk is no longer  
3015 eligible for coverage through the association. Upon termination  
3016 of eligibility, the association shall provide written notice to  
3017 the policyholder and agent of record stating that the  
3018 association policy must be canceled as of 60 days after the date  
3019 of the notice because of the offer of coverage from an  
3020 authorized insurer. Other provisions of the insurance code  
3021 relating to cancellation and notice of cancellation do not apply  
3022 to actions under this sub-subparagraph.

3023 f. When the association enters into a contractual  
3024 agreement for a take-out plan, the producing agent of record of

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3025 | the association policy is entitled to retain any unearned  
3026 | commission on the policy, and the insurer shall:

3027 |       (I) Pay to the producing agent of record of the  
3028 | association policy, for the first year, an amount that is the  
3029 | greater of the insurer's usual and customary commission for the  
3030 | type of policy written or a fee equal to the usual and customary  
3031 | commission of the association; or

3032 |       (II) Offer to allow the producing agent of record of the  
3033 | association policy to continue servicing the policy for a period  
3034 | of not less than 1 year and offer to pay the agent the greater  
3035 | of the insurer's or the association's usual and customary  
3036 | commission for the type of policy written.

3037 |  
3038 | If the producing agent is unwilling or unable to accept  
3039 | appointment, the new insurer shall pay the agent in accordance  
3040 | with sub-sub-subparagraph (I).

3041 |       6.a. The plan of operation may authorize the formation of  
3042 | a private nonprofit corporation, a private nonprofit  
3043 | unincorporated association, a partnership, a trust, a limited  
3044 | liability company, or a nonprofit mutual company which may be  
3045 | empowered, among other things, to borrow money by issuing bonds  
3046 | or by incurring other indebtedness and to accumulate reserves or  
3047 | funds to be used for the payment of insured catastrophe losses.  
3048 | The plan may authorize all actions necessary to facilitate the  
3049 | issuance of bonds, including the pledging of assessments or  
3050 | other revenues.

3051 |       b. Any entity created under this subsection, or any entity  
3052 | formed for the purposes of this subsection, may sue and be sued,

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3053 | may borrow money; issue bonds, notes, or debt instruments;  
 3054 | pledge or sell assessments, market equalization surcharges and  
 3055 | other surcharges, rights, premiums, contractual rights,  
 3056 | projected recoveries from the Florida Hurricane Catastrophe  
 3057 | Fund, other reinsurance recoverables, and other assets as  
 3058 | security for such bonds, notes, or debt instruments; enter into  
 3059 | any contracts or agreements necessary or proper to accomplish  
 3060 | such borrowings; and take other actions necessary to carry out  
 3061 | the purposes of this subsection. The association may issue bonds  
 3062 | or incur other indebtedness, or have bonds issued on its behalf  
 3063 | by a unit of local government pursuant to subparagraph (6)(q)2.,  
 3064 | in the absence of a hurricane or other weather-related event,  
 3065 | upon a determination by the association subject to approval by  
 3066 | the department that such action would enable it to efficiently  
 3067 | meet the financial obligations of the association and that such  
 3068 | financings are reasonably necessary to effectuate the  
 3069 | requirements of this subsection. Any such entity may accumulate  
 3070 | reserves and retain surpluses as of the end of any association  
 3071 | year to provide for the payment of losses incurred by the  
 3072 | association during that year or any future year. The association  
 3073 | shall incorporate and continue the plan of operation and  
 3074 | articles of agreement in effect on the effective date of chapter  
 3075 | 76-96, Laws of Florida, to the extent that it is not  
 3076 | inconsistent with chapter 76-96, and as subsequently modified  
 3077 | consistent with chapter 76-96. The board of directors and  
 3078 | officers currently serving shall continue to serve until their  
 3079 | successors are duly qualified as provided under the plan. The  
 3080 | assets and obligations of the plan in effect immediately prior

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3081 to the effective date of chapter 76-96 shall be construed to be  
3082 the assets and obligations of the successor plan created herein.

3083 c. In recognition of s. 10, Art. I of the State  
3084 Constitution, prohibiting the impairment of obligations of  
3085 contracts, it is the intent of the Legislature that no action be  
3086 taken whose purpose is to impair any bond indenture or financing  
3087 agreement or any revenue source committed by contract to such  
3088 bond or other indebtedness issued or incurred by the association  
3089 or any other entity created under this subsection.

3090 7. On such coverage, an agent's remuneration shall be that  
3091 amount of money payable to the agent by the terms of his or her  
3092 contract with the company with which the business is placed.  
3093 However, no commission will be paid on that portion of the  
3094 premium which is in excess of the standard premium of that  
3095 company.

3096 8. Subject to approval by the department, the association  
3097 may establish different eligibility requirements and operational  
3098 procedures for any line or type of coverage for any specified  
3099 eligible area or portion of an eligible area if the board  
3100 determines that such changes to the eligibility requirements and  
3101 operational procedures are justified due to the voluntary market  
3102 being sufficiently stable and competitive in such area or for  
3103 such line or type of coverage and that consumers who, in good  
3104 faith, are unable to obtain insurance through the voluntary  
3105 market through ordinary methods would continue to have access to  
3106 coverage from the association. When coverage is sought in  
3107 connection with a real property transfer, such requirements and  
3108 procedures shall not provide for an effective date of coverage

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3109 later than the date of the closing of the transfer as  
3110 established by the transferor, the transferee, and, if  
3111 applicable, the lender.

3112 9. Notwithstanding any other provision of law:

3113 a. The pledge or sale of, the lien upon, and the security  
3114 interest in any rights, revenues, or other assets of the  
3115 association created or purported to be created pursuant to any  
3116 financing documents to secure any bonds or other indebtedness of  
3117 the association shall be and remain valid and enforceable,  
3118 notwithstanding the commencement of and during the continuation  
3119 of, and after, any rehabilitation, insolvency, liquidation,  
3120 bankruptcy, receivership, conservatorship, reorganization, or  
3121 similar proceeding against the association under the laws of  
3122 this state or any other applicable laws.

3123 b. No such proceeding shall relieve the association of its  
3124 obligation, or otherwise affect its ability to perform its  
3125 obligation, to continue to collect, or levy and collect,  
3126 assessments, market equalization or other surcharges, projected  
3127 recoveries from the Florida Hurricane Catastrophe Fund,  
3128 reinsurance recoverables, or any other rights, revenues, or  
3129 other assets of the association pledged.

3130 c. Each such pledge or sale of, lien upon, and security  
3131 interest in, including the priority of such pledge, lien, or  
3132 security interest, any such assessments, emergency assessments,  
3133 market equalization or renewal surcharges, projected recoveries  
3134 from the Florida Hurricane Catastrophe Fund, reinsurance  
3135 recoverables, or other rights, revenues, or other assets which  
3136 are collected, or levied and collected, after the commencement



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3137 of and during the pendency of or after any such proceeding shall  
3138 continue unaffected by such proceeding.

3139 d. As used in this subsection, the term "financing  
3140 documents" means any agreement, instrument, or other document  
3141 now existing or hereafter created evidencing any bonds or other  
3142 indebtedness of the association or pursuant to which any such  
3143 bonds or other indebtedness has been or may be issued and  
3144 pursuant to which any rights, revenues, or other assets of the  
3145 association are pledged or sold to secure the repayment of such  
3146 bonds or indebtedness, together with the payment of interest on  
3147 such bonds or such indebtedness, or the payment of any other  
3148 obligation of the association related to such bonds or  
3149 indebtedness.

3150 e. Any such pledge or sale of assessments, revenues,  
3151 contract rights or other rights or assets of the association  
3152 shall constitute a lien and security interest, or sale, as the  
3153 case may be, that is immediately effective and attaches to such  
3154 assessments, revenues, contract, or other rights or assets,  
3155 whether or not imposed or collected at the time the pledge or  
3156 sale is made. Any such pledge or sale is effective, valid,  
3157 binding, and enforceable against the association or other entity  
3158 making such pledge or sale, and valid and binding against and  
3159 superior to any competing claims or obligations owed to any  
3160 other person or entity, including policyholders in this state,  
3161 asserting rights in any such assessments, revenues, contract, or  
3162 other rights or assets to the extent set forth in and in  
3163 accordance with the terms of the pledge or sale contained in the  
3164 applicable financing documents, whether or not any such person

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3165 or entity has notice of such pledge or sale and without the need  
3166 for any physical delivery, recordation, filing, or other action.

3167 f. There shall be no liability on the part of, and no  
3168 cause of action of any nature shall arise against, any member  
3169 insurer or its agents or employees, agents or employees of the  
3170 association, members of the board of directors of the  
3171 association, or the department or its representatives, for any  
3172 action taken by them in the performance of their duties or  
3173 responsibilities under this subsection. Such immunity does not  
3174 apply to actions for breach of any contract or agreement  
3175 pertaining to insurance, or any willful tort.

3176 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

3177 (b)1. All insurers authorized to write one or more subject  
3178 lines of business in this state are subject to assessment by the  
3179 corporation and, for the purposes of this subsection, are  
3180 referred to collectively as "assessable insurers." Insurers  
3181 writing one or more subject lines of business in this state  
3182 pursuant to part VIII of chapter 626 are not assessable  
3183 insurers, but insureds who procure one or more subject lines of  
3184 business in this state pursuant to part VIII of chapter 626 are  
3185 subject to assessment by the corporation and are referred to  
3186 collectively as "assessable insureds." An insurer's assessment  
3187 liability begins on the first day of the calendar year following  
3188 the year in which the insurer was issued a certificate of  
3189 authority to transact insurance for subject lines of business in  
3190 this state and terminates 1 year after the end of the first  
3191 calendar year during which the insurer no longer holds a  
3192 certificate of authority to transact insurance for subject lines

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3193 | of business in this state.

3194 |       2.a. All revenues, assets, liabilities, losses, and  
3195 | expenses of the corporation shall be divided into three separate  
3196 | accounts as follows:

3197 |       (I) A personal lines account for personal residential  
3198 | policies issued by the corporation, or issued by the Residential  
3199 | Property and Casualty Joint Underwriting Association and renewed  
3200 | by the corporation, which provides comprehensive, multiperil  
3201 | coverage on risks that are not located in areas eligible for  
3202 | coverage by the Florida Windstorm Underwriting Association as  
3203 | those areas were defined on January 1, 2002, and for policies  
3204 | that do not provide coverage for the peril of wind on risks that  
3205 | are located in such areas;

3206 |       (II) A commercial lines account for commercial residential  
3207 | and commercial nonresidential policies issued by the  
3208 | corporation, or issued by the Residential Property and Casualty  
3209 | Joint Underwriting Association and renewed by the corporation,  
3210 | which provides coverage for basic property perils on risks that  
3211 | are not located in areas eligible for coverage by the Florida  
3212 | Windstorm Underwriting Association as those areas were defined  
3213 | on January 1, 2002, and for policies that do not provide  
3214 | coverage for the peril of wind on risks that are located in such  
3215 | areas; and

3216 |       (III) A coastal account for personal residential policies  
3217 | and commercial residential and commercial nonresidential  
3218 | property policies issued by the corporation, or transferred to  
3219 | the corporation, which provides coverage for the peril of wind  
3220 | on risks that are located in areas eligible for coverage by the

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3221 Florida Windstorm Underwriting Association as those areas were  
3222 defined on January 1, 2002. The corporation may offer policies  
3223 that provide multiperil coverage and the corporation shall  
3224 continue to offer policies that provide coverage only for the  
3225 peril of wind for risks located in areas eligible for coverage  
3226 in the coastal account. In issuing multiperil coverage, the  
3227 corporation may use its approved policy forms and rates for the  
3228 personal lines account. An applicant or insured who is eligible  
3229 to purchase a multiperil policy from the corporation may  
3230 purchase a multiperil policy from an authorized insurer without  
3231 prejudice to the applicant's or insured's eligibility to  
3232 prospectively purchase a policy that provides coverage only for  
3233 the peril of wind from the corporation. An applicant or insured  
3234 who is eligible for a corporation policy that provides coverage  
3235 only for the peril of wind may elect to purchase or retain such  
3236 policy and also purchase or retain coverage excluding wind from  
3237 an authorized insurer without prejudice to the applicant's or  
3238 insured's eligibility to prospectively purchase a policy that  
3239 provides multiperil coverage from the corporation. It is the  
3240 goal of the Legislature that there be an overall average savings  
3241 of 10 percent or more for a policyholder who currently has a  
3242 wind-only policy with the corporation, and an ex-wind policy  
3243 with a voluntary insurer or the corporation, and who obtains a  
3244 multiperil policy from the corporation. It is the intent of the  
3245 Legislature that the offer of multiperil coverage in the coastal  
3246 account be made and implemented in a manner that does not  
3247 adversely affect the tax-exempt status of the corporation or  
3248 creditworthiness of or security for currently outstanding

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3249 financing obligations or credit facilities of the coastal  
3250 account, the personal lines account, or the commercial lines  
3251 account. The coastal account must also include quota share  
3252 primary insurance under subparagraph (c)2. The area eligible for  
3253 coverage under the coastal account also includes the area within  
3254 Port Canaveral, which is bordered on the south by the City of  
3255 Cape Canaveral, bordered on the west by the Banana River, and  
3256 bordered on the north by Federal Government property.

3257       b. The three separate accounts must be maintained as long  
3258 as financing obligations entered into by the Florida Windstorm  
3259 Underwriting Association or Residential Property and Casualty  
3260 Joint Underwriting Association are outstanding, in accordance  
3261 with the terms of the corresponding financing documents. If the  
3262 financing obligations are no longer outstanding, the corporation  
3263 may use a single account for all revenues, assets, liabilities,  
3264 losses, and expenses of the corporation. Consistent with this  
3265 subparagraph and prudent investment policies that minimize the  
3266 cost of carrying debt, the board shall exercise its best efforts  
3267 to retire existing debt or obtain the approval of necessary  
3268 parties to amend the terms of existing debt, so as to structure  
3269 the most efficient plan to consolidate the three separate  
3270 accounts into a single account.

3271       c. Creditors of the Residential Property and Casualty  
3272 Joint Underwriting Association and the accounts specified in  
3273 sub-sub-subparagraphs a.(I) and (II) may have a claim against,  
3274 and recourse to, those accounts and no claim against, or  
3275 recourse to, the account referred to in sub-sub-subparagraph  
3276 a.(III). Creditors of the Florida Windstorm Underwriting

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3277 Association have a claim against, and recourse to, the account  
3278 referred to in sub-sub-subparagraph a.(III) and no claim  
3279 against, or recourse to, the accounts referred to in sub-sub-  
3280 subparagraphs a.(I) and (II).

3281 d. Revenues, assets, liabilities, losses, and expenses not  
3282 attributable to particular accounts shall be prorated among the  
3283 accounts.

3284 e. The Legislature finds that the revenues of the  
3285 corporation are revenues that are necessary to meet the  
3286 requirements set forth in documents authorizing the issuance of  
3287 bonds under this subsection.

3288 f. No part of the income of the corporation may inure to  
3289 the benefit of any private person.

3290 3. With respect to a deficit in an account:

3291 a. After accounting for the Citizens policyholder  
3292 surcharge imposed under sub-subparagraph h., if the remaining  
3293 projected deficit incurred in a particular calendar year:

3294 (I) Is not greater than 6 percent of the aggregate  
3295 statewide direct written premium for the subject lines of  
3296 business for the prior calendar year, the entire deficit shall  
3297 be recovered through regular assessments of assessable insurers  
3298 under paragraph (q) and assessable insureds.

3299 (II) Exceeds 6 percent of the aggregate statewide direct  
3300 written premium for the subject lines of business for the prior  
3301 calendar year, the corporation shall levy regular assessments on  
3302 assessable insurers under paragraph (q) and on assessable  
3303 insureds in an amount equal to the greater of 6 percent of the  
3304 deficit or 6 percent of the aggregate statewide direct written

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3305 premium for the subject lines of business for the prior calendar  
3306 year. Any remaining deficit shall be recovered through emergency  
3307 assessments under sub-subparagraph c.

3308       b. Each assessable insurer's share of the amount being  
3309 assessed under sub-subparagraph a. must be in the proportion  
3310 that the assessable insurer's direct written premium for the  
3311 subject lines of business for the year preceding the assessment  
3312 bears to the aggregate statewide direct written premium for the  
3313 subject lines of business for that year. The assessment  
3314 percentage applicable to each assessable insured is the ratio of  
3315 the amount being assessed under sub-subparagraph a. to the  
3316 aggregate statewide direct written premium for the subject lines  
3317 of business for the prior year. Assessments levied by the  
3318 corporation on assessable insurers under sub-subparagraph a.  
3319 must be paid as required by the corporation's plan of operation  
3320 and paragraph (q). Assessments levied by the corporation on  
3321 assessable insureds under sub-subparagraph a. shall be collected  
3322 by the surplus lines agent at the time the surplus lines agent  
3323 collects the surplus lines tax required by s. 626.932, and paid  
3324 to the Florida Surplus Lines Service Office at the time the  
3325 surplus lines agent pays the surplus lines tax to that office.  
3326 Upon receipt of regular assessments from surplus lines agents,  
3327 the Florida Surplus Lines Service Office shall transfer the  
3328 assessments directly to the corporation as determined by the  
3329 corporation.

3330       c. Upon a determination by the board of governors that a  
3331 deficit in an account exceeds the amount that will be recovered  
3332 through regular assessments under sub-subparagraph a., plus the

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3333 amount that is expected to be recovered through surcharges under  
3334 sub-subparagraph h., the board, after verification by the  
3335 office, shall levy emergency assessments for as many years as  
3336 necessary to cover the deficits, to be collected by assessable  
3337 insurers and the corporation and collected from assessable  
3338 insureds upon issuance or renewal of policies for subject lines  
3339 of business, excluding National Flood Insurance policies. The  
3340 amount collected in a particular year must be a uniform  
3341 percentage of that year's direct written premium for subject  
3342 lines of business and all accounts of the corporation, excluding  
3343 National Flood Insurance Program policy premiums, as annually  
3344 determined by the board and verified by the office. The office  
3345 shall verify the arithmetic calculations involved in the board's  
3346 determination within 30 days after receipt of the information on  
3347 which the determination was based. Notwithstanding any other  
3348 provision of law, the corporation and each assessable insurer  
3349 that writes subject lines of business shall collect emergency  
3350 assessments from its policyholders without such obligation being  
3351 affected by any credit, limitation, exemption, or deferment.  
3352 Emergency assessments levied by the corporation on assessable  
3353 insureds shall be collected by the surplus lines agent at the  
3354 time the surplus lines agent collects the surplus lines tax  
3355 required by s. 626.932 and paid to the Florida Surplus Lines  
3356 Service Office at the time the surplus lines agent pays the  
3357 surplus lines tax to that office. The emergency assessments  
3358 collected shall be transferred directly to the corporation on a  
3359 periodic basis as determined by the corporation and held by the  
3360 corporation solely in the applicable account. The aggregate



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3361 amount of emergency assessments levied for an account under this  
 3362 sub-subparagraph in any calendar year may be less than but not  
 3363 exceed the greater of 10 percent of the amount needed to cover  
 3364 the deficit, plus interest, fees, commissions, required  
 3365 reserves, and other costs associated with financing the original  
 3366 deficit, or 10 percent of the aggregate statewide direct written  
 3367 premium for subject lines of business and all accounts of the  
 3368 corporation for the prior year, plus interest, fees,  
 3369 commissions, required reserves, and other costs associated with  
 3370 financing the deficit.

3371 d. The corporation may pledge the proceeds of assessments,  
 3372 projected recoveries from the Florida Hurricane Catastrophe  
 3373 Fund, other insurance and reinsurance recoverables, policyholder  
 3374 surcharges and other surcharges, and other funds available to  
 3375 the corporation as the source of revenue for and to secure bonds  
 3376 issued under paragraph (q), bonds or other indebtedness issued  
 3377 under subparagraph (c)3., or lines of credit or other financing  
 3378 mechanisms issued or created under this subsection, or to retire  
 3379 any other debt incurred as a result of deficits or events giving  
 3380 rise to deficits, or in any other way that the board determines  
 3381 will efficiently recover such deficits. The purpose of the lines  
 3382 of credit or other financing mechanisms is to provide additional  
 3383 resources to assist the corporation in covering claims and  
 3384 expenses attributable to a catastrophe. As used in this  
 3385 subsection, the term "assessments" includes regular assessments  
 3386 under sub-subparagraph a. or subparagraph (q)1. and emergency  
 3387 assessments under sub-subparagraph c. ~~d.~~ Emergency assessments  
 3388 collected under sub-subparagraph c. ~~d.~~ are not part of an

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3389 insurer's rates, are not premium, and are not subject to premium  
3390 tax, fees, or commissions; however, failure to pay the emergency  
3391 assessment shall be treated as failure to pay premium. The  
3392 emergency assessments under sub-subparagraph c. shall continue  
3393 as long as any bonds issued or other indebtedness incurred with  
3394 respect to a deficit for which the assessment was imposed remain  
3395 outstanding, unless adequate provision has been made for the  
3396 payment of such bonds or other indebtedness pursuant to the  
3397 documents governing such bonds or indebtedness.

3398 e. As used in this subsection for purposes of any deficit  
3399 incurred on or after January 25, 2007, the term "subject lines  
3400 of business" means insurance written by assessable insurers or  
3401 procured by assessable insureds for all property and casualty  
3402 lines of business in this state, but not including workers'  
3403 compensation or medical malpractice. As used in this sub-  
3404 subparagraph, the term "property and casualty lines of business"  
3405 includes all lines of business identified on Form 2, Exhibit of  
3406 Premiums and Losses, in the annual statement required of  
3407 authorized insurers under s. 624.424 and any rule adopted under  
3408 this section, except for those lines identified as accident and  
3409 health insurance and except for policies written under the  
3410 National Flood Insurance Program or the Federal Crop Insurance  
3411 Program. For purposes of this sub-subparagraph, the term  
3412 "workers' compensation" includes both workers' compensation  
3413 insurance and excess workers' compensation insurance.

3414 f. The Florida Surplus Lines Service Office shall  
3415 determine annually the aggregate statewide written premium in  
3416 subject lines of business procured by assessable insureds and

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3417 | report that information to the corporation in a form and at a  
3418 | time the corporation specifies to ensure that the corporation  
3419 | can meet the requirements of this subsection and the  
3420 | corporation's financing obligations.

3421 |       g. The Florida Surplus Lines Service Office shall verify  
3422 | the proper application by surplus lines agents of assessment  
3423 | percentages for regular assessments and emergency assessments  
3424 | levied under this subparagraph on assessable insureds and assist  
3425 | the corporation in ensuring the accurate, timely collection and  
3426 | payment of assessments by surplus lines agents as required by  
3427 | the corporation.

3428 |       h. If a deficit is incurred in any account in 2008 or  
3429 | thereafter, the board of governors shall levy a Citizens  
3430 | policyholder surcharge against all policyholders of the  
3431 | corporation.

3432 |       (I) The surcharge shall be levied as a uniform percentage  
3433 | of the premium for the policy of up to 15 percent of such  
3434 | premium, which funds shall be used to offset the deficit.

3435 |       (II) The surcharge is payable upon cancellation or  
3436 | termination of the policy, upon renewal of the policy, or upon  
3437 | issuance of a new policy by the corporation within the first 12  
3438 | months after the date of the levy or the period of time  
3439 | necessary to fully collect the surcharge amount.

3440 |       (III) The corporation may not levy any regular assessments  
3441 | under paragraph (q) pursuant to sub-subparagraph a. or sub-  
3442 | subparagraph b. with respect to a particular year's deficit  
3443 | until the corporation has first levied the full amount of the  
3444 | surcharge authorized by this sub-subparagraph.

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3445 (IV) The surcharge is not considered premium and is not  
3446 subject to commissions, fees, or premium taxes. However, failure  
3447 to pay the surcharge shall be treated as failure to pay premium.

3448 i. If the amount of any assessments or surcharges  
3449 collected from corporation policyholders, assessable insurers or  
3450 their policyholders, or assessable insureds exceeds the amount  
3451 of the deficits, such excess amounts shall be remitted to and  
3452 retained by the corporation in a reserve to be used by the  
3453 corporation, as determined by the board of governors and  
3454 approved by the office, to pay claims or reduce any past,  
3455 present, or future plan-year deficits or to reduce outstanding  
3456 debt.

3457 (c) The corporation's plan of operation:

3458 1. Must provide for adoption of residential property and  
3459 casualty insurance policy forms and commercial residential and  
3460 nonresidential property insurance forms, which must be approved  
3461 by the office before use. The corporation shall adopt the  
3462 following policy forms:

3463 a. Standard personal lines policy forms that are  
3464 comprehensive multiperil policies providing full coverage of a  
3465 residential property equivalent to the coverage provided in the  
3466 private insurance market under an HO-3, HO-4, or HO-6 policy.

3467 b. Basic personal lines policy forms that are policies  
3468 similar to an HO-8 policy or a dwelling fire policy that provide  
3469 coverage meeting the requirements of the secondary mortgage  
3470 market, but which is more limited than the coverage under a  
3471 standard policy.

3472 c. Commercial lines residential and nonresidential policy

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3473 forms that are generally similar to the basic perils of full  
3474 coverage obtainable for commercial residential structures and  
3475 commercial nonresidential structures in the admitted voluntary  
3476 market.

3477 d. Personal lines and commercial lines residential  
3478 property insurance forms that cover the peril of wind only. The  
3479 forms are applicable only to residential properties located in  
3480 areas eligible for coverage under the coastal account referred  
3481 to in sub-subparagraph (b)2.a.

3482 e. Commercial lines nonresidential property insurance  
3483 forms that cover the peril of wind only. The forms are  
3484 applicable only to nonresidential properties located in areas  
3485 eligible for coverage under the coastal account referred to in  
3486 sub-subparagraph (b)2.a.

3487 f. The corporation may adopt variations of the policy  
3488 forms listed in sub-subparagraphs a.-e. which contain more  
3489 restrictive coverage.

3490 2. Must provide that the corporation adopt a program in  
3491 which the corporation and authorized insurers enter into quota  
3492 share primary insurance agreements for hurricane coverage, as  
3493 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
3494 property insurance forms for eligible risks which cover the  
3495 peril of wind only.

3496 a. As used in this subsection, the term:

3497 (I) "Quota share primary insurance" means an arrangement  
3498 in which the primary hurricane coverage of an eligible risk is  
3499 provided in specified percentages by the corporation and an  
3500 authorized insurer. The corporation and authorized insurer are

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3501 each solely responsible for a specified percentage of hurricane  
3502 coverage of an eligible risk as set forth in a quota share  
3503 primary insurance agreement between the corporation and an  
3504 authorized insurer and the insurance contract. The  
3505 responsibility of the corporation or authorized insurer to pay  
3506 its specified percentage of hurricane losses of an eligible  
3507 risk, as set forth in the agreement, may not be altered by the  
3508 inability of the other party to pay its specified percentage of  
3509 losses. Eligible risks that are provided hurricane coverage  
3510 through a quota share primary insurance arrangement must be  
3511 provided policy forms that set forth the obligations of the  
3512 corporation and authorized insurer under the arrangement,  
3513 clearly specify the percentages of quota share primary insurance  
3514 provided by the corporation and authorized insurer, and  
3515 conspicuously and clearly state that the authorized insurer and  
3516 the corporation may not be held responsible beyond their  
3517 specified percentage of coverage of hurricane losses.

3518 (II) "Eligible risks" means personal lines residential and  
3519 commercial lines residential risks that meet the underwriting  
3520 criteria of the corporation and are located in areas that were  
3521 eligible for coverage by the Florida Windstorm Underwriting  
3522 Association on January 1, 2002.

3523 b. The corporation may enter into quota share primary  
3524 insurance agreements with authorized insurers at corporation  
3525 coverage levels of 90 percent and 50 percent.

3526 c. If the corporation determines that additional coverage  
3527 levels are necessary to maximize participation in quota share  
3528 primary insurance agreements by authorized insurers, the

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3529 corporation may establish additional coverage levels. However,  
3530 the corporation's quota share primary insurance coverage level  
3531 may not exceed 90 percent.

3532 d. Any quota share primary insurance agreement entered  
3533 into between an authorized insurer and the corporation must  
3534 provide for a uniform specified percentage of coverage of  
3535 hurricane losses, by county or territory as set forth by the  
3536 corporation board, for all eligible risks of the authorized  
3537 insurer covered under the agreement.

3538 e. Any quota share primary insurance agreement entered  
3539 into between an authorized insurer and the corporation is  
3540 subject to review and approval by the office. However, such  
3541 agreement shall be authorized only as to insurance contracts  
3542 entered into between an authorized insurer and an insured who is  
3543 already insured by the corporation for wind coverage.

3544 f. For all eligible risks covered under quota share  
3545 primary insurance agreements, the exposure and coverage levels  
3546 for both the corporation and authorized insurers shall be  
3547 reported by the corporation to the Florida Hurricane Catastrophe  
3548 Fund. For all policies of eligible risks covered under such  
3549 agreements, the corporation and the authorized insurer must  
3550 maintain complete and accurate records for the purpose of  
3551 exposure and loss reimbursement audits as required by fund  
3552 rules. The corporation and the authorized insurer shall each  
3553 maintain duplicate copies of policy declaration pages and  
3554 supporting claims documents.

3555 g. The corporation board shall establish in its plan of  
3556 operation standards for quota share agreements which ensure that

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3557 | there is no discriminatory application among insurers as to the  
3558 | terms of the agreements, pricing of the agreements, incentive  
3559 | provisions if any, and consideration paid for servicing policies  
3560 | or adjusting claims.

3561 |       h. The quota share primary insurance agreement between the  
3562 | corporation and an authorized insurer must set forth the  
3563 | specific terms under which coverage is provided, including, but  
3564 | not limited to, the sale and servicing of policies issued under  
3565 | the agreement by the insurance agent of the authorized insurer  
3566 | producing the business, the reporting of information concerning  
3567 | eligible risks, the payment of premium to the corporation, and  
3568 | arrangements for the adjustment and payment of hurricane claims  
3569 | incurred on eligible risks by the claims adjuster and personnel  
3570 | of the authorized insurer. Entering into a quota sharing  
3571 | insurance agreement between the corporation and an authorized  
3572 | insurer is voluntary and at the discretion of the authorized  
3573 | insurer.

3574 |       3.a. May provide that the corporation may employ or  
3575 | otherwise contract with individuals or other entities to provide  
3576 | administrative or professional services that may be appropriate  
3577 | to effectuate the plan. The corporation may borrow funds by  
3578 | issuing bonds or by incurring other indebtedness, and shall have  
3579 | other powers reasonably necessary to effectuate the requirements  
3580 | of this subsection, including, without limitation, the power to  
3581 | issue bonds and incur other indebtedness in order to refinance  
3582 | outstanding bonds or other indebtedness. The corporation may  
3583 | seek judicial validation of its bonds or other indebtedness  
3584 | under chapter 75. The corporation may issue bonds or incur other



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3585 indebtedness, or have bonds issued on its behalf by a unit of  
 3586 local government pursuant to subparagraph (q)2. in the absence  
 3587 of a hurricane or other weather-related event, upon a  
 3588 determination by the corporation, subject to approval by the  
 3589 office, that such action would enable it to efficiently meet the  
 3590 financial obligations of the corporation and that such  
 3591 financings are reasonably necessary to effectuate the  
 3592 requirements of this subsection. The corporation may take all  
 3593 actions needed to facilitate tax-free status for such bonds or  
 3594 indebtedness, including formation of trusts or other affiliated  
 3595 entities. The corporation may pledge assessments, projected  
 3596 recoveries from the Florida Hurricane Catastrophe Fund, other  
 3597 reinsurance recoverables, market equalization and other  
 3598 surcharges, and other funds available to the corporation as  
 3599 security for bonds or other indebtedness. In recognition of s.  
 3600 10, Art. I of the State Constitution, prohibiting the impairment  
 3601 of obligations of contracts, it is the intent of the Legislature  
 3602 that no action be taken whose purpose is to impair any bond  
 3603 indenture or financing agreement or any revenue source committed  
 3604 by contract to such bond or other indebtedness.

3605       b. To ensure that the corporation is operating in an  
 3606 efficient and economic manner while providing quality service to  
 3607 policyholders, applicants, and agents, the board shall  
 3608 commission an independent third-party consultant having  
 3609 expertise in insurance company management or insurance company  
 3610 management consulting to prepare a report and make  
 3611 recommendations on the relative costs and benefits of  
 3612 outsourcing various policy issuance and service functions to

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3613 private servicing carriers or entities performing similar  
3614 functions in the private market for a fee, rather than  
3615 performing such functions in-house. In making such  
3616 recommendations, the consultant shall consider how other  
3617 residual markets, both in this state and around the country,  
3618 outsource appropriate functions or use servicing carriers to  
3619 better match expenses with revenues that fluctuate based on a  
3620 widely varying policy count. The report must be completed by  
3621 July 1, 2012. Upon receiving the report, the board shall develop  
3622 a plan to implement the report and submit the plan for review,  
3623 modification, and approval to the Financial Services Commission.  
3624 Upon the commission's approval of the plan, the board shall  
3625 begin implementing the plan by January 1, 2013.

3626 4. Must require that the corporation operate subject to  
3627 the supervision and approval of a board of governors consisting  
3628 of eight individuals who are residents of this state, from  
3629 different geographical areas of this state.

3630 a. The Governor, the Chief Financial Officer, the  
3631 President of the Senate, and the Speaker of the House of  
3632 Representatives shall each appoint two members of the board. At  
3633 least one of the two members appointed by each appointing  
3634 officer must have demonstrated expertise in insurance and is  
3635 deemed to be within the scope of the exemption provided in s.  
3636 112.313(7)(b). The Chief Financial Officer shall designate one  
3637 of the appointees as chair. All board members serve at the  
3638 pleasure of the appointing officer. All members of the board are  
3639 subject to removal at will by the officers who appointed them.  
3640 All board members, including the chair, must be appointed to

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3641 | serve for 3-year terms beginning annually on a date designated  
3642 | by the plan. However, for the first term beginning on or after  
3643 | July 1, 2009, each appointing officer shall appoint one member  
3644 | of the board for a 2-year term and one member for a 3-year term.  
3645 | A board vacancy shall be filled for the unexpired term by the  
3646 | appointing officer. The Chief Financial Officer shall appoint a  
3647 | technical advisory group to provide information and advice to  
3648 | the board in connection with the board's duties under this  
3649 | subsection. The executive director and senior managers of the  
3650 | corporation shall be engaged by the board and serve at the  
3651 | pleasure of the board. Any executive director appointed on or  
3652 | after July 1, 2006, is subject to confirmation by the Senate.  
3653 | The executive director is responsible for employing other staff  
3654 | as the corporation may require, subject to review and  
3655 | concurrence by the board.

3656 |       b. The board shall create a Market Accountability Advisory  
3657 | Committee to assist the corporation in developing awareness of  
3658 | its rates and its customer and agent service levels in  
3659 | relationship to the voluntary market insurers writing similar  
3660 | coverage.

3661 |       (I) The members of the advisory committee consist of the  
3662 | following 11 persons, one of whom must be elected chair by the  
3663 | members of the committee: four representatives, one appointed by  
3664 | the Florida Association of Insurance Agents, one by the Florida  
3665 | Association of Insurance and Financial Advisors, one by the  
3666 | Professional Insurance Agents of Florida, and one by the Latin  
3667 | American Association of Insurance Agencies; three  
3668 | representatives appointed by the insurers with the three highest

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3669 | voluntary market share of residential property insurance  
 3670 | business in the state; one representative from the Office of  
 3671 | Insurance Regulation; one consumer appointed by the board who is  
 3672 | insured by the corporation at the time of appointment to the  
 3673 | committee; one representative appointed by the Florida  
 3674 | Association of Realtors; and one representative appointed by the  
 3675 | Florida Bankers Association. All members shall be appointed to  
 3676 | 3-year terms and may serve for consecutive terms.

3677 |       (II) The committee shall report to the corporation at each  
 3678 | board meeting on insurance market issues which may include rates  
 3679 | and rate competition with the voluntary market; service,  
 3680 | including policy issuance, claims processing, and general  
 3681 | responsiveness to policyholders, applicants, and agents; and  
 3682 | matters relating to depopulation.

3683 |       5. Must provide a procedure for determining the  
 3684 | eligibility of a risk for coverage, as follows:

3685 |       a. Subject to s. 627.3517, with respect to personal lines  
 3686 | residential risks, if the risk is offered coverage from an  
 3687 | authorized insurer at the insurer's approved rate under a  
 3688 | standard policy including wind coverage or, if consistent with  
 3689 | the insurer's underwriting rules as filed with the office, a  
 3690 | basic policy including wind coverage, for a new application to  
 3691 | the corporation for coverage, the risk is not eligible for any  
 3692 | policy issued by the corporation unless the premium for coverage  
 3693 | from the authorized insurer is more than 15 percent greater than  
 3694 | the premium for comparable coverage from the corporation. If the  
 3695 | risk is not able to obtain such offer, the risk is eligible for  
 3696 | a standard policy including wind coverage or a basic policy

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3697 including wind coverage issued by the corporation; however, if  
3698 the risk could not be insured under a standard policy including  
3699 wind coverage regardless of market conditions, the risk is  
3700 eligible for a basic policy including wind coverage unless  
3701 rejected under subparagraph 8. However, a policyholder of the  
3702 corporation or a policyholder removed from the corporation  
3703 through an assumption agreement until the end of the assumption  
3704 period remains eligible for coverage from the corporation  
3705 regardless of any offer of coverage from an authorized insurer  
3706 or surplus lines insurer. The corporation shall determine the  
3707 type of policy to be provided on the basis of objective  
3708 standards specified in the underwriting manual and based on  
3709 generally accepted underwriting practices.

3710 (I) If the risk accepts an offer of coverage through the  
3711 market assistance plan or through a mechanism established by the  
3712 corporation before a policy is issued to the risk by the  
3713 corporation or during the first 30 days of coverage by the  
3714 corporation, and the producing agent who submitted the  
3715 application to the plan or to the corporation is not currently  
3716 appointed by the insurer, the insurer shall:

3717 (A) Pay to the producing agent of record of the policy for  
3718 the first year, an amount that is the greater of the insurer's  
3719 usual and customary commission for the type of policy written or  
3720 a fee equal to the usual and customary commission of the  
3721 corporation; or

3722 (B) Offer to allow the producing agent of record of the  
3723 policy to continue servicing the policy for at least 1 year and  
3724 offer to pay the agent the greater of the insurer's or the

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3725 corporation's usual and customary commission for the type of  
3726 policy written.

3727

3728 If the producing agent is unwilling or unable to accept  
3729 appointment, the new insurer shall pay the agent in accordance  
3730 with sub-sub-sub-subparagraph (A).

3731 (II) If the corporation enters into a contractual  
3732 agreement for a take-out plan, the producing agent of record of  
3733 the corporation policy is entitled to retain any unearned  
3734 commission on the policy, and the insurer shall:

3735 (A) Pay to the producing agent of record, for the first  
3736 year, an amount that is the greater of the insurer's usual and  
3737 customary commission for the type of policy written or a fee  
3738 equal to the usual and customary commission of the corporation;  
3739 or

3740 (B) Offer to allow the producing agent of record to  
3741 continue servicing the policy for at least 1 year and offer to  
3742 pay the agent the greater of the insurer's or the corporation's  
3743 usual and customary commission for the type of policy written.

3744

3745 If the producing agent is unwilling or unable to accept  
3746 appointment, the new insurer shall pay the agent in accordance  
3747 with sub-sub-sub-subparagraph (A).

3748 b. With respect to commercial lines residential risks, for  
3749 a new application to the corporation for coverage, if the risk  
3750 is offered coverage under a policy including wind coverage from  
3751 an authorized insurer at its approved rate, the risk is not  
3752 eligible for a policy issued by the corporation unless the

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3753 premium for coverage from the authorized insurer is more than 15  
3754 percent greater than the premium for comparable coverage from  
3755 the corporation. If the risk is not able to obtain any such  
3756 offer, the risk is eligible for a policy including wind coverage  
3757 issued by the corporation. However, a policyholder of the  
3758 corporation or a policyholder removed from the corporation  
3759 through an assumption agreement until the end of the assumption  
3760 period remains eligible for coverage from the corporation  
3761 regardless of an offer of coverage from an authorized insurer or  
3762 surplus lines insurer.

3763 (I) If the risk accepts an offer of coverage through the  
3764 market assistance plan or through a mechanism established by the  
3765 corporation before a policy is issued to the risk by the  
3766 corporation or during the first 30 days of coverage by the  
3767 corporation, and the producing agent who submitted the  
3768 application to the plan or the corporation is not currently  
3769 appointed by the insurer, the insurer shall:

3770 (A) Pay to the producing agent of record of the policy,  
3771 for the first year, an amount that is the greater of the  
3772 insurer's usual and customary commission for the type of policy  
3773 written or a fee equal to the usual and customary commission of  
3774 the corporation; or

3775 (B) Offer to allow the producing agent of record of the  
3776 policy to continue servicing the policy for at least 1 year and  
3777 offer to pay the agent the greater of the insurer's or the  
3778 corporation's usual and customary commission for the type of  
3779 policy written.

3780

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3781 If the producing agent is unwilling or unable to accept  
3782 appointment, the new insurer shall pay the agent in accordance  
3783 with sub-sub-sub-subparagraph (A).

3784 (II) If the corporation enters into a contractual  
3785 agreement for a take-out plan, the producing agent of record of  
3786 the corporation policy is entitled to retain any unearned  
3787 commission on the policy, and the insurer shall:

3788 (A) Pay to the producing agent of record ~~policy~~, for the  
3789 first year, an amount that is the greater of the insurer's usual  
3790 and customary commission for the type of policy written or a fee  
3791 equal to the usual and customary commission of the corporation;  
3792 or

3793 (B) Offer to allow the producing agent of record to  
3794 continue servicing the policy for at least 1 year and offer to  
3795 pay the agent the greater of the insurer's or the corporation's  
3796 usual and customary commission for the type of policy written.

3797  
3798 If the producing agent is unwilling or unable to accept  
3799 appointment, the new insurer shall pay the agent in accordance  
3800 with sub-sub-sub-subparagraph (A).

3801 c. For purposes of determining comparable coverage under  
3802 sub-subparagraphs a. and b., the comparison must be based on  
3803 those forms and coverages that are reasonably comparable. The  
3804 corporation may rely on a determination of comparable coverage  
3805 and premium made by the producing agent who submits the  
3806 application to the corporation, made in the agent's capacity as  
3807 the corporation's agent. A comparison may be made solely of the  
3808 premium with respect to the main building or structure only on



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3809 | the following basis: the same coverage A or other building  
3810 | limits; the same percentage hurricane deductible that applies on  
3811 | an annual basis or that applies to each hurricane for commercial  
3812 | residential property; the same percentage of ordinance and law  
3813 | coverage, if the same limit is offered by both the corporation  
3814 | and the authorized insurer; the same mitigation credits, to the  
3815 | extent the same types of credits are offered both by the  
3816 | corporation and the authorized insurer; the same method for loss  
3817 | payment, such as replacement cost or actual cash value, if the  
3818 | same method is offered both by the corporation and the  
3819 | authorized insurer in accordance with underwriting rules; and  
3820 | any other form or coverage that is reasonably comparable as  
3821 | determined by the board. If an application is submitted to the  
3822 | corporation for wind-only coverage in the coastal account, the  
3823 | premium for the corporation's wind-only policy plus the premium  
3824 | for the ex-wind policy that is offered by an authorized insurer  
3825 | to the applicant must be compared to the premium for multiperil  
3826 | coverage offered by an authorized insurer, subject to the  
3827 | standards for comparison specified in this subparagraph. If the  
3828 | corporation or the applicant requests from the authorized  
3829 | insurer a breakdown of the premium of the offer by types of  
3830 | coverage so that a comparison may be made by the corporation or  
3831 | its agent and the authorized insurer refuses or is unable to  
3832 | provide such information, the corporation may treat the offer as  
3833 | not being an offer of coverage from an authorized insurer at the  
3834 | insurer's approved rate.

3835 |         6. Must include rules for classifications of risks and  
3836 | rates.

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3837           7. Must provide that if premium and investment income for  
3838 an account attributable to a particular calendar year are in  
3839 excess of projected losses and expenses for the account  
3840 attributable to that year, such excess shall be held in surplus  
3841 in the account. Such surplus must be available to defray  
3842 deficits in that account as to future years and used for that  
3843 purpose before assessing assessable insurers and assessable  
3844 insureds as to any calendar year.

3845           8. Must provide objective criteria and procedures to be  
3846 uniformly applied to all applicants in determining whether an  
3847 individual risk is so hazardous as to be uninsurable. In making  
3848 this determination and in establishing the criteria and  
3849 procedures, the following must be considered:

3850           a. Whether the likelihood of a loss for the individual  
3851 risk is substantially higher than for other risks of the same  
3852 class; and

3853           b. Whether the uncertainty associated with the individual  
3854 risk is such that an appropriate premium cannot be determined.

3855  
3856 The acceptance or rejection of a risk by the corporation shall  
3857 be construed as the private placement of insurance, and the  
3858 provisions of chapter 120 do not apply.

3859           9. Must provide that the corporation make its best efforts  
3860 to procure catastrophe reinsurance at reasonable rates, to cover  
3861 its projected 100-year probable maximum loss as determined by  
3862 the board of governors.

3863           10. The policies issued by the corporation must provide  
3864 that if the corporation or the market assistance plan obtains an

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3865 offer from an authorized insurer to cover the risk at its  
3866 approved rates, the risk is no longer eligible for renewal  
3867 through the corporation, except as otherwise provided in this  
3868 subsection.

3869 11. Corporation policies and applications must include a  
3870 notice that the corporation policy could, under this section, be  
3871 replaced with a policy issued by an authorized insurer which  
3872 does not provide coverage identical to the coverage provided by  
3873 the corporation. The notice must also specify that acceptance of  
3874 corporation coverage creates a conclusive presumption that the  
3875 applicant or policyholder is aware of this potential.

3876 12. May establish, subject to approval by the office,  
3877 different eligibility requirements and operational procedures  
3878 for any line or type of coverage for any specified county or  
3879 area if the board determines that such changes are justified due  
3880 to the voluntary market being sufficiently stable and  
3881 competitive in such area or for such line or type of coverage  
3882 and that consumers who, in good faith, are unable to obtain  
3883 insurance through the voluntary market through ordinary methods  
3884 continue to have access to coverage from the corporation. If  
3885 coverage is sought in connection with a real property transfer,  
3886 the requirements and procedures may not provide an effective  
3887 date of coverage later than the date of the closing of the  
3888 transfer as established by the transferor, the transferee, and,  
3889 if applicable, the lender.

3890 13. Must provide that, with respect to the coastal  
3891 account, any assessable insurer with a surplus as to  
3892 policyholders of \$25 million or less writing 25 percent or more

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3893 | of its total countrywide property insurance premiums in this  
 3894 | state may petition the office, within the first 90 days of each  
 3895 | calendar year, to qualify as a limited apportionment company. A  
 3896 | regular assessment levied by the corporation on a limited  
 3897 | apportionment company for a deficit incurred by the corporation  
 3898 | for the coastal account may be paid to the corporation on a  
 3899 | monthly basis as the assessments are collected by the limited  
 3900 | apportionment company from its insureds pursuant to s. 627.3512,  
 3901 | but the regular assessment must be paid in full within 12 months  
 3902 | after being levied by the corporation. A limited apportionment  
 3903 | company shall collect from its policyholders any emergency  
 3904 | assessment imposed under sub-subparagraph (b)3.c. ~~(b)3.d.~~ The  
 3905 | plan must provide that, if the office determines that any  
 3906 | regular assessment will result in an impairment of the surplus  
 3907 | of a limited apportionment company, the office may direct that  
 3908 | all or part of such assessment be deferred as provided in  
 3909 | subparagraph (q)4. However, an emergency assessment to be  
 3910 | collected from policyholders under sub-subparagraph (b)3.c.  
 3911 | ~~(b)3.d.~~ may not be limited or deferred.

3912 |         14. Must provide that the corporation appoint as its  
 3913 | licensed agents only those agents who also hold an appointment  
 3914 | as defined in s. 626.015(3) with an insurer who at the time of  
 3915 | the agent's initial appointment by the corporation is authorized  
 3916 | to write and is actually writing personal lines residential  
 3917 | property coverage, commercial residential property coverage, or  
 3918 | commercial nonresidential property coverage within the state.

3919 |         15. Must provide a premium payment plan option to its  
 3920 | policyholders which, at a minimum, allows for quarterly and

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3921 semiannual payment of premiums. A monthly payment plan may, but  
 3922 is not required to, be offered.

3923 16. Must limit coverage on mobile homes or manufactured  
 3924 homes built before 1994 to actual cash value of the dwelling  
 3925 rather than replacement costs of the dwelling.

3926 17. May provide such limits of coverage as the board  
 3927 determines, consistent with the requirements of this subsection.

3928 18. May require commercial property to meet specified  
 3929 hurricane mitigation construction features as a condition of  
 3930 eligibility for coverage.

3931 19. Must provide that new or renewal policies issued by  
 3932 the corporation on or after January 1, 2012, which cover  
 3933 sinkhole loss do not include coverage for any loss to  
 3934 appurtenant structures, driveways, sidewalks, decks, or patios  
 3935 that are directly or indirectly caused by sinkhole activity. The  
 3936 corporation shall exclude such coverage using a notice of  
 3937 coverage change, which may be included with the policy renewal,  
 3938 and not by issuance of a notice of nonrenewal of the excluded  
 3939 coverage upon renewal of the current policy.

3940 20. As of January 1, 2012, must require that the agent  
 3941 obtain from an applicant for coverage from the corporation an  
 3942 acknowledgement signed by the applicant, which includes, at a  
 3943 minimum, the following statement:

3944  
 3945 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE  
 3946 AND ASSESSMENT LIABILITY:

3947  
 3948 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE

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3949 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A  
3950 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,  
3951 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND  
3952 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE  
3953 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT  
3954 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA  
3955 LEGISLATURE.

3956 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY  
3957 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER  
3958 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE  
3959 FLORIDA LEGISLATURE.

3960 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE  
3961 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE  
3962 STATE OF FLORIDA.

3963

3964 a. The corporation shall maintain, in electronic format or  
3965 otherwise, a copy of the applicant's signed acknowledgement and  
3966 provide a copy of the statement to the policyholder as part of  
3967 the first renewal after the effective date of this subparagraph.

3968 b. The signed acknowledgement form creates a conclusive  
3969 presumption that the policyholder understood and accepted his or  
3970 her potential surcharge and assessment liability as a  
3971 policyholder of the corporation.

3972 (q)1. The corporation shall certify to the office its  
3973 needs for annual assessments as to a particular calendar year,  
3974 and for any interim assessments that it deems to be necessary to  
3975 sustain operations as to a particular year pending the receipt  
3976 of annual assessments. Upon verification, the office shall

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3977 | approve such certification, and the corporation shall levy such  
 3978 | annual or interim assessments. Such assessments shall be  
 3979 | prorated as provided in paragraph (b). The corporation shall  
 3980 | take all reasonable and prudent steps necessary to collect the  
 3981 | amount of assessment due from each assessable insurer,  
 3982 | including, if prudent, filing suit to collect such assessment.  
 3983 | If the corporation is unable to collect an assessment from any  
 3984 | assessable insurer, the uncollected assessments shall be levied  
 3985 | as an additional assessment against the assessable insurers and  
 3986 | any assessable insurer required to pay an additional assessment  
 3987 | as a result of such failure to pay shall have a cause of action  
 3988 | against such nonpaying assessable insurer. Assessments shall be  
 3989 | included as an appropriate factor in the making of rates. The  
 3990 | failure of a surplus lines agent to collect and remit any  
 3991 | regular or emergency assessment levied by the corporation is  
 3992 | considered to be a violation of s. 626.936 and subjects the  
 3993 | surplus lines agent to the penalties provided in that section.

3994 |         2. The governing body of any unit of local government, any  
 3995 | residents of which are insured by the corporation, may issue  
 3996 | bonds as defined in s. 125.013 or s. 166.101 from time to time  
 3997 | to fund an assistance program, in conjunction with the  
 3998 | corporation, for the purpose of defraying deficits of the  
 3999 | corporation. In order to avoid needless and indiscriminate  
 4000 | proliferation, duplication, and fragmentation of such assistance  
 4001 | programs, any unit of local government, any residents of which  
 4002 | are insured by the corporation, may provide for the payment of  
 4003 | losses, regardless of whether or not the losses occurred within  
 4004 | or outside of the territorial jurisdiction of the local

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4005 government. Revenue bonds under this subparagraph may not be  
4006 issued until validated pursuant to chapter 75, unless a state of  
4007 emergency is declared by executive order or proclamation of the  
4008 Governor pursuant to s. 252.36 making such findings as are  
4009 necessary to determine that it is in the best interests of, and  
4010 necessary for, the protection of the public health, safety, and  
4011 general welfare of residents of this state and declaring it an  
4012 essential public purpose to permit certain municipalities or  
4013 counties to issue such bonds as will permit relief to claimants  
4014 and policyholders of the corporation. Any such unit of local  
4015 government may enter into such contracts with the corporation  
4016 and with any other entity created pursuant to this subsection as  
4017 are necessary to carry out this paragraph. Any bonds issued  
4018 under this subparagraph shall be payable from and secured by  
4019 moneys received by the corporation from emergency assessments  
4020 under sub-subparagraph (b) 3.c. ~~(b) 3.d.~~, and assigned and pledged  
4021 to or on behalf of the unit of local government for the benefit  
4022 of the holders of such bonds. The funds, credit, property, and  
4023 taxing power of the state or of the unit of local government  
4024 shall not be pledged for the payment of such bonds.

4025 3.a. The corporation shall adopt one or more programs  
4026 subject to approval by the office for the reduction of both new  
4027 and renewal writings in the corporation. Beginning January 1,  
4028 2008, any program the corporation adopts for the payment of  
4029 bonuses to an insurer for each risk the insurer removes from the  
4030 corporation shall comply with s. 627.3511(2) and may not exceed  
4031 the amount referenced in s. 627.3511(2) for each risk removed.  
4032 The corporation may consider any prudent and not unfairly



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4033 discriminatory approach to reducing corporation writings, and  
4034 may adopt a credit against assessment liability or other  
4035 liability that provides an incentive for insurers to take risks  
4036 out of the corporation and to keep risks out of the corporation  
4037 by maintaining or increasing voluntary writings in counties or  
4038 areas in which corporation risks are highly concentrated and a  
4039 program to provide a formula under which an insurer voluntarily  
4040 taking risks out of the corporation by maintaining or increasing  
4041 voluntary writings will be relieved wholly or partially from  
4042 assessments under sub-subparagraph (b)3.a. ~~sub-subparagraphs~~  
4043 ~~(b)3.a. and b.~~ However, any "take-out bonus" or payment to an  
4044 insurer must be conditioned on the property being insured for at  
4045 least 5 years by the insurer, unless canceled or nonrenewed by  
4046 the policyholder. If the policy is canceled or nonrenewed by the  
4047 policyholder before the end of the 5-year period, the amount of  
4048 the take-out bonus must be prorated for the time period the  
4049 policy was insured. When the corporation enters into a  
4050 contractual agreement for a take-out plan, the producing agent  
4051 of record of the corporation policy is entitled to retain any  
4052 unearned commission on such policy, and the insurer shall  
4053 either:

4054 (I) Pay to the producing agent of record of the policy,  
4055 for the first year, an amount which is the greater of the  
4056 insurer's usual and customary commission for the type of policy  
4057 written or a policy fee equal to the usual and customary  
4058 commission of the corporation; or

4059 (II) Offer to allow the producing agent of record of the  
4060 policy to continue servicing the policy for a period of not less

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4061 than 1 year and offer to pay the agent the insurer's usual and  
4062 customary commission for the type of policy written. If the  
4063 producing agent is unwilling or unable to accept appointment by  
4064 the new insurer, the new insurer shall pay the agent in  
4065 accordance with sub-sub-subparagraph (I).

4066 b. Any credit or exemption from regular assessments  
4067 adopted under this subparagraph shall last no longer than the 3  
4068 years following the cancellation or expiration of the policy by  
4069 the corporation. With the approval of the office, the board may  
4070 extend such credits for an additional year if the insurer  
4071 guarantees an additional year of renewability for all policies  
4072 removed from the corporation, or for 2 additional years if the  
4073 insurer guarantees 2 additional years of renewability for all  
4074 policies so removed.

4075 c. There shall be no credit, limitation, exemption, or  
4076 deferment from emergency assessments to be collected from  
4077 policyholders pursuant to sub-subparagraph (b)3.c. ~~(b)3.d.~~

4078 4. The plan shall provide for the deferment, in whole or  
4079 in part, of the assessment of an assessable insurer, other than  
4080 an emergency assessment collected from policyholders pursuant to  
4081 sub-subparagraph (b)3.c. ~~(b)3.d.~~, if the office finds that  
4082 payment of the assessment would endanger or impair the solvency  
4083 of the insurer. In the event an assessment against an assessable  
4084 insurer is deferred in whole or in part, the amount by which  
4085 such assessment is deferred may be assessed against the other  
4086 assessable insurers in a manner consistent with the basis for  
4087 assessments set forth in paragraph (b).

4088 5. Effective July 1, 2007, in order to evaluate the costs

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4089 | and benefits of approved take-out plans, if the corporation pays  
4090 | a bonus or other payment to an insurer for an approved take-out  
4091 | plan, it shall maintain a record of the address or such other  
4092 | identifying information on the property or risk removed in order  
4093 | to track if and when the property or risk is later insured by  
4094 | the corporation.

4095 |         6. Any policy taken out, assumed, or removed from the  
4096 | corporation is, as of the effective date of the take-out,  
4097 | assumption, or removal, direct insurance issued by the insurer  
4098 | and not by the corporation, even if the corporation continues to  
4099 | service the policies. This subparagraph applies to policies of  
4100 | the corporation and not policies taken out, assumed, or removed  
4101 | from any other entity.

4102 |         (v)1. Effective July 1, 2002, policies of the Residential  
4103 | Property and Casualty Joint Underwriting Association become  
4104 | policies of the corporation. All obligations, rights, assets and  
4105 | liabilities of the association, including bonds, note and debt  
4106 | obligations, and the financing documents pertaining to them  
4107 | become those of the corporation as of July 1, 2002. The  
4108 | corporation is not required to issue endorsements or  
4109 | certificates of assumption to insureds during the remaining term  
4110 | of in-force transferred policies.

4111 |         2. Effective July 1, 2002, policies of the Florida  
4112 | Windstorm Underwriting Association are transferred to the  
4113 | corporation and become policies of the corporation. All  
4114 | obligations, rights, assets, and liabilities of the association,  
4115 | including bonds, note and debt obligations, and the financing  
4116 | documents pertaining to them are transferred to and assumed by

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4117 | the corporation on July 1, 2002. The corporation is not required  
4118 | to issue endorsements or certificates of assumption to insureds  
4119 | during the remaining term of in-force transferred policies.

4120 |         3. The Florida Windstorm Underwriting Association and the  
4121 | Residential Property and Casualty Joint Underwriting Association  
4122 | shall take all actions necessary to further evidence the  
4123 | transfers and provide the documents and instruments of further  
4124 | assurance as may reasonably be requested by the corporation for  
4125 | that purpose. The corporation shall execute assumptions and  
4126 | instruments as the trustees or other parties to the financing  
4127 | documents of the Florida Windstorm Underwriting Association or  
4128 | the Residential Property and Casualty Joint Underwriting  
4129 | Association may reasonably request to further evidence the  
4130 | transfers and assumptions, which transfers and assumptions,  
4131 | however, are effective on the date provided under this paragraph  
4132 | whether or not, and regardless of the date on which, the  
4133 | assumptions or instruments are executed by the corporation.  
4134 | Subject to the relevant financing documents pertaining to their  
4135 | outstanding bonds, notes, indebtedness, or other financing  
4136 | obligations, the moneys, investments, receivables, choses in  
4137 | action, and other intangibles of the Florida Windstorm  
4138 | Underwriting Association shall be credited to the coastal  
4139 | account of the corporation, and those of the personal lines  
4140 | residential coverage account and the commercial lines  
4141 | residential coverage account of the Residential Property and  
4142 | Casualty Joint Underwriting Association shall be credited to the  
4143 | personal lines account and the commercial lines account,  
4144 | respectively, of the corporation.

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4145           4. Effective July 1, 2002, a new applicant for property  
4146 insurance coverage who would otherwise have been eligible for  
4147 coverage in the Florida Windstorm Underwriting Association is  
4148 eligible for coverage from the corporation as provided in this  
4149 subsection.

4150           5. The transfer of all policies, obligations, rights,  
4151 assets, and liabilities from the Florida Windstorm Underwriting  
4152 Association to the corporation and the renaming of the  
4153 Residential Property and Casualty Joint Underwriting Association  
4154 as the corporation does not affect the coverage with respect to  
4155 covered policies as defined in s. 215.555(2)(c) provided to  
4156 these entities by the Florida Hurricane Catastrophe Fund. The  
4157 coverage provided by the fund to the Florida Windstorm  
4158 Underwriting Association based on its exposures as of June 30,  
4159 2002, and each June 30 thereafter shall be redesignated as  
4160 coverage for the coastal account of the corporation.  
4161 Notwithstanding any other provision of law, the coverage  
4162 provided by the fund to the Residential Property and Casualty  
4163 Joint Underwriting Association based on its exposures as of June  
4164 30, 2002, and each June 30 thereafter shall be transferred to  
4165 the personal lines account and the commercial lines account of  
4166 the corporation. Notwithstanding any other provision of law, the  
4167 coastal account shall be treated, for all Florida Hurricane  
4168 Catastrophe Fund purposes, as if it were a separate  
4169 participating insurer with its own exposures, reimbursement  
4170 premium, and loss reimbursement. Likewise, the personal lines  
4171 and commercial lines accounts shall be viewed together, for all  
4172 fund purposes, as if the two accounts were one and represent a

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4173 single, separate participating insurer with its own exposures,  
4174 reimbursement premium, and loss reimbursement. The coverage  
4175 provided by the fund to the corporation shall constitute and  
4176 operate as a full transfer of coverage from the Florida  
4177 Windstorm Underwriting Association and Residential Property and  
4178 Casualty Joint Underwriting Association to the corporation.

4179 Reviser's note.—Paragraphs (2)(b) and (6)(q) are  
4180 amended to conform to the redesignation of s.  
4181 627.351(6)(b)3.b. as a portion of sub-subparagraph  
4182 (6)(b)3.a. by s. 15, ch. 2011-39, Laws of Florida.  
4183 Paragraphs (6)(b), (c), and (q) are amended to conform  
4184 to the redesignation of s. 627.351(6)(b)3.d. as sub-  
4185 subparagraph (6)(b)3.c. by s. 15, ch. 2011-39.  
4186 Paragraph (6)(c) is amended to confirm editorial  
4187 deletion of the word "policy" to improve clarity.  
4188 Paragraph (6)(v) is amended to confirm editorial  
4189 insertion of the word "Association" to conform to the  
4190 complete name of the association.

4191 Section 78. Paragraphs (a), (b), and (c) of subsection (3)  
4192 and paragraphs (d), (e), and (f) of subsection (6) of section  
4193 627.3511, Florida Statutes, are amended to read:

4194 627.3511 Depopulation of Citizens Property Insurance  
4195 Corporation.—

4196 (3) EXEMPTION FROM DEFICIT ASSESSMENTS.—

4197 (a) The calculation of an insurer's assessment liability  
4198 under s. 627.351(6)(b)3.a. ~~or b.~~ shall, for an insurer that in  
4199 any calendar year removes 50,000 or more risks from the Citizens  
4200 Property Insurance Corporation, either by issuance of a policy

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4201 upon expiration or cancellation of the corporation policy or by  
4202 assumption of the corporation's obligations with respect to in-  
4203 force policies, exclude such removed policies for the succeeding  
4204 3 years, as follows:

4205 1. In the first year following removal of the risks, the  
4206 risks are excluded from the calculation to the extent of 100  
4207 percent.

4208 2. In the second year following removal of the risks, the  
4209 risks are excluded from the calculation to the extent of 75  
4210 percent.

4211 3. In the third year following removal of the risks, the  
4212 risks are excluded from the calculation to the extent of 50  
4213 percent.

4214  
4215 If the removal of risks is accomplished through assumption of  
4216 obligations with respect to in-force policies, the corporation  
4217 shall pay to the assuming insurer all unearned premium with  
4218 respect to such policies less any policy acquisition costs  
4219 agreed to by the corporation and assuming insurer. The term  
4220 "policy acquisition costs" is defined as costs of issuance of  
4221 the policy by the corporation which includes agent commissions,  
4222 servicing company fees, and premium tax. This paragraph does not  
4223 apply to an insurer that, at any time within 5 years before  
4224 removing the risks, had a market share in excess of 0.1 percent  
4225 of the statewide aggregate gross direct written premium for any  
4226 line of property insurance, or to an affiliate of such an  
4227 insurer. This paragraph does not apply unless either at least 40  
4228 percent of the risks removed from the corporation are located in

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4229 Miami-Dade, Broward, and Palm Beach Counties, or at least 30  
4230 percent of the risks removed from the corporation are located in  
4231 such counties and an additional 50 percent of the risks removed  
4232 from the corporation are located in other coastal counties.

4233 (b) An insurer that first wrote personal lines residential  
4234 property coverage in this state on or after July 1, 1994, is  
4235 exempt from regular deficit assessments imposed pursuant to s.  
4236 627.351(6)(b)3.a. ~~and b.~~, but not emergency assessments  
4237 collected from policyholders pursuant to s. 627.351(6)(b)3.c.  
4238 ~~627.351(6)(b)3.d.~~, of the Citizens Property Insurance  
4239 Corporation until the earlier of the following:

4240 1. The end of the calendar year in which it first wrote  
4241 0.5 percent or more of the statewide aggregate direct written  
4242 premium for any line of residential property coverage; or

4243 2. December 31, 1997, or December 31 of the third year in  
4244 which it wrote such coverage in this state, whichever is later.

4245 (c) Other than an insurer that is exempt under paragraph  
4246 (b), an insurer that in any calendar year increases its total  
4247 structure exposure subject to wind coverage by 25 percent or  
4248 more over its exposure for the preceding calendar year is, with  
4249 respect to that year, exempt from deficit assessments imposed  
4250 pursuant to s. 627.351(6)(b)3.a. ~~and b.~~, but not emergency  
4251 assessments collected from policyholders pursuant to s.  
4252 627.351(6)(b)3.c. ~~627.351(6)(b)3.d.~~, of the Citizens Property  
4253 Insurance Corporation attributable to such increase in exposure.

4254 (6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.—

4255 (d) The calculation of an insurer's regular assessment  
4256 liability under s. 627.351(6)(b)3.a. ~~and b.~~, but not emergency



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4257 assessments collected from policyholders pursuant to s.  
4258 627.351(6)(b)3.c. ~~627.351(6)(b)3.d.~~, shall, with respect to  
4259 commercial residential policies removed from the corporation  
4260 under an approved take-out plan, exclude such removed policies  
4261 for the succeeding 3 years, as follows:

4262 1. In the first year following removal of the policies,  
4263 the policies are excluded from the calculation to the extent of  
4264 100 percent.

4265 2. In the second year following removal of the policies,  
4266 the policies are excluded from the calculation to the extent of  
4267 75 percent.

4268 3. In the third year following removal of the policies,  
4269 the policies are excluded from the calculation to the extent of  
4270 50 percent.

4271 (e) An insurer that first wrote commercial residential  
4272 property coverage in this state on or after June 1, 1996, is  
4273 exempt from regular assessments under s. 627.351(6)(b)3.a. ~~and~~  
4274 ~~b.~~, but not emergency assessments collected from policyholders  
4275 pursuant to s. 627.351(6)(b)3.c. ~~627.351(6)(b)3.d.~~, with respect  
4276 to commercial residential policies until the earlier of:

4277 1. The end of the calendar year in which such insurer  
4278 first wrote 0.5 percent or more of the statewide aggregate  
4279 direct written premium for commercial residential property  
4280 coverage; or

4281 2. December 31 of the third year in which such insurer  
4282 wrote commercial residential property coverage in this state.

4283 (f) An insurer that is not otherwise exempt from regular  
4284 assessments under s. 627.351(6)(b)3.a. ~~and b.~~ with respect to

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4285 commercial residential policies is, for any calendar year in  
 4286 which such insurer increased its total commercial residential  
 4287 hurricane exposure by 25 percent or more over its exposure for  
 4288 the preceding calendar year, exempt from regular assessments  
 4289 under s. 627.351(6)(b)3.a. ~~and b.~~, but not emergency assessments  
 4290 collected from policyholders pursuant to s. 627.351(6)(b)3.c.  
 4291 ~~627.351(6)(b)3.d.~~, attributable to such increased exposure.

4292 Reviser's note.—Amended to conform to the  
 4293 redesignation of s. 627.351(6)(b)3.b. as a portion of  
 4294 sub-subparagraph (6)(b)3.a. by s. 15, ch. 2011-39,  
 4295 Laws of Florida, and the redesignation of s.  
 4296 627.351(6)(b)3.d. as sub-subparagraph (6)(b)3.c. by s.  
 4297 15, ch. 2011-39.

4298 Section 79. Paragraph (c) of subsection (1) of section  
 4299 658.48, Florida Statutes, is amended to read:

4300 658.48 Loans.—A state bank may make loans and extensions  
 4301 of credit, with or without security, subject to the following  
 4302 limitations and provisions:

4303 (1) LOANS; GENERAL LIMITATIONS.—

4304 (c) The loan limitations stated in this section shall not  
 4305 be enlarged by the provisions of any other section of this  
 4306 chapter, except as provided in subsection (5) ~~(6)~~.

4307 Reviser's note.—Amended to conform to the  
 4308 redesignation of subsection (6) as subsection (5) by  
 4309 s. 28, ch. 2011-194, Laws of Florida.

4310 Section 80. Subsection (12) of section 667.003, Florida  
 4311 Statutes, is amended to read:

4312 667.003 Applicability of chapter 658.—Any state savings

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4313 bank is subject to all the provisions, and entitled to all the  
4314 privileges, of the financial institutions codes except where it  
4315 appears, from the context or otherwise, that such provisions  
4316 clearly apply only to banks or trust companies organized under  
4317 the laws of this state or the United States. Without limiting  
4318 the foregoing general provisions, it is the intent of the  
4319 Legislature that the following provisions apply to a savings  
4320 bank to the same extent as if the savings bank were a "bank"  
4321 operating under such provisions:

4322 ~~(12) Section 658.295, relating to interstate banking.~~

4323 Reviser's note.—Amended to conform to the repeal of s.  
4324 658.295 by s. 23, ch. 2011-194, Laws of Florida.

4325 Section 81. Subsection (1) of section 681.108, Florida  
4326 Statutes, is amended to read:

4327 681.108 Dispute-settlement procedures.—

4328 (1) If a manufacturer has established a procedure that the  
4329 department has certified as substantially complying with the  
4330 provisions of 16 C.F.R. part 703, in effect October 1, 1983, and  
4331 with the provisions of this chapter and the rules adopted under  
4332 this chapter, and has informed the consumer how and where to  
4333 file a claim with such procedure pursuant to s. 681.103(3), the  
4334 provisions of s. 681.104(2) apply to the consumer only if the  
4335 consumer has first resorted to such procedure. The  
4336 decisionmakers for a certified procedure shall, in rendering  
4337 decisions, take into account all legal and equitable factors  
4338 germane to a fair and just decision, including, but not limited  
4339 to, the warranty; the rights and remedies conferred under 16  
4340 C.F.R. part 703, in effect October 1, 1983; the provisions of

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4341 | this chapter; and any other equitable considerations appropriate  
4342 | under the circumstances. Decisionmakers and staff for ~~of~~ a  
4343 | procedure shall be trained in the provisions of this chapter and  
4344 | in 16 C.F.R. part 703, in effect October 1, 1983. In an action  
4345 | brought by a consumer concerning an alleged nonconformity, the  
4346 | decision that results from a certified procedure is admissible  
4347 | in evidence.

4348 |         Reviser's note.—Amended to confirm editorial  
4349 |         substitution of the word "for" for the word "of."

4350 |         Section 82. Subsection (4) of section 753.03, Florida  
4351 | Statutes, is amended to read:

4352 |         753.03 Standards for supervised visitation and supervised  
4353 | exchange programs.—

4354 |         ~~(4) The clearinghouse shall submit a preliminary report~~  
4355 | ~~containing its recommendations for the uniform standards by~~  
4356 | ~~December 31, 2007, and a final report of all recommendations,~~  
4357 | ~~including those related to the certification and monitoring~~  
4358 | ~~developed to date, by December 31, 2008, to the President of the~~  
4359 | ~~Senate, the Speaker of the House of Representatives, and the~~  
4360 | ~~Chief Justice of the Supreme Court.~~

4361 |         Reviser's note.—Amended to delete a provision that has  
4362 |         served its purpose.

4363 |         Section 83. Subsection (3) of section 766.1065, Florida  
4364 | Statutes, is amended to read:

4365 |         766.1065 Authorization for release of protected health  
4366 | information.—

4367 |         (3) The authorization required by this section shall be in  
4368 | the following form and shall be construed in accordance with the

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4369 "Standards for Privacy of Individually Identifiable Health  
4370 Information" in 45 C.F.R. parts 160 and 164:

4371

4372 AUTHORIZATION FOR RELEASE OF  
4373 PROTECTED HEALTH INFORMATION

4374

4375 A. I, (...Name of patient or authorized  
4376 representative...) [hereinafter "Patient"], authorize  
4377 that (...Name of health care provider to whom the  
4378 presuit notice is directed...) and his/her/its  
4379 insurer(s), self-insurer(s), and attorney(s) may  
4380 obtain and disclose (within the parameters set out  
4381 below) the protected health information described  
4382 below for the following specific purposes:

- 4383 1. Facilitating the investigation and evaluation of  
4384 the medical negligence claim described in the  
4385 accompanying presuit notice; or  
4386 2. Defending against any litigation arising out of  
4387 the medical negligence claim made on the basis of the  
4388 accompanying presuit notice.

4389 B. The health information obtained, used, or  
4390 disclosed extends to, and includes, the verbal as well  
4391 as the written and is described as follows:

- 4392 1. The health information in the custody of the  
4393 following health care providers who have examined,  
4394 evaluated, or treated the Patient in connection with  
4395 injuries complained of after the alleged act of  
4396 negligence: (List the name and current address of all

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4397 health care providers). This authorization extends to  
4398 any additional health care providers that may in the  
4399 future evaluate, examine, or treat the Patient for the  
4400 injuries complained of.

4401 2. The health information in the custody of the  
4402 following health care providers who have examined,  
4403 evaluated, or treated the Patient during a period  
4404 commencing 2 years before the incident that is the  
4405 basis of the accompanying presuit notice.

4406  
4407 (List the name and current address of such health care  
4408 providers, if applicable.)  
4409

4410 C. This authorization does not apply to the following  
4411 list of health care providers possessing health care  
4412 information about the Patient because the Patient  
4413 certifies that such health care information is not  
4414 potentially relevant to the claim of personal injury  
4415 or wrongful death that is the basis of the  
4416 accompanying presuit notice.

4417  
4418 (List the name of each health care provider to whom  
4419 this authorization does not apply and the inclusive  
4420 dates of examination, evaluation, or treatment to be  
4421 withheld from disclosure. If none, specify "none.")  
4422

4423 D. The persons or class of persons to whom the  
4424 Patient authorizes such health information to be

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4425 | disclosed or by whom such health information is to be  
 4426 | used:  
 4427 | 1. Any health care provider providing care or  
 4428 | treatment for the Patient.  
 4429 | 2. Any liability insurer or self-insurer providing  
 4430 | liability insurance coverage, self-insurance, or  
 4431 | defense to any health care provider to whom presuit  
 4432 | notice is given regarding the care and treatment of  
 4433 | the Patient.  
 4434 | 3. Any consulting or testifying expert employed by or  
 4435 | on behalf of (name of health care provider to whom  
 4436 | presuit notice was given) and his/her/its insurer(s),  
 4437 | self-insurer(s), or attorney(s) regarding ~~to~~ the  
 4438 | matter of the presuit notice accompanying this  
 4439 | authorization.  
 4440 | 4. Any attorney (including secretarial, clerical, or  
 4441 | paralegal staff) employed by or on behalf of (name of  
 4442 | health care provider to whom presuit notice was given)  
 4443 | regarding the matter of the presuit notice  
 4444 | accompanying this authorization.  
 4445 | 5. Any trier of the law or facts relating to any suit  
 4446 | filed seeking damages arising out of the medical care  
 4447 | or treatment of the Patient.  
 4448 | E. This authorization expires upon resolution of the  
 4449 | claim or at the conclusion of any litigation  
 4450 | instituted in connection with the matter of the  
 4451 | presuit notice accompanying this authorization,  
 4452 | whichever occurs first.

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4453 F. The Patient understands that, without exception,  
4454 the Patient has the right to revoke this authorization  
4455 in writing. The Patient further understands that the  
4456 consequence of any such revocation is that the presuit  
4457 notice under s. 766.106(2), Florida Statutes, is  
4458 deemed retroactively void from the date of issuance,  
4459 and any tolling effect that the presuit notice may  
4460 have had on any applicable statute-of-limitations  
4461 period is retroactively rendered void.

4462 G. The Patient understands that signing this  
4463 authorization is not a condition for continued  
4464 treatment, payment, enrollment, or eligibility for  
4465 health plan benefits.

4466 H. The Patient understands that information used or  
4467 disclosed under this authorization may be subject to  
4468 additional disclosure by the recipient and may not be  
4469 protected by federal HIPAA privacy regulations.

4470  
4471 Signature of Patient/Representative: ....

4472 Date: ....

4473 Name of Patient/Representative: ....

4474 Description of Representative's Authority: ....

4475 Reviser's note.—Amended to confirm editorial deletion  
4476 of the word "to" following the word "regarding."

4477 Section 84. Subsection (2) of section 794.056, Florida  
4478 Statutes, is amended to read:

4479 794.056 Rape Crisis Program Trust Fund.—

4480 (2) The Department of Health shall establish by rule



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4481 criteria consistent with the provisions of s. 794.055(3)(b)  
 4482 ~~794.055(3)(a)~~ for distributing moneys from the trust fund to  
 4483 rape crisis centers.

4484 Reviser's note.—Amended to improve clarity and correct  
 4485 an apparent error. Section 794.055(3)(b) relates to  
 4486 distribution of moneys in the Rape Crisis Program  
 4487 Trust Fund. Paragraph (3)(a) of that section states  
 4488 that the Department of Health is to contract with the  
 4489 statewide nonprofit association, and that the  
 4490 association is to receive 95 percent of the moneys  
 4491 appropriated from the trust fund.

4492 Section 85. Paragraph (b) of subsection (1) of section  
 4493 847.0141, Florida Statutes, is amended to read:

4494 847.0141 Sexting; prohibited acts; penalties.—

4495 (1) A minor commits the offense of sexting if he or she  
 4496 knowingly:

4497 (b) Possesses a photograph or video of any person that was  
 4498 transmitted or distributed by another minor which depicts  
 4499 nudity, as defined in s. 847.001(9), and is harmful to minors,  
 4500 as defined in s. 847.001(6). A minor does not violate ~~paragraph~~  
 4501 this paragraph if all of the following apply:

4502 1. The minor did not solicit the photograph or video.

4503 2. The minor took reasonable steps to report the  
 4504 photograph or video to the minor's legal guardian or to a school  
 4505 or law enforcement official.

4506 3. The minor did not transmit or distribute the photograph  
 4507 or video to a third party.

4508 Reviser's note.—Amended to confirm editorial deletion

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4509 | of the word "paragraph" preceding the word "this."  
 4510 | Section 86. Paragraph (d) of subsection (11) of section  
 4511 | 893.055, Florida Statutes, is amended to read:  
 4512 | 893.055 Prescription drug monitoring program.—  
 4513 | (11) The department may establish a direct-support  
 4514 | organization that has a board consisting of at least five  
 4515 | members to provide assistance, funding, and promotional support  
 4516 | for the activities authorized for the prescription drug  
 4517 | monitoring program.  
 4518 | (d) The direct-support organization shall operate under  
 4519 | written contract with the department. The contract must, at a  
 4520 | minimum, provide for:  
 4521 | 1. Approval of the articles of incorporation and bylaws of  
 4522 | the direct-support organization by the department.  
 4523 | 2. Submission of an annual budget for the approval of the  
 4524 | department.  
 4525 | 3. Certification by the department ~~in consultation with~~  
 4526 | ~~the department~~ that the direct-support organization is complying  
 4527 | with the terms of the contract in a manner consistent with and  
 4528 | in furtherance of the goals and purposes of the prescription  
 4529 | drug monitoring program and in the best interests of the state.  
 4530 | Such certification must be made annually and reported in the  
 4531 | official minutes of a meeting of the direct-support  
 4532 | organization.  
 4533 | 4. The reversion, without penalty, to the state of all  
 4534 | moneys and property held in trust by the direct-support  
 4535 | organization for the benefit of the prescription drug monitoring  
 4536 | program if the direct-support organization ceases to exist or if

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4537 | the contract is terminated.

4538 |         5. The fiscal year of the direct-support organization,  
4539 | which must begin July 1 of each year and end June 30 of the  
4540 | following year.

4541 |         6. The disclosure of the material provisions of the  
4542 | contract to donors of gifts, contributions, or bequests,  
4543 | including such disclosure on all promotional and fundraising  
4544 | publications, and an explanation to such donors of the  
4545 | distinction between the department and the direct-support  
4546 | organization.

4547 |         7. The direct-support organization's collecting,  
4548 | expending, and providing of funds to the department for the  
4549 | development, implementation, and operation of the prescription  
4550 | drug monitoring program as described in this section and s. 2,  
4551 | chapter 2009-198, Laws of Florida, as long as the task force is  
4552 | authorized. The direct-support organization may collect and  
4553 | expend funds to be used for the functions of the direct-support  
4554 | organization's board of directors, as necessary and approved by  
4555 | the department. In addition, the direct-support organization may  
4556 | collect and provide funding to the department in furtherance of  
4557 | the prescription drug monitoring program by:

4558 |             a. Establishing and administering the prescription drug  
4559 | monitoring program's electronic database, including hardware and  
4560 | software.

4561 |             b. Conducting studies on the efficiency and effectiveness  
4562 | of the program to include feasibility studies as described in  
4563 | subsection (13).

4564 |             c. Providing funds for future enhancements of the program

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4565 | within the intent of this section.

4566 |       d. Providing user training of the prescription drug  
4567 | monitoring program, including distribution of materials to  
4568 | promote public awareness and education and conducting workshops  
4569 | or other meetings, for health care practitioners, pharmacists,  
4570 | and others as appropriate.

4571 |       e. Providing funds for travel expenses.

4572 |       f. Providing funds for administrative costs, including  
4573 | personnel, audits, facilities, and equipment.

4574 |       g. Fulfilling all other requirements necessary to  
4575 | implement and operate the program as outlined in this section.

4576 |       Reviser's note.—Amended to remove redundant language  
4577 | and improve clarity.

4578 |       Section 87. Subsections (6) and (7) of section 893.138,  
4579 | Florida Statutes, are amended to read:

4580 |       893.138 Local administrative action to abate drug-related,  
4581 | prostitution-related, or stolen-property-related public  
4582 | nuisances and criminal gang activity.—

4583 |       (6) An order entered under subsection (5) ~~(4)~~ shall expire  
4584 | after 1 year or at such earlier time as is stated in the order.

4585 |       (7) An order entered under subsection (5) ~~(4)~~ may be  
4586 | enforced pursuant to the procedures contained in s. 120.69. This  
4587 | subsection does not subject a municipality that creates a board  
4588 | under this section, or the board so created, to any other  
4589 | provision of chapter 120.

4590 |       Reviser's note.—Amended to conform to the  
4591 | redesignation of subsection (4) as subsection (5) by  
4592 | s. 27, ch. 2011-141, Laws of Florida.

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4593 Section 88. Subsection (3) and paragraph (d) of subsection  
4594 (4) of section 943.25, Florida Statutes, are amended to read:

4595 943.25 Criminal justice trust funds; source of funds; use  
4596 of funds.—

4597 (3) The commission shall, by rule, establish, implement,  
4598 supervise, and evaluate the expenditures of the Criminal Justice  
4599 Standards and Training Trust Fund for approved advanced and  
4600 specialized training program courses. Criminal justice training  
4601 school enhancements may be authorized by the commission subject  
4602 to the provisions of subsection (6) ~~(7)~~. The commission may  
4603 approve the training of appropriate support personnel when it  
4604 can be demonstrated that these personnel directly support the  
4605 criminal justice function.

4606 (4) The commission shall authorize the establishment of  
4607 regional training councils to advise and assist the commission  
4608 in developing and maintaining a plan assessing regional criminal  
4609 justice training needs and to act as an extension of the  
4610 commission in the planning, programming, and budgeting for  
4611 expenditures of the moneys in the Criminal Justice Standards and  
4612 Training Trust Fund.

4613 (d) A public criminal justice training school must be  
4614 designated by the commission to receive and distribute the  
4615 disbursements authorized under subsection (8) ~~(9)~~.

4616 Reviser's note.—Amended to conform to the renumbering  
4617 of subunits within the section as a result of the  
4618 repeal of subsection (3) by s. 8, ch. 2011-52, Laws of  
4619 Florida.

4620 Section 89. Subsection (48) of section 984.03, Florida

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4621 Statutes, is amended to read:  
 4622       984.03 Definitions.—When used in this chapter, the term:  
 4623       ~~(48) "Serious or habitual juvenile offender program" means~~  
 4624 ~~the program established in s. 985.47.~~  
 4625       Reviser's note.—Amended to conform to the repeal of s.  
 4626       985.47 by s. 4, ch. 2011-70, Laws of Florida.  
 4627       Section 90. Paragraphs (a), (b), (c), (d), (e), and (g) of  
 4628 subsection (5) of section 985.0301, Florida Statutes, are  
 4629 amended to read:  
 4630       985.0301 Jurisdiction.—  
 4631       (5) (a) Notwithstanding ss. 743.07, 985.43, 985.433,  
 4632 985.435, 985.439, and 985.441, and except as provided in ss.  
 4633 985.461, and 985.465, ~~and 985.47~~ and paragraph (f), when the  
 4634 jurisdiction of any child who is alleged to have committed a  
 4635 delinquent act or violation of law is obtained, the court shall  
 4636 retain jurisdiction, unless relinquished by its order, until the  
 4637 child reaches 19 years of age, with the same power over the  
 4638 child which the court had before the child became an adult. For  
 4639 the purposes of s. 985.461, the court may retain jurisdiction  
 4640 for an additional 365 days following the child's 19th birthday  
 4641 if the child is participating in transition-to-adulthood  
 4642 services. The additional services do not extend involuntary  
 4643 court-sanctioned residential commitment and therefore require  
 4644 voluntary participation by the affected youth.  
 4645       (b) Notwithstanding ss. 743.07 and 985.455(3), ~~and except~~  
 4646 ~~as provided in s. 985.47,~~ the term of any order placing a child  
 4647 in a probation program must be until the child's 19th birthday  
 4648 unless he or she is released by the court on the motion of an

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4649 interested party or on his or her own motion.

4650 (c) Notwithstanding ss. 743.07 and 985.455(3), ~~and except~~  
4651 ~~as provided in s. 985.47~~, the term of the commitment must be  
4652 until the child is discharged by the department or until he or  
4653 she reaches the age of 21 years. Notwithstanding ss. 743.07,  
4654 985.435, 985.437, 985.439, 985.441, 985.455, and 985.513, and  
4655 except as provided in this section ~~and s. 985.47~~, a child may  
4656 not be held under a commitment from a court under s. 985.439, s.  
4657 985.441(1)(a) or (b), or s. 985.455 after becoming 21 years of  
4658 age.

4659 (d) The court may retain jurisdiction over a child  
4660 committed to the department for placement in a juvenile prison  
4661 or in a high-risk or maximum-risk residential commitment program  
4662 to allow the child to participate in a juvenile conditional  
4663 release program pursuant to s. 985.46. The jurisdiction of the  
4664 court may not be retained after ~~beyond~~ the child's 22nd  
4665 birthday. However, if the child is not successful in the  
4666 conditional release program, the department may use the transfer  
4667 procedure under s. 985.441(4).

4668 (e) The court may retain jurisdiction over a child  
4669 committed to the department for placement in an intensive  
4670 residential treatment program for 10-year-old to 13-year-old  
4671 offenders, in the residential commitment program in a juvenile  
4672 prison, in a residential sex offender program, or in a program  
4673 for serious or habitual juvenile offenders ~~as provided in s.~~  
4674 ~~985.47 or s. 985.483~~ until the child reaches the age of 21. If  
4675 the court exercises this jurisdiction retention, it shall do so  
4676 solely for the purpose of the child completing the intensive

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4677 residential treatment program for 10-year-old to 13-year-old  
4678 offenders, in the residential commitment program in a juvenile  
4679 prison, in a residential sex offender program, or the program  
4680 for serious or habitual juvenile offenders. Such jurisdiction  
4681 retention does not apply for other programs, other purposes, or  
4682 new offenses.

4683 (g)1. Notwithstanding ss. 743.07 and 985.455(3), a serious  
4684 or habitual juvenile offender shall not be held under commitment  
4685 from a court under s. 985.441(1)(c), ~~s. 985.47~~, or s. 985.565  
4686 after becoming 21 years of age. This subparagraph shall apply  
4687 only for the purpose of completing the serious or habitual  
4688 juvenile offender program under this chapter and shall be used  
4689 solely for the purpose of treatment.

4690 2. The court may retain jurisdiction over a child who has  
4691 been placed in a program or facility for serious or habitual  
4692 juvenile offenders until the child reaches the age of 21,  
4693 specifically for the purpose of the child completing the  
4694 program.

4695 Reviser's note.—Amended to conform to the repeal of s.  
4696 985.47 by s. 4, ch. 2011-70, Laws of Florida, and the  
4697 repeal of s. 985.483 by s. 5, ch. 2011-70. Paragraph  
4698 (5)(d) is amended to confirm editorial deletion of the  
4699 word "beyond" following the word "after."

4700 Section 91. Paragraph (a) of subsection (3) of section  
4701 985.14, Florida Statutes, is amended to read:

4702 985.14 Intake and case management system.—

4703 (3) The intake and case management system shall facilitate  
4704 consistency in the recommended placement of each child, and in



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4705 | the assessment, classification, and placement process, with the  
4706 | following purposes:

4707 |       (a) An individualized, multidisciplinary assessment  
4708 | process that identifies the priority needs of each individual  
4709 | child for rehabilitation and treatment and identifies any needs  
4710 | of the child's parents or guardians for services that would  
4711 | enhance their ability to provide adequate support, guidance, and  
4712 | supervision for the child. This process shall begin with the  
4713 | detention risk assessment instrument and decision, shall include  
4714 | the intake preliminary screening and comprehensive assessment  
4715 | for substance abuse treatment services, mental health services,  
4716 | retardation services, literacy services, and other educational  
4717 | and treatment services as components, additional assessment of  
4718 | the child's treatment needs, and classification regarding the  
4719 | child's risks to the community and, for a serious or habitual  
4720 | delinquent child, shall include the assessment for placement in  
4721 | a serious or habitual delinquent children program ~~under s.~~  
4722 | ~~985.47~~. The completed multidisciplinary assessment process shall  
4723 | result in the predisposition report.

4724 |       Reviser's note.—Amended to conform to the repeal of s.  
4725 | 985.47 by s. 4, ch. 2011-70, Laws of Florida.

4726 |       Section 92. Paragraph (c) of subsection (1) of section  
4727 | 985.441, Florida Statutes, is amended to read:

4728 |       985.441 Commitment.—

4729 |       (1) The court that has jurisdiction of an adjudicated  
4730 | delinquent child may, by an order stating the facts upon which a  
4731 | determination of a sanction and rehabilitative program was made  
4732 | at the disposition hearing:

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4733 (c) Commit the child to the department for placement in a  
4734 program or facility for serious or habitual juvenile offenders  
4735 ~~in accordance with s. 985.47.~~

4736 1. Following a delinquency adjudicatory hearing under s.  
4737 985.35 and a delinquency disposition hearing under s. 985.433  
4738 that results in a commitment determination, the court shall, on  
4739 its own or upon request by the state or the department,  
4740 determine whether the protection of the public requires that the  
4741 child be placed in a program for serious or habitual juvenile  
4742 offenders and whether the particular needs of the child would be  
4743 best served by a program for serious or habitual juvenile  
4744 offenders ~~as provided in s. 985.47.~~ The determination shall be  
4745 made under s. ss. 985.47(1) and 985.433(7).

4746 2. Any commitment of a child to a program or facility for  
4747 serious or habitual juvenile offenders must be for an  
4748 indeterminate period of time, but the time may not exceed the  
4749 maximum term of imprisonment that an adult may serve for the  
4750 same offense.

4751 Reviser's note.—Amended to conform to the repeal of s.  
4752 985.47 by s. 4, ch. 2011-70, Laws of Florida.

4753 Section 93. Subsection (1) of section 1002.33, Florida  
4754 Statutes, is amended to read:

4755 1002.33 Charter schools.—

4756 (1) AUTHORIZATION.—Charter schools shall be part of the  
4757 state's program of public education. All charter schools in  
4758 Florida are public schools. A charter school may be formed by  
4759 creating a new school or converting an existing public school to  
4760 charter status. A charter school may operate a virtual charter

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4761 school pursuant to s. 1002.45(1)(d) to provide full-time online  
 4762 instruction to eligible students, pursuant to s. 1002.455, in  
 4763 kindergarten through grade 12. A charter school must amend its  
 4764 charter or submit a new application pursuant to subsection (6)  
 4765 to become a virtual charter school. A virtual charter school is  
 4766 subject to the requirements of this section; however, a virtual  
 4767 charter school is exempt from subsections (18) and (19),  
 4768 subparagraphs (20)(a)2., 4., 5., and 7. ~~(20)(a)2.-5.~~, paragraph  
 4769 (20)(c), and s. 1003.03. A public school may not use the term  
 4770 charter in its name unless it has been approved under this  
 4771 section.

4772 Reviser's note.—Amended to conform to the  
 4773 redesignation of subparagraphs (20)(a)2.-5. as  
 4774 subparagraphs (20)(a)2., 4., 5., and 7. by s. 8, ch.  
 4775 2011-55, Laws of Florida.

4776 Section 94. Paragraph (b) of subsection (2) of section  
 4777 1003.498, Florida Statutes, is amended to read:

4778 1003.498 School district virtual course offerings.—

4779 (2) School districts may offer virtual courses for  
 4780 students enrolled in the school district. These courses must be  
 4781 identified in the course code directory. Students who meet the  
 4782 eligibility requirements of s. 1002.455 may participate in these  
 4783 virtual course offerings.

4784 (b) Any eligible student who is enrolled in a school  
 4785 district may register and enroll in an online course offered by  
 4786 any other school district in the state, except as limited by the  
 4787 following:

4788 1. A student may not enroll in a course offered through a

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4789 virtual instruction program provided pursuant to s. 1002.45.  
 4790         2. A student may not enroll in a virtual course offered by  
 4791 another school district if:  
 4792         a. The course is offered online by the school district in  
 4793 which the student resides; or  
 4794         b. The course is offered in the school in which the  
 4795 student is enrolled. However, a student may enroll in an online  
 4796 course offered by another school district if the school in which  
 4797 the student is enrolled offers the course but the student is  
 4798 unable to schedule the course in his or her school.  
 4799         3. The school district in which the student completes the  
 4800 course shall report the student's completion of that course for  
 4801 funding pursuant to s. 1011.61(1)(c)1.b.(VI)  
 4802 ~~1011.61(1)(c)b.(VI)~~, and the home school district shall not  
 4803 report the student for funding for that course.  
 4804  
 4805 For purposes of this paragraph, the combined total of all school  
 4806 district reported FTE may not be reported as more than 1.0 full-  
 4807 time equivalent student in any given school year. The Department  
 4808 of Education shall establish procedures to enable interdistrict  
 4809 coordination for the delivery and funding of this online option.  
 4810         Reviser's note.—Amended to confirm editorial  
 4811 substitution of the reference to s.  
 4812 1011.61(1)(c)1.b.(VI) for a reference to s.  
 4813 1011.61(1)(c)b.(VI) to conform to the complete  
 4814 citation for the provision created by s. 9, ch. 2011-  
 4815 137, relating to FTE calculation for funding for  
 4816 completion of an online course in a district other

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4817 |           than the student's home district.

4818 |           Section 95. Paragraph (d) of subsection (5) of section

4819 | 1004.41, Florida Statutes, is amended to read:

4820 |           1004.41 University of Florida; J. Hillis Miller Health

4821 | Center.—

4822 |           (5)

4823 |           (d) For purposes of sovereign immunity pursuant to s.

4824 | 768.28(2), Shands Jacksonville Medical Center, Inc., Shands

4825 | Jacksonville HealthCare, Inc., and any not-for-profit subsidiary

4826 | which directly delivers health care services and whose governing

4827 | board is chaired by the President of the University of Florida

4828 | or his or her designee and is controlled by the University of

4829 | Florida Board of Trustees, which may act through the president

4830 | of the university or his or her designee and whose primary

4831 | purpose is the support of the University of Florida Board of

4832 | Trustees' health affairs mission, shall be conclusively deemed

4833 | corporations primarily acting as instrumentalities of the state.

4834 |           Reviser's note.—Amended to confirm editorial insertion

4835 |           of the word "her."

4836 |           Section 96. Subsection (5) of section 1007.28, Florida

4837 | Statutes, is amended to read:

4838 |           1007.28 Computer-assisted student advising system.—The

4839 | Department of Education, in conjunction with the Board of

4840 | Governors, shall establish and maintain a single, statewide

4841 | computer-assisted student advising system, which must be an

4842 | integral part of the process of advising, registering, and

4843 | certifying students for graduation and must be accessible to all

4844 | Florida students. The state universities and Florida College

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4845 System institutions shall interface institutional systems with  
4846 the computer-assisted advising system required by this section.  
4847 The State Board of Education and the Board of Governors shall  
4848 specify in the statewide articulation agreement required by s.  
4849 1007.23(1) the roles and responsibilities of the department, the  
4850 state universities, and the Florida College System institutions  
4851 in the design, implementation, promotion, development, and  
4852 analysis of the system. The system shall consist of a degree  
4853 audit and an articulation component that includes the following  
4854 characteristics:

4855 (5) The system must provide the admissions application for  
4856 transient students who are undergraduate students currently  
4857 enrolled and pursuing a degree at a public postsecondary  
4858 educational institution and who want to enroll in a course  
4859 listed in the Florida Higher Education Distance Learning ~~Leaning~~  
4860 Catalog which is offered by a public postsecondary educational  
4861 institution that is not the student's degree-granting  
4862 institution. This system must include the electronic transfer  
4863 and receipt of information and records for the following  
4864 functions:

- 4865 (a) Admissions and readmissions;
- 4866 (b) Financial aid; and
- 4867 (c) Transfer of credit awarded by the institution offering  
4868 the distance learning course to the transient student's degree-  
4869 granting institution.

4870 Reviser's note.—Amended to confirm editorial  
4871 substitution of the word "Learning" for the word  
4872 "Leaning" to conform to the correct name of the

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4873 catalog.

4874 Section 97. Section 1010.82, Florida Statutes, is amended

4875 to read:

4876 1010.82 Textbook Bid Trust Fund.—Chapter 99-36, Laws of

4877 Florida, re-created the Textbook Bid Trust Fund to record the

4878 revenue and disbursements of textbook bid performance deposits

4879 submitted to the Department of Education as required in s.

4880 1006.33 ~~1006.32~~.

4881 Reviser's note.—Amended to correct an apparent error

4882 and facilitate correct interpretation. Section 233.15,

4883 2001 Florida Statutes, which related to the deposit of

4884 funds required to be paid by each publisher or

4885 manufacturer of instructional materials upon

4886 submission of a bid or proposal to the Department of

4887 Education into the Textbook Bid Trust Fund, was

4888 repealed by s. 1058, ch. 2002-387, Laws of Florida.

4889 That language was recreated as s. 1006.33(3) by s.

4890 308, ch. 2002-387. Similar language was not recreated

4891 in s. 1006.32, which relates to prohibited acts with

4892 regard to instructional materials.

4893 Section 98. Paragraph (b) of subsection (3) of section

4894 1011.71, Florida Statutes, is amended to read:

4895 1011.71 District school tax.—

4896 (3)

4897 (b) Local funds generated by the additional 0.25 mills

4898 authorized in paragraph (b) and state funds provided pursuant to

4899 s. 1011.62(5) may not be included in the calculation of the

4900 Florida Education Finance Program in 2011-2012 or any subsequent

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4901 year and may not be incorporated in the calculation of any hold-  
4902 harmless or other component of the Florida Education Finance  
4903 Program in any year, except as provided in paragraph (c) ~~(d)~~.

4904 Reviser's note.—Amended to conform to the  
4905 redesignation of paragraph (d) as paragraph (c) as a  
4906 result of the repeal of former paragraph (b) by s. 36,  
4907 ch. 2011-55, Laws of Florida.

4908 Section 99. Subsection (3) of section 1011.81, Florida  
4909 Statutes, is amended to read:

4910 1011.81 Florida College System Program Fund.—

4911 (3) State funds provided for the Florida College System  
4912 ~~Community College~~ Program Fund may not be expended for the  
4913 education of state or federal inmates.

4914 Reviser's note.—Amended to confirm editorial  
4915 substitution of the words "Florida College System" for  
4916 the words "Community College" to conform to the  
4917 renaming of the fund by s. 176, ch. 2011-5, Laws of  
4918 Florida.

4919 Section 100. Paragraph (c) of subsection (4) and  
4920 subsection (5) of section 1013.33, Florida Statutes, are amended  
4921 to read:

4922 1013.33 Coordination of planning with local governing  
4923 bodies.—

4924 (4)

4925 (c) If the state land planning agency enters a final order  
4926 that finds that the interlocal agreement is inconsistent with  
4927 the requirements of subsection (3) or this subsection, the state  
4928 land planning agency shall forward it to the Administration



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4929 Commission, which may impose sanctions against the local  
4930 government pursuant to s. 163.3184(8) ~~163.3184(11)~~ and may  
4931 impose sanctions against the district school board by directing  
4932 the Department of Education to withhold an equivalent amount of  
4933 funds for school construction available pursuant to ss. 1013.65,  
4934 1013.68, 1013.70, and 1013.72.

4935 (5) If an executed interlocal agreement is not timely  
4936 submitted to the state land planning agency for review, the  
4937 state land planning agency shall, within 15 working days after  
4938 the deadline for submittal, issue to the local government and  
4939 the district school board a notice to show cause why sanctions  
4940 should not be imposed for failure to submit an executed  
4941 interlocal agreement by the deadline established by the agency.  
4942 The agency shall forward the notice and the responses to the  
4943 Administration Commission, which may enter a final order citing  
4944 the failure to comply and imposing sanctions against the local  
4945 government and district school board by directing the  
4946 appropriate agencies to withhold at least 5 percent of state  
4947 funds pursuant to s. 163.3184(8) ~~163.3184(11)~~ and by directing  
4948 the Department of Education to withhold from the district school  
4949 board at least 5 percent of funds for school construction  
4950 available pursuant to ss. 1013.65, 1013.68, 1013.70, and  
4951 1013.72.

4952 Reviser's note.—Amended to conform to the  
4953 redesignation of s. 163.3184(11) as s. 163.3184(8) by  
4954 s. 17, ch. 2011-139, Laws of Florida.

4955 Section 101. Subsection (6) of section 1013.36, Florida  
4956 Statutes, is amended to read:

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4957 1013.36 Site planning and selection.—  
 4958 (6) If the school board and local government have entered  
 4959 into an interlocal agreement pursuant to s. 1013.33(2) and  
 4960 ~~either s. 163.3177(6)(h)4. or~~ s. 163.31777 or have developed a  
 4961 process to ensure consistency between the local government  
 4962 comprehensive plan and the school district educational  
 4963 facilities plan, site planning and selection must be consistent  
 4964 with the interlocal agreements and the plans.

4965 Reviser's note.—Amended to conform to the repeal of s.  
 4966 163.3177(6)(h)4. by s. 12, ch. 2011-139, Laws of  
 4967 Florida.

4968 Section 102. Paragraph (a) of subsection (1) of section  
 4969 1013.51, Florida Statutes, is amended to read:

4970 1013.51 Expenditures authorized for certain  
 4971 infrastructure.—

4972 (1)(a) Subject to exemption from the assessment of fees  
 4973 pursuant to s. 1013.371(1) ~~1013.37(1)~~, education boards, boards  
 4974 of county commissioners, municipal boards, and other agencies  
 4975 and boards of the state may expend funds, separately or  
 4976 collectively, by contract or agreement, for the placement,  
 4977 paving, or maintaining of any road, byway, or sidewalk if the  
 4978 road, byway, or sidewalk is contiguous to or runs through the  
 4979 property of any educational plant or for the maintenance or  
 4980 improvement of the property of any educational plant or of any  
 4981 facility on such property. Expenditures may also be made for  
 4982 sanitary sewer, water, stormwater, and utility improvements  
 4983 upon, or contiguous to, and for the installation, operation, and  
 4984 maintenance of traffic control and safety devices upon, or

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4985 contiguous to, any existing or proposed educational plant.  
4986 Reviser's note.—Amended to correct an apparent error  
4987 and facilitate correct interpretation. There is no  
4988 reference to fees in s. 1013.37(1); it relates to the  
4989 adoption and standards of a uniform statewide building  
4990 code for the planning and construction of public  
4991 educational facilities. Section 1013.371(1) provides  
4992 that public and ancillary plans constructed by a board  
4993 are exempt from the assessment of certain fees.  
4994 Section 103. This act shall take effect on the 60th day  
4995 after adjournment sine die of the session of the Legislature in  
4996 which enacted.