By Senator Thrasher

8-00866-12 2012896__

A reviser's bill to be entitled

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that have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and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

correct interpretation; and confirming the restoration of provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process; providing an effective date.

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

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

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

(7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

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

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

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

24.113 Minority participation.—

(1) It is the intent of the Legislature that the department encourage participation by minority business enterprises as defined in s. 288.703. Accordingly, 15 percent of the retailers shall be minority business enterprises as defined in s.

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

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

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

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

Reviser's note.—Amended to conform to the amendment of s. 768.81

by s. 1, ch. 2011-215, Laws of Florida. Former paragraph (4)(a) defining "negligence cases" was stricken by that law section, and a new paragraph (1)(c) defining "negligence action" was added.

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

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

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

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

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

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

106.011 Definitions.—As used in this chapter, the following terms have the following meanings unless the context clearly

indicates otherwise:

(3) "Contribution" means:

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

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

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

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

Notwithstanding the foregoing meanings of "contribution," the term may not be construed to include services, including, but not limited to, legal and accounting services, provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or editorial endorsements.

Reviser's note.—Amended to confirm editorial insertion of the

word "or" to improve clarity.

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

106.07 Reports; certification and filing.—

(8)

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

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

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

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

(7)

(c) The treasurer of an electioneering communications

organization may appeal or dispute the fine, based upon, but not limited to, unusual circumstances surrounding the failure to file on the designated due date, and may request and shall be entitled to a hearing before the Florida Elections Commission, which shall have the authority to waive the fine in whole or in part. The Florida Elections Commission must consider the mitigating and aggravating circumstances contained in s. 106.265(2) ~~106.265(1)~~ when determining the amount of a fine, if any, to be waived. Any such request shall be made within 20 days after receipt of the notice of payment due. In such case, the treasurer of the electioneering communications organization shall, within the 20-day period, notify the filing officer in writing of his or her intention to bring the matter before the commission.

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

Section 8. Paragraph (b) of subsection (3) of section 106.08, Florida Statutes, is amended to read:

106.08 Contributions; limitations on.—

(3)

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

on behalf of the candidate.

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

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

106.143 Political advertisements circulated prior to election; requirements.—

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

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

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

120.745 Legislative review of agency rules in effect on or before November 16, 2010.—

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

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

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

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

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

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

(i) Column 9: Section 120.541(2)(a) impacts. Entries should be "NA" if Column 8 is "N" or, if Column 6 is "Y," "NP" for not probable, based on the response required in subparagraph (2)(g)3. ~~(2)(f)3.~~, or "1" or "2," reflecting the group number assigned by the division required in paragraph (2)(h).

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

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

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

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

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

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

121.0515 Special Risk Class.—

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

(k) The member must have already qualified for and be actively participating in special risk membership under paragraph (a), paragraph (b), or paragraph (c), must have

suffered a qualifying injury as defined in this paragraph, must not be receiving disability retirement benefits as provided in s. 121.091(4), and must satisfy the requirements of this paragraph.

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

a. That this physical loss or loss of use is total and permanent, except in the event that the loss of use is due to a physical injury to the member's brain, in which event the loss of use is permanent with at least 75 percent loss of motor function with respect to each arm or leg affected.

b. That this physical loss or loss of use renders the member physically unable to perform the essential job functions of his or her special risk position.

c. That, notwithstanding this physical loss or loss of use, the individual is able to perform the essential job functions required by the member's new position, as provided in subparagraph 3.

d. That use of artificial limbs is either not possible or does not alter the member's ability to perform the essential job

functions of the member's position.

e. That the physical loss or loss of use is a direct result of a physical injury and not a result of any mental, psychological, or emotional injury.

2. For the purposes of this paragraph, "qualifying injury" means an injury sustained in the line of duty, as certified by the member's employing agency, by a special risk member that does not result in total and permanent disability as defined in s. 121.091(4)(b). An injury is a qualifying injury if the injury is a physical injury to the member's physical body resulting in a physical loss, or loss of use, of at least two of the following: left arm, right arm, left leg, or right leg. Notwithstanding any other provision of this section, an injury that would otherwise qualify as a qualifying injury is not considered a qualifying injury if and when the member ceases employment with the employer for whom he or she was providing special risk services on the date the injury occurred.

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

4. This paragraph does not grant or create additional rights for any individual to continued employment or to be hired or rehired by his or her employer that are not already provided within the Florida Statutes, the State Constitution, the

Americans with Disabilities Act, if applicable, or any other applicable state or federal law.

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

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

121.4501 Florida Retirement System Investment Plan.—

(15) STATEMENT OF FIDUCIARY STANDARDS AND RESPONSIBILITIES.—

(c) Subparagraph (8)(b)2. and paragraph (b) incorporate the federal law concept of participant control, established by regulations of the United States Department of Labor under s. 404(c) of the Employee Retirement Income Security Act of 1974 (ERISA). The purpose of this paragraph is to assist employers and the state board in maintaining compliance with s. 404(c), while avoiding unnecessary costs and eroding member benefits under the investment plan. Pursuant to 29 C.F.R. s. 2550.404c-1(b)(2)(i)(B)(1)(viii), the state board or its designated agents shall deliver to members of the investment plan a copy of the prospectus most recently provided to the plan, and, pursuant to 29 C.F.R. s. 2550.404c-1(b)(2)(i)(B)(2)(ii), shall provide such members an opportunity to obtain this information, except that:

1. The requirement to deliver a prospectus shall be satisfied by delivery of a fund profile or summary profile that contains the information that would be included in a summary prospectus as described by Rule 498 under the Securities Act of 1933, 17 C.F.R. s. 230.498. If the transaction fees, expense information or other information provided by a mutual fund in

the prospectus does not reflect terms negotiated by the state board or its designated agents, the requirement is satisfied by delivery of a separate document described by Rule 498 substituting accurate information; and

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

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

b. Each member is provided timely and adequate notice of the documents that are to be delivered, and their significance ~~thereof~~, and of the member's right to obtain a paper copy of such documents free of charge;

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

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

Reviser's note.—Amended to improve clarity.

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

163.06 Miami River Commission.—

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

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

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

Section 15. Paragraph (b) of subsection (8) of section 163.3184, Florida Statutes, is amended to read:

163.3184 Process for adoption of comprehensive plan or plan amendment.—

(8) ADMINISTRATION COMMISSION.—

(b) The commission may specify the sanctions provided in subparagraphs 1. and 2. to which the local government will be subject if it elects to make the amendment effective notwithstanding the determination of noncompliance.

1. The commission may direct state agencies not to provide funds to increase the capacity of roads, bridges, or water and sewer systems within the boundaries of those local governmental entities which have comprehensive plans or plan elements that are determined not to be in compliance. The commission order may also specify that the local government is not eligible for grants administered under the following programs:

a. The Florida Small Cities Community Development Block Grant Program, as authorized by ss. 290.0401-290.048 ~~290.0401-290.049~~.

b. The Florida Recreation Development Assistance Program,

as authorized by chapter 375.

c. Revenue sharing pursuant to ss. 206.60, 210.20, and 218.61 and chapter 212, to the extent not pledged to pay back bonds.

2. If the local government is one which is required to include a coastal management element in its comprehensive plan pursuant to s. 163.3177(6)(g), the commission order may also specify that the local government is not eligible for funding pursuant to s. 161.091. The commission order may also specify that the fact that the coastal management element has been determined to be not in compliance shall be a consideration when the department considers permits under s. 161.053 and when the Board of Trustees of the Internal Improvement Trust Fund considers whether to sell, convey any interest in, or lease any sovereignty lands or submerged lands until the element is brought into compliance.

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

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

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

163.3213 Administrative review of land development regulations.—

(6) If the administrative law judge in his or her order finds the land development regulation to be inconsistent with the local comprehensive plan, the order will be submitted to the Administration Commission. An appeal pursuant to s. 120.68 may not be taken until the Administration Commission acts pursuant to this subsection. The Administration Commission shall hold a hearing no earlier than 30 days or later than 60 days after the administrative law judge renders his or her final order. The sole issue before the Administration Commission shall be the extent to which any of the sanctions described in s. 163.3184(8)(a) or (b)1. or 2. ~~163.3184(11)(a) or (b)~~ shall be applicable to the local government whose land development regulation has been found to be inconsistent with its comprehensive plan. If a land development regulation is not challenged within 12 months, it shall be deemed to be consistent with the adopted local plan.

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

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

163.3245 Sector plans.—

(9) Any owner of property within the planning area of a proposed long-term master plan may withdraw his or her consent to the master plan at any time prior to local government adoption, and the local government shall exclude such parcels from the adopted master plan. Thereafter, the long-term master plan, any detailed specific area plan, and the exemption from development-of-regional-impact review under this section do not

apply to the subject parcels. After adoption of a long-term master plan, an owner may withdraw his or her property from the master plan only with the approval of the local government by plan amendment adopted and reviewed pursuant to s. 163.3184.

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

163.3248 Rural land stewardship areas.—

(6) A receiving area may be designated only pursuant to procedures established in the local government's land development regulations. If receiving area designation requires the approval of the ~~county~~ board of county commissioners, such approval shall be by resolution with a simple majority vote. Before the commencement of development within a stewardship receiving area, a listed species survey must be performed for the area proposed for development. If listed species occur on the receiving area development site, the applicant must coordinate with each appropriate local, state, or federal agency to determine if adequate provisions have been made to protect those species in accordance with applicable regulations. In determining the adequacy of provisions for the protection of listed species and their habitats, the rural land stewardship area shall be considered as a whole, and the potential impacts and protective measures taken within areas to be developed as receiving areas shall be considered in conjunction with and

compensated by lands set aside and protective measures taken within the designated sending areas.

Reviser's note.—Amended to confirm editorial deletion of the word "county" to eliminate unnecessary repetition.

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

189.421 Failure of district to disclose financial reports.—

(1)

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

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

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

3. If the written response refers to the reports or

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

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

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

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

(15) "New business" means:

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

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

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

2. A business or organization establishing 25 or more new jobs to employ 25 or more full-time employees in this state, the sales factor of which, as defined by s. 220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each

year the exemption is claimed; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

215.198 Operating ~~Operations~~ Trust Fund.—

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

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

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

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

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

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

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

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

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

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

218.39 Annual financial audit reports.—

(8) The Auditor General shall notify the Legislative Auditing Committee of any audit report prepared pursuant to this section which indicates that an audited entity has failed to take full corrective action in response to a recommendation that was included in the two preceding financial audit reports.

(c) If the committee determines that an audited entity has failed to take full corrective action for which there is no justifiable reason for not taking such action, or has failed to

comply with committee requests made pursuant to this section, the committee may proceed in accordance with s. 11.40(2) ~~11.40(5)~~.

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

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

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

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

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

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

(1) There is created within the department the Florida Greenways and Trails Council which shall advise the department in the execution of the department's powers and duties under

this chapter. The council shall be composed of 20 members, consisting of:

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

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

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

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

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

1. The Secretary of Environmental Protection or a designee.

2. The executive director of the Fish and Wildlife Conservation Commission or a designee.

3. The Secretary of Transportation or a designee.

4. The Director of the Division of Forestry of the Department of Agriculture and Consumer Services or a designee.

5. The director of the Division of Historical Resources of the Department of State or a designee.

6. A representative of the water management districts. Membership on the council shall rotate among the five districts. The districts shall determine the order of rotation.

7. A representative of a federal land management agency. The Secretary of Environmental Protection shall identify the appropriate federal agency and request designation of a representative from the agency to serve on the council.

8. A representative of the regional planning councils to be appointed by the Secretary of Environmental Protection. Membership on the council shall rotate among the seven regional planning councils. The regional planning councils shall determine the order of rotation.

9. A representative of local governments to be appointed by the Secretary of Environmental Protection. Membership shall alternate between a county representative and a municipal representative.

Reviser's note.—Amended to redesignate subunits to conform to Florida Statutes style. The flush left language between what was designated as paragraphs (c) and (d) only goes to material in the first three paragraphs.

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

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

(3) To establish a system of coordinated, uniform procurement policies, procedures, and practices to be used by

agencies in acquiring commodities and contractual services, which shall include, but not be limited to:

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

(4)

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

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

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

287.0947 Florida Advisory Council on Small and Minority Business Development; creation; membership; duties.—

(1) The Secretary of Management Services may create the Florida Advisory Council on Small and Minority Business Development with the purpose of advising and assisting the secretary in carrying out the secretary's duties with respect to minority businesses and economic and business development. It is the intent of the Legislature that the membership of such council include practitioners, laypersons, financiers, and others with business development experience who can provide

invaluable insight and expertise for this state in the diversification of its markets and networking of business opportunities. The council shall initially consist of 19 persons, each of whom is or has been actively engaged in small and minority business development, either in private industry, in governmental service, or as a scholar of recognized achievement in the study of such matters. Initially, the council shall consist of members representing all regions of the state and shall include at least one member from each group identified within the definition of "minority person" in s. 288.703(4) ~~288.703(3)~~, considering also gender and nationality subgroups, and shall consist of the following:

(a) Four members consisting of representatives of local and federal small and minority business assistance programs or community development programs.

(b) Eight members composed of representatives of the minority private business sector, including certified minority business enterprises and minority supplier development councils, among whom at least two shall be women and at least four shall be minority persons.

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

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

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

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

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

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

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

288.106 Tax refund program for qualified target industry businesses.—

(4) APPLICATION AND APPROVAL PROCESS.—

(f) Effective July 1, 2011, notwithstanding paragraph (2)(j) ~~(2)(k)~~, the office may reduce the local financial support requirements of this section by one-half for a qualified target industry business located in Bay County, Escambia County, Franklin County, Gadsden County, Gulf County, Jefferson County, Leon County, Okaloosa County, Santa Rosa County, Wakulla County, or Walton County, if the office determines that such reduction of the local financial support requirements is in the best interest of the state and facilitates economic development, growth, or new employment opportunities in such county. This paragraph expires June 30, 2014.

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

Section 31. Paragraph (e) of subsection (2) of section

288.1089, Florida Statutes, is reenacted and amended to read:

288.1089 Innovation Incentive Program.—

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

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

Reviser's note.—Section 155, ch. 2011-142, purported to amend paragraphs (2)(b), (d), (e), (f), and (o), but did not publish paragraph (e). To conform to the deletion of former paragraph (2)(d) by s. 155, ch. 2011-142, Laws of Florida, paragraph (2)(e) was redesignated as paragraph (2)(d) by the editors. Absent affirmative evidence of legislative intent to repeal it, the paragraph is reenacted and amended as paragraph (2)(d), to confirm the omission was not intended.

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

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

(6) ANNUAL AUDIT.—The corporation shall provide for an annual financial audit in accordance with s. 215.981. The annual audit report shall be submitted to the Auditor General; the Office of Program Policy Analysis and Government Accountability; Enterprise Florida, Inc.; and the department for review. The Office of Program Policy Analysis and Government Accountability; Enterprise Florida, Inc.; the department; and the Auditor General have the authority to require and receive from the corporation or from its independent auditor any detail or supplemental data relative to the operation of the corporation.

The department shall annually certify whether the corporation is operating in a manner and achieving the objectives that are consistent with the policies and goals of Enterprise Florida, Inc., and its long-range marketing plan. The identity of a donor or prospective donor to the corporation who desires to remain anonymous and all information identifying such donor or prospective donor are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such anonymity shall be maintained in the auditor's report.

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

Section 33. Subsection (2) of section 288.706, Florida Statutes, is amended to read:

288.706 Florida Minority Business Loan Mobilization Program.—

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

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

of Florida.

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

288.7102 Black Business Loan Program.—

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

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

Reviser's note.—Amended to confirm editorial substitution of the word "accountant" for the word "account" to conform to context.

Section 35. Subsection (3) of section 288.980, Florida Statutes, is reenacted to read:

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

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

(a) The Florida Defense Planning Grant Program, through

which funds shall be used to analyze the extent to which the state is dependent on defense dollars and defense infrastructure and prepare alternative economic development strategies. The state shall work in conjunction with defense-dependent communities in developing strategies and approaches that will help communities make the transition from a defense economy to a nondefense economy. Grant awards may not exceed $250,000 per applicant and shall be available on a competitive basis.

(b) The Florida Defense Implementation Grant Program, through which funds shall be made available to defense-dependent communities to implement the diversification strategies developed pursuant to paragraph (a). Eligible applicants include defense-dependent counties and cities, and local economic development councils located within such communities. Grant awards may not exceed $100,000 per applicant and shall be available on a competitive basis. Awards shall be matched on a one-to-one basis.

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

Applications for grants under this subsection must include a coordinated program of work or plan of action delineating how the eligible project will be administered and accomplished, which must include a plan for ensuring close cooperation between

civilian and military authorities in the conduct of the funded activities and a plan for public involvement.

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

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

290.0401 Florida Small Cities Community Development Block Grant Program Act; short title.—Sections 290.0401-290.048 ~~290.0401-290.049~~ may be cited as the "Florida Small Cities Community Development Block Grant Program Act."

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

Section 37. Section 290.0411, Florida Statutes, is amended to read:

290.0411 Legislative intent and purpose of ss. 290.0401-290.048 ~~290.0401-290.049~~.—It is the intent of the Legislature to provide the necessary means to develop, preserve, redevelop, and revitalize Florida communities exhibiting signs of decline or distress by enabling local governments to undertake the necessary community development programs. The overall objective is to create viable communities by eliminating slum and blight, fortifying communities in urgent need, providing decent housing and suitable living environments, and expanding economic opportunities, principally for persons of low or moderate

income. The purpose of ss. 290.0401-290.048 ~~290.0401-290.049~~ is to assist local governments in carrying out effective community development and project planning and design activities to arrest and reverse community decline and restore community vitality. Community development and project planning activities to maintain viable communities, revitalize existing communities, expand economic development and employment opportunities, and improve housing conditions and expand housing opportunities, providing direct benefit to persons of low or moderate income, are the primary purposes of ss. 290.0401-290.048 ~~290.0401-290.049~~. The Legislature, therefore, declares that the development, redevelopment, preservation, and revitalization of communities in this state and all the purposes of ss. 290.0401-290.048 ~~290.0401-290.049~~ are public purposes for which public money may be borrowed, expended, loaned, pledged to guarantee loans, and granted.

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

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

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

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

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

(3) "Department" means the Department of Economic Opportunity.

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

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

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

(7) "Service area" means the total geographic area to be directly or indirectly served by a community development block grant project where at least 51 percent of the residents are

low-income and moderate-income persons.

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

Section 39. Subsection (1) of section 290.044, Florida Statutes, is amended to read:

290.044 Florida Small Cities Community Development Block Grant Program Fund; administration; distribution.—

(1) The Florida Small Cities Community Development Block Grant Program Fund is created. All revenue designated for deposit in such fund shall be deposited by the appropriate agency. The department shall administer this fund as a grant and loan guarantee program for carrying out the purposes of ss. 290.0401-290.048 ~~290.0401-290.049~~.

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

Section 40. Subsections (1), (3), and (4) of section 290.048, Florida Statutes, are amended to read:

290.048 General powers of department under ss. 290.0401-290.048 ~~290.0401-290.049~~.—The department has all the powers necessary or appropriate to carry out the purposes and provisions of the program, including the power to:

(1) Make contracts and agreements with the Federal Government; other agencies of the state; any other public agency; or any other public person, association, corporation, local government, or entity in exercising its powers and

performing its duties under ss. 290.0401-290.048 ~~290.0401-290.049~~.

(3) Adopt and enforce rules not inconsistent with ss. 290.0401-290.048 ~~290.0401-290.049~~ for the administration of the fund.

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

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

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

311.09 Florida Seaport Transportation and Economic Development Council.—

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

Reviser's note.—Amended to conform to the deletion of the

secretary of the Department of Community Affairs from the list of members by s. 227, ch. 2011-142, Laws of Florida, which changed the number of members on the council.

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

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

(1)

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

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

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

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

(2)

(c) Except as provided in 49 C.F.R. s. 395.1, a person who operates a commercial motor vehicle solely in intrastate

commerce not transporting any hazardous material in amounts that require placarding pursuant to 49 C.F.R. part 172 may not drive after having been on duty more than 70 hours in any period of 7 consecutive days or more than 80 hours in any period of 8 consecutive days if the motor carrier operates every day of the week. Thirty-four consecutive hours off duty shall constitute the end of any such period of 7 or 8 consecutive days. This weekly limit does not apply to a person who operates a commercial motor vehicle solely within this state while transporting, during harvest periods, any unprocessed agricultural products or unprocessed food or fiber that is subject to seasonal harvesting from place of harvest to the first place of processing or storage or from place of harvest directly to market or while transporting livestock, livestock feed, or farm supplies directly related to growing or harvesting agricultural products. Upon request of the Department of Highway Safety and Motor Vehicles ~~Transportation~~, motor carriers shall furnish time records or other written verification to that department so that the Department of Highway Safety and Motor Vehicles ~~Transportation~~ can determine compliance with this subsection. These time records must be furnished to the Department of Highway Safety and Motor Vehicles ~~Transportation~~ within 2 days after receipt of that department's request. Falsification of such information is subject to a civil penalty not to exceed $100. The provisions of this paragraph do not apply to drivers of utility service vehicles as defined in 49 C.F.R. s. 395.2.

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

Transportation to the Department of Highway Safety and Motor Vehicles by ch. 2011-66, Laws of Florida.

Section 44. Subsection (13) of section 373.414, Florida Statutes, is amended to read:

373.414 Additional criteria for activities in surface waters and wetlands.—

(13) Any declaratory statement issued by the department under s. 403.914, 1984 Supplement to the Florida Statutes 1983, as amended, or pursuant to rules adopted thereunder, or by a water management district under s. 373.421, in response to a petition filed on or before June 1, 1994, shall continue to be valid for the duration of such declaratory statement. Any such petition pending on June 1, 1994, shall be exempt from the methodology ratified in s. 373.4211, but the rules of the department or the relevant water management district, as applicable, in effect prior to the effective date of s. 373.4211, shall apply. Until May 1, 1998, activities within the boundaries of an area subject to a petition pending on June 1, 1994, and prior to final agency action on such petition, shall be reviewed under the rules adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, and this part, in existence prior to the effective date of the rules adopted under subsection (9), unless the applicant elects to have such activities reviewed under the rules adopted under this part, as amended in accordance with subsection (9). In the event that a jurisdictional declaratory statement pursuant to the vegetative index in effect prior to the effective date of chapter 84-79, Laws of Florida, has been obtained and is valid prior to the effective date of the rules

adopted under subsection (9) or July 1, 1994, whichever is later, and the affected lands are part of a project for which a master development order has been issued pursuant to s. 380.06(21), the declaratory statement shall remain valid for the duration of the buildout period of the project. Any jurisdictional determination validated by the department pursuant to rule 17-301.400(8), Florida Administrative Code, as it existed in rule 17-4.022, Florida Administrative Code, on April 1, 1985, shall remain in effect for a period of 5 years following the effective date of this act if proof of such validation is submitted to the department prior to January 1, 1995. In the event that a jurisdictional determination has been revalidated by the department pursuant to this subsection and the affected lands are part of a project for which a development order has been issued pursuant to s. 380.06(15), a final development order to which s. 163.3167(5) ~~163.3167(8)~~ applies has been issued, or a vested rights determination has been issued pursuant to s. 380.06(20), the jurisdictional determination shall remain valid until the completion of the project, provided proof of such validation and documentation establishing that the project meets the requirements of this sentence are submitted to the department prior to January 1, 1995. Activities proposed within the boundaries of a valid declaratory statement issued pursuant to a petition submitted to either the department or the relevant water management district on or before June 1, 1994, or a revalidated jurisdictional determination, prior to its expiration shall continue thereafter to be exempt from the methodology ratified in s. 373.4211 and to be reviewed under the rules adopted pursuant to ss. 403.91-

403.929, 1984 Supplement to the Florida Statutes 1983, as amended, and this part, in existence prior to the effective date of the rules adopted under subsection (9), unless the applicant elects to have such activities reviewed under the rules adopted under this part, as amended in accordance with subsection (9).

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

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

376.3072 Florida Petroleum Liability and Restoration Insurance Program.—

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

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

2. A site which had a discharge reported prior to January 1, 1989, for which notice was given pursuant to s. 376.3071(9) or (12), and which is ineligible for the third-party liability insurance program solely due to that discharge shall be eligible for participation in the restoration program for any incident occurring on or after January 1, 1989, in accordance with

subsection (3). Restoration funding for an eligible contaminated site will be provided without participation in the third-party liability insurance program until the site is restored as required by the department or until the department determines that the site does not require restoration.

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

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

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

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

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

e. The owner or operator, if required and if it has not already done so, applies for third-party liability coverage for

the facility within 30 days of receipt of an eligibility order issued by the department pursuant to this provision.

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

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

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

(II) Automatic tank gauging systems; or

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

b. For pressurized integral piping systems, the owner or operator must use:

(I) An automatic in-line leak detector with flow restriction meeting the requirements of department rules used in conjunction with an annual tightness or pressure test; or

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

flow shut-off meeting the requirements of department rules.

c. For suction integral piping systems, the owner or operator must use:

(I) A single check valve installed directly below the suction pump, provided there are no other valves between the dispenser and the tank; or

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

d. Owners of facilities with existing contamination that install internal release detection systems in accordance with sub-subparagraph a. shall permanently close their external groundwater and vapor monitoring wells in accordance with department rules by December 31, 1998. Upon installation of the internal release detection system, these wells shall be secured and taken out of service until permanent closure.

e. Facilities with vapor levels of contamination meeting the requirements of or below the concentrations specified in the performance standards for release detection methods specified in department rules may continue to use vapor monitoring wells for release detection.

f. The department may approve other methods of release detection for storage tanks and integral piping which have at least the same capability to detect a new release as the methods specified in this subparagraph.

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

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

376.86 Brownfield Areas Loan Guarantee Program.—

(2) The council shall consist of the secretary of the Department of Environmental Protection or the secretary's designee, the State Surgeon General or the State Surgeon General's designee, the executive director of the State Board of Administration or the executive director's designee, the executive director of the Florida Housing Finance Corporation or the executive director's designee, and the executive director of the Department of Economic Opportunity or the director's designee. The executive director of the Department of Economic Opportunity or the director's designee shall serve as chair of the council. Staff services for activities of the council shall be provided as needed by the member agencies.

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

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

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

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

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

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

3. Taken directly to court for an immediate appearance.

(h) The purpose of the enforcement practices set forth in paragraph (g) is to ensure compliance with the terms of a

wildlife citation by the cited person who, if permitted to continue on his or her way after receiving the citation, could return to his or her home state and disregard his or her duty under the terms of the citation.

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

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

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

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

(a) Promote compliance with the statutes, laws, ordinances, regulations, and administrative rules relating to the management of wildlife resources in their respective states.

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

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

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

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

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

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

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

(3) The purpose of this compact is to:

(a) Provide a means through which participating states may join in a reciprocal program to effectuate the policies enumerated in subsection (2) in a uniform and orderly manner.

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

ARTICLE II

Definitions

As used in this compact, the term:

(1) “Citation” means any summons, complaint, summons and

complaint, ticket, penalty assessment, or other official document issued to a person by a wildlife officer or other peace officer for a wildlife violation which contains an order requiring the person to respond.

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

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

(4) "Conviction" means a conviction that results in suspension or revocation of a license, including any court conviction, for any offense related to the preservation, protection, management, or restoration of wildlife which is prohibited by state statute, law, regulation, ordinance, or administrative rule. The term also includes the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, the payment of a penalty assessment, a plea of nolo contendere, or the imposition of a deferred or suspended sentence by the court.

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

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

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

(8) "License" means any license, permit, or other public

document that conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, law, regulation, ordinance, or administrative rule of a participating state; any privilege to obtain such license, permit, or other public document; or any statutory exemption from the requirement to obtain such license, permit, or other public document. However, when applied to a license, permit, or privilege issued or granted by the State of Florida, only a license or permit issued under s. 379.354, or a privilege granted under s. 379.353, shall be considered a license.

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

(10) "Participating state" means any state that enacts legislation to become a member of this wildlife compact.

(11) "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that such person will comply with the terms of the citation.

(12) "State" means any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Provinces of Canada, and other countries.

(13) "Suspension" means any revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by any license.

(14) "Terms of the citation" means those conditions and options expressly stated upon the citation.

(15) "Wildlife" means all species of animals, including, but not limited to, mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, law, regulation, ordinance, or administrative rule in a participating state. Species included in the definition of "wildlife" vary from state to state and the determination of whether a species is "wildlife" for the purposes of this compact shall be based on local law.

(16) "Wildlife law" means any statute, law, regulation, ordinance, or administrative rule developed and enacted for the management of wildlife resources and the uses thereof.

(17) "Wildlife officer" means any individual authorized by a participating state to issue a citation for a wildlife violation.

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

ARTICLE III

Procedures for Issuing State

(1) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any person whose primary residence is in a participating state in the same manner as though the person were a resident of the issuing state and shall not require such person to post collateral to secure appearance, subject to the exceptions noted in subsection (2),

if the officer receives the recognizance of such person that he will comply with the terms of the citation.

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

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

(4) Upon receipt of the report of conviction or noncompliance pursuant to subsection (3), the licensing authority of the issuing state shall transmit to the licensing authority of the home state of the violator the information in the form and content prescribed in the compact manual.

ARTICLE IV

Procedure for Home State

(1) Upon receipt of a report from the licensing authority of the issuing state reporting the failure of a violator to comply with the terms of a citation, the licensing authority of the home state shall notify the violator and shall initiate a suspension action in accordance with the home state’s suspension procedures and shall suspend the violator’s license privileges

until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. Due-process safeguards shall be accorded.

(2) Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall enter such conviction in its records and shall treat such conviction as though it occurred in the home state for purposes of the suspension of license privileges.

(3) The licensing authority of the home state shall maintain a record of actions taken and shall make reports to issuing states as provided in the compact manual.

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

(2) Each member of the board of compact administrators shall be entitled to one vote. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of the board’s votes are cast in favor thereof.

Action by the board shall be only at a meeting at which a majority of the participating states are represented.

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

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

(5) The board may accept for any of its purposes and functions under this compact any and all donations and grants of moneys, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any governmental agency, and may receive, use, and dispose of the same.

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

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

ARTICLE VIII

Entry into Compact and Withdrawal

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

(2)

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

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

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

2. An agreement of compliance with the terms and provisions of this compact; and

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

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

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

ARTICLE IX

Amendments to the Compact

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

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

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 section 381.026, Florida Statutes, are amended to read:

381.026 Florida Patient's Bill of Rights and Responsibilities.—

(4) RIGHTS OF PATIENTS.—Each health care facility or provider shall observe the following standards:

(b) Information.—

1. A patient has the right to know the name, function, and qualifications of each health care provider who is providing medical services to the patient. A patient may request such information from his or her responsible provider or the health care facility in which he or she is receiving medical services.

2. A patient in a health care facility has the right to know what patient support services are available in the facility.

3. A patient has the right to be given by his or her health care provider information concerning diagnosis, planned course of treatment, alternatives, risks, and prognosis, unless it is medically inadvisable or impossible to give this information to the patient, in which case the information must be given to the patient's guardian or a person designated as the patient's representative. A patient has the right to refuse this

information.

4. A patient has the right to refuse any treatment based on information required by this paragraph, except as otherwise provided by law. The responsible provider shall document any such refusal.

5. A patient in a health care facility has the right to know what facility rules and regulations apply to patient conduct.

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

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

8. A health care provider or health care facility shall respect a patient's right to privacy and should refrain from making a written inquiry or asking questions concerning the ownership of a firearm or ammunition by the patient or by a family member of the patient, or the presence of a firearm in a private home or other domicile of the patient or a family member of the patient. Notwithstanding this provision, a health care provider or health care facility that in good faith believes that this information is relevant to the patient's medical care or safety, or safety <u>of</u> ~~or~~ others, may make such a verbal or written inquiry.

9. A patient may decline to answer or provide any information regarding ownership of a firearm by the patient or a family member of the patient, or the presence of a firearm in the domicile of the patient or a family member of the patient. A patient's decision not to answer a question relating to the presence or ownership of a firearm does not alter existing law regarding a physician's authorization to choose his or her patients.

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

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

(c) Financial information and disclosure.—

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

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

3. A primary care provider may publish a schedule of charges for the medical services that the provider offers to patients. The schedule must include the prices charged to an uninsured person paying for such services by cash, check, credit card, or debit card. The schedule must be posted in a conspicuous place in the reception area of the provider's office and must include, but is not limited to, the 50 services most frequently provided by the primary care provider. The schedule may group services by three price levels, listing services in each price level. The posting must be at least 15 square feet in size. A primary care provider who publishes and maintains a schedule of charges for medical services is exempt from the license fee requirements for a single period of renewal of a professional license under chapter 456 for that licensure term and is exempt from the continuing education requirements of chapter 456 and the rules implementing those requirements for a single 2-year period.

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

5. A health care provider or a health care facility shall, upon request, furnish a person, before the provision of medical services, a reasonable estimate of charges for such services. The health care provider or the health care facility shall

provide an uninsured person, before the provision of a planned nonemergency medical service, a reasonable estimate of charges for such service and information regarding the provider's or facility's discount or charity policies for which the uninsured person may be eligible. Such estimates by a primary care provider must be consistent with the schedule posted under subparagraph 3. Estimates shall, to the extent possible, be written in ~~a~~ language comprehensible to an ordinary layperson. Such reasonable estimate does not preclude the health care provider or health care facility from exceeding the estimate or making additional charges based on changes in the patient's condition or treatment needs.

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

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

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

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

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

(17) The agency shall establish and maintain an information system to make encounter data, financial data, and other measures of plan performance <u>available</u> to the public and any interested party.

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

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

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

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

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

409.966 Eligible plans; selection.—

(3) QUALITY SELECTION CRITERIA.—

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

given to plans that:

1. Have signed contracts with primary and specialty physicians in sufficient numbers to meet the specific standards established pursuant to s. 409.967(2)(c) ~~409.967(2)(b)~~.

2. Have well-defined programs for recognizing patient-centered medical homes and providing for increased compensation for recognized medical homes, as defined by the plan.

3. Are organizations that are based in and perform operational functions in this state, in-house or through contractual arrangements, by staff located in this state. Using a tiered approach, the highest number of points shall be awarded to a plan that has all or substantially all of its operational functions performed in the state. The second highest number of points shall be awarded to a plan that has a majority of its operational functions performed in the state. The agency may establish a third tier; however, preference points may not be awarded to plans that perform only community outreach, medical director functions, and state administrative functions in the state. For purposes of this subparagraph, operational functions include claims processing, member services, provider relations, utilization and prior authorization, case management, disease and quality functions, and finance and administration. For purposes of this subparagraph, the term "based in this state" means that the entity's principal office is in this state and the plan is not a subsidiary, directly or indirectly through one or more subsidiaries of, or a joint venture with, any other entity whose principal office is not located in the state.

4. Have contracts or other arrangements for cancer disease management programs that have a proven record of clinical

efficiencies and cost savings.

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

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

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

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

Section 51. Subsection (1) of section 409.972, Florida

Statutes, is amended to read:

409.972 Mandatory and voluntary enrollment.—

(1) Persons eligible for the program known as "medically needy" pursuant to s. 409.904(2) ~~409.904(2)(a)~~ shall enroll in managed care plans. Medically needy recipients shall meet the share of the cost by paying the plan premium, up to the share of the cost amount, contingent upon federal approval.

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

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

409.973 Benefits.—

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

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

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

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

409.974 Eligible plans.—

(2) QUALITY SELECTION CRITERIA.—In addition to the criteria established in s. 409.966, the agency shall consider evidence that an eligible plan has written agreements or signed contracts or has made substantial progress in establishing relationships

with providers before the plan submitting a response. The agency shall evaluate and give special weight to evidence of signed contracts with essential providers as defined by the agency pursuant to s. 409.975(1) ~~409.975(2)~~. The agency shall exercise a preference for plans with a provider network in which over 10 percent of the providers use electronic health records, as defined in s. 408.051. When all other factors are equal, the agency shall consider whether the organization has a contract to provide managed long-term care services in the same region and shall exercise a preference for such plans.

Reviser's note.—Amended to substitute a reference to s. 409.975(1) for a reference to s. 409.975(2). Material concerning essential providers is in s. 409.975(1). Section 409.975(2) relates to the Florida Medical Schools Quality Network.

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

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

(1) PROVIDER NETWORKS.—Managed care plans must develop and maintain provider networks that meet the medical needs of their enrollees in accordance with standards established pursuant to s. 409.967(2)(c) ~~409.967(2)(b)~~. Except as provided in this section, managed care plans may limit the providers in their networks based on credentials, quality indicators, and price.

(a) Plans must include all providers in the region that are classified by the agency as essential Medicaid providers, unless

the agency approves, in writing, an alternative arrangement for securing the types of services offered by the essential providers. Providers are essential for serving Medicaid enrollees if they offer services that are not available from any other provider within a reasonable access standard, or if they provided a substantial share of the total units of a particular service used by Medicaid patients within the region during the last 3 years and the combined capacity of other service providers in the region is insufficient to meet the total needs of the Medicaid patients. The agency may not classify physicians and other practitioners as essential providers. The agency, at a minimum, shall determine which providers in the following categories are essential Medicaid providers:

1. Federally qualified health centers.

2. Statutory teaching hospitals as defined in s. 408.07(45).

3. Hospitals that are trauma centers as defined in s. 395.4001(14).

4. Hospitals located at least 25 miles from any other hospital with similar services.

Managed care plans that have not contracted with all essential providers in the region as of the first date of recipient enrollment, or with whom an essential provider has terminated its contract, must negotiate in good faith with such essential providers for 1 year or until an agreement is reached, whichever is first. Payments for services rendered by a nonparticipating essential provider shall be made at the applicable Medicaid rate as of the first day of the contract between the agency and the

plan. A rate schedule for all essential providers shall be attached to the contract between the agency and the plan. After 1 year, managed care plans that are unable to contract with essential providers shall notify the agency and propose an alternative arrangement for securing the essential services for Medicaid enrollees. The arrangement must rely on contracts with other participating providers, regardless of whether those providers are located within the same region as the nonparticipating essential service provider. If the alternative arrangement is approved by the agency, payments to nonparticipating essential providers after the date of the agency's approval shall equal 90 percent of the applicable Medicaid rate. If the alternative arrangement is not approved by the agency, payment to nonparticipating essential providers shall equal 110 percent of the applicable Medicaid rate.

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

1. Faculty plans of Florida medical schools.

2. Regional perinatal intensive care centers as defined in s. 383.16(2).

3. Hospitals licensed as specialty children's hospitals as defined in s. 395.002(28).

4. Accredited and integrated systems serving medically complex children that are comprised of separately licensed, but commonly owned, health care providers delivering at least the following services: medical group home, in-home and outpatient nursing care and therapies, pharmacy services, durable medical

equipment, and Prescribed Pediatric Extended Care.

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

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

(d) Each managed care plan must offer a network contract to each home medical equipment and supplies provider in the region which meets quality and fraud prevention and detection standards established by the plan and which agrees to accept the lowest price previously negotiated between the plan and another such provider.

Reviser's note.—Amended to substitute a reference to s. 409.967(2)(c) for a reference to s. 409.967(2)(b). Section 409.967(2)(c) establishes standards for access to care.

Section 409.067(2)(b) references emergency services.

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

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

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

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

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

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

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

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

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

recipient's choice.

Reviser's note.—Amended to substitute a reference to s. 409.969(2) for a reference to s. 409.969(3)(c). Section 409.969(2) references a 90-day period during which a Medicaid recipient may disenroll and select another plan. Section 409.969(3)(c) does not exist.

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

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

(3) The CARES program shall determine if an individual requires nursing facility care and, if the individual requires such care, assign the individual to a level of care as described in s. 409.983(4). When determining the need for nursing facility care, consideration shall be given to the nature of the services prescribed and which level of nursing or other health care personnel meets the qualifications necessary to provide such services and the availability to and access by the individual of community or alternative resources. For the purposes of the long-term care managed care program, the term "nursing facility care" means the individual:

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

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

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

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

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

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

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

427.012 The Commission for the Transportation Disadvantaged.—There is created the Commission for the Transportation Disadvantaged in the Department of Transportation.

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

(g) The Secretary of Transportation, the Secretary of Children and Family Services, the executive director of the Department of Economic Opportunity, the executive director of

the Department of Veterans' Affairs, the Secretary of Elderly Affairs, the Secretary of Health Care Administration, the director of the Agency for Persons with Disabilities, and a county manager or administrator who is appointed by the Governor, or a senior management level representative of each, shall serve as ex officio, nonvoting advisors to the commission.

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

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

440.45 Office of the Judges of Compensation Claims.—

(2)

(b) Except as provided in paragraph (c), the Governor shall appoint a judge of compensation claims from a list of three persons nominated by a statewide nominating commission. The statewide nominating commission shall be composed of the following:

1. Five members, at least one of whom must be a member of a minority group as defined in s. 288.703, one of each who resides in each of the territorial jurisdictions of the district courts of appeal, appointed by the Board of Governors of The Florida Bar from among The Florida Bar members who are engaged in the practice of law. ~~On July 1, 1999, the term of office of each person appointed by the Board of Governors of The Florida Bar to the commission expires.~~ The Board of Governors shall appoint members who reside in the odd-numbered district court of appeal jurisdictions to 4-year terms each, beginning July 1, 1999, and members who reside in the even-numbered district court of appeal

jurisdictions to 2-year terms each, beginning July 1, 1999. Thereafter, each member shall be appointed for a 4-year term;

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

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

A vacancy occurring on the commission shall be filled by the

original appointing authority for the unexpired balance of the term. No attorney who appears before any judge of compensation claims more than four times a year is eligible to serve on the statewide nominating commission. The meetings and determinations of the nominating commission as to the judges of compensation claims shall be open to the public.

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

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

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

(26) "Initial skills review" means an online education or training program, such as that established under s. 445.06 ~~1004.99~~, that is approved by the Agency for Workforce Innovation and designed to measure an individual's mastery level of workplace skills.

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

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

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

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

(f) Service performed in the employ of a public employer as defined in s. 443.036, except as provided in subsection (2), and service performed in the employ of an instrumentality of a public employer as described in s. 443.036(36)(b) or (c) ~~443.036(35)(b) or (c)~~, to the extent that the instrumentality is immune under the United States Constitution from the tax imposed

by s. 3301 of the Internal Revenue Code for that service.

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

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

468.841 Exemptions.—

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

(d) Persons or business organizations acting within the scope of the respective licenses required under part XV of this chapter, chapter 471, part I of chapter 481, chapter 482, or chapter 489 ~~or part XV of this chapter~~ are acting on behalf of an insurer under part VI of chapter 626, or are persons in the manufactured housing industry who are licensed under chapter 320, except when any such persons or business organizations hold themselves out for hire to the public as a "certified mold assessor," "registered mold assessor," "licensed mold assessor," "mold assessor," "professional mold assessor," or any combination thereof stating or implying licensure under this part.

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

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

474.203 Exemptions.—This chapter does not apply to:

(5)(a) Any person, or the person's regular employee, administering to the ills or injuries of her or his own animals, including, but not limited to, castration, spaying, and

dehorning of herd animals, unless title is transferred or employment provided for the purpose of circumventing this law. This exemption does not apply to any person licensed as a veterinarian in another state or foreign jurisdiction and ~~is~~ practicing temporarily in this state. However, only a veterinarian may immunize or treat an animal for diseases that are communicable to humans and that are of public health significance.

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

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

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

474.2125 Temporary license.—

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

After the expiration of 30 days, a new license is required.

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

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

493.6402 Fees.—

(3) The fees set forth in this section must be paid by check or money order, or, at the discretion of the department, by ~~or~~ electronic funds transfer at the time the application is approved, except that the applicant for a Class "E," Class "EE," or Class "MR" license must pay the license fee at the time the application is made. If a license is revoked or denied, or if an application is withdrawn, the license fee is nonrefundable.

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

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

499.012 Permit application requirements.—

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

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

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

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

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

(2) A public swimming pool or spa built before January 1, 1993, with a single main drain other than an unblockable drain must be equipped with at least one of the following features that complies with any American Society of Mechanical Engineers, American National Standards Institute, American Society ~~Standard~~ for Testing and Materials, or other applicable consumer product safety standard for such system or device and protects against evisceration and body-and-limb suction entrapment:

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

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

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

(d) An automatic pump shut-off system.

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

Reviser's note.—The introductory paragraph of subsection (2) and paragraph (2)(a) are amended to confirm editorial substitution of the word "Society" for the word "Standard" to conform to the correct name of the society. Paragraph (2)(a) is also amended to confirm editorial deletion of the number "26" to conform to the fact that there is no

standard 26 F2387, only a standard F2387.

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

514.072 Certification of swimming instructors for people who have developmental disabilities required.—Any person working at a swimming pool who holds himself or herself out as a swimming instructor specializing in training people who have developmental disabilities, as defined in s. 393.063(9) ~~393.063(10)~~, may be certified by the Dan Marino Foundation, Inc., in addition to being certified under s. 514.071. The Dan Marino Foundation, Inc., must develop certification requirements and a training curriculum for swimming instructors for people who have developmental disabilities and must submit the certification requirements to the Department of Health for review by January 1, 2007. A person certified under s. 514.071 before July 1, 2007, must meet the additional certification requirements of this section before January 1, 2008. A person certified under s. 514.071 on or after July 1, 2007, must meet the additional certification requirements of this section within 6 months after receiving certification under s. 514.071.

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

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

526.207 Studies and reports.—

~~(1)~~ The Department of Agriculture and Consumer Services shall conduct a study to evaluate and recommend the life-cycle

greenhouse gas emissions associated with all renewable fuels, including, but not limited to, biodiesel, renewable diesel, biobutanol, and ethanol derived from any source. In addition, the department shall evaluate and recommend a requirement that all renewable fuels introduced into commerce in the state, as a result of the renewable fuel standard, shall reduce the life-cycle greenhouse gas emissions by an average percentage. The department may also evaluate and recommend any benefits associated with the creation, banking, transfer, and sale of credits among fuel refiners, blenders, and importers.

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

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

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

538.09 Registration.—

(1) A secondhand dealer shall not engage in the business of purchasing, consigning, or trading secondhand goods from any location without registering with the Department of Revenue. A fee equal to the federal and state costs for processing required fingerprints must be submitted to the department with each application for registration. One application is required for each dealer. If a secondhand dealer is the owner of more than one secondhand store location, the application must list each location, and the department shall issue a duplicate registration for each location. For purposes of subsections (4)

and (5) of this section, these duplicate registrations shall be deemed individual registrations. A dealer shall pay a fee of $6 per location at the time of registration and an annual renewal fee of $6 per location on October 1 of each year. All fees collected, less costs of administration, shall be transferred into the Operating ~~Operations~~ Trust Fund. The Department of Revenue shall forward the full set of fingerprints to the Department of Law Enforcement for state and federal processing, provided the federal service is available, to be processed for any criminal justice information as defined in s. 943.045. The cost of processing such fingerprints shall be payable to the Department of Law Enforcement by the Department of Revenue. The department may issue a temporary registration to each location pending completion of the background check by state and federal law enforcement agencies, but shall revoke such temporary registration if the completed background check reveals a prohibited criminal background. An applicant for a secondhand dealer registration must be a natural person who has reached the age of 18 years.

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

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

(c) If the applicant is a corporation, the registration must include the name and address of such corporation's registered agent for service of process in the state and a certified copy of statement from the Secretary of State that the

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

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

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

538.25 Registration.—

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

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

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

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

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

553.79 Permits; applications; issuance; inspections.—

(5)(a) The enforcing agency shall require a special inspector to perform structural inspections on a threshold building pursuant to a structural inspection plan prepared by the engineer or architect of record. The structural inspection plan must be submitted to and approved by the enforcing agency prior to the issuance of a building permit for the construction of a threshold building. The purpose of the structural inspection plan is to provide specific inspection procedures and schedules so that the building can be adequately inspected for compliance with the permitted documents. The special inspector may not serve as a surrogate in carrying out the responsibilities of the building official, the architect, or the engineer of record. The contractor's contractual or statutory obligations are not relieved by any action of the special inspector. The special inspector shall determine that a professional engineer who specializes in shoring design has inspected the shoring and reshoring for conformance with the shoring and reshoring plans submitted to the enforcing agency. A fee simple title owner of a building, which does not meet the minimum size, height, occupancy, occupancy classification, or

number-of-stories criteria which would result in classification as a threshold building under s. 553.71(11) ~~553.71(7)~~, may designate such building as a threshold building, subject to more than the minimum number of inspections required by the Florida Building Code.

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

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

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

590.33 State compact administrator; compact advisory committee.—In pursuance of art. III of the compact, the director of the division shall act as compact administrator for Florida of the Southeastern Interstate Forest Fire Protection Compact during his or her term of office as director, and his or her successor as compact administrator shall be his or her successor as director of the division. As compact administrator, he or she shall be an ex officio member of the advisory committee of the Southeastern Interstate Forest Fire Protection Compact, and chair ex officio of the Florida members of the advisory committee. There shall be four members of the Southeastern Interstate Forest Fire Protection Compact Advisory Committee from Florida. Two of the members from Florida shall be members

of the Legislature of Florida, one from the Senate designated by the President of the Senate and one from the House of Representatives designated by the Speaker of the House of Representatives, and the terms of any such members shall terminate at the time they cease to hold legislative office, and their successors as members shall be named in like manner. The Governor shall appoint the other two members from Florida, one of whom shall be associated with forestry or forest products industries. The terms of such members shall be 3 years and such members shall hold office until their respective successors shall be appointed and qualified. Vacancies occurring in the office of such members from any reason or cause shall be filled by appointment by the Governor for the unexpired term. The director of the division as compact administrator for Florida may delegate, from time to time, to any deputy or other subordinate in his or her department or office, the power to be present and participate, including voting as his or her representative or substitute at any meeting of or hearing by or other proceeding of the compact administrators or of the advisory committee. The terms of each of the initial four memberships, whether appointed at said time or not, shall begin upon the date upon which the compact shall become effective in accordance with art. II of said compact. Any member of the advisory committee may be removed from office by the Governor upon charges and after a hearing.

Reviser's note.—Amended to confirm editorial insertion of the words "of Representatives."

Section 75. Paragraph (a) of subsection (2) of section 604.50, Florida Statutes, is amended to read:

604.50 Nonresidential farm buildings and farm fences.—

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

(a) "Nonresidential farm building" means any temporary or permanent building or support structure that is classified as a nonresidential farm building on a farm under s. 553.73(10)(c) ~~553.73(9)(c)~~ or that is used primarily for agricultural purposes, is located on land that is an integral part of a farm operation or is classified as agricultural land under s. 193.461, and is not intended to be used as a residential dwelling. The term may include, but is not limited to, a barn, greenhouse, shade house, farm office, storage building, or poultry house.

Reviser's note.—Amended to conform to the redesignation of s. 553.73(9)(c) as s. 553.73(10)(c) by s. 32, ch. 2010-176, Laws of Florida.

Section 76. Subsection (4) of section 627.0628, Florida Statutes, is amended to read:

627.0628 Florida Commission on Hurricane Loss Projection Methodology; public records exemption; public meetings exemption.—

~~(4) REVIEW OF DISCOUNTS, CREDITS, OTHER RATE DIFFERENTIALS, AND REDUCTIONS IN DEDUCTIBLES RELATING TO WINDSTORM MITIGATION.— The commission shall hold public meetings for the purpose of receiving testimony and data regarding the implementation of windstorm mitigation discounts, credits, other rate differentials, and appropriate reductions in deductibles pursuant to s. 627.0629. After reviewing the testimony and data as well as any other information the commission deems appropriate, the commission shall present a report by February~~

~~1, 2010, to the Governor, the Cabinet, the President of the Senate, and the Speaker of the House of Representatives, including recommendations on improving the process of assessing, determining, and applying windstorm mitigation discounts, credits, other rate differentials, and appropriate reductions in deductibles pursuant to s. 627.0629.~~

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

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

627.351 Insurance risk apportionment plans.—

(2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

(b) The department shall require all insurers holding a certificate of authority to transact property insurance on a direct basis in this state, other than joint underwriting associations and other entities formed pursuant to this section, to provide windstorm coverage to applicants from areas determined to be eligible pursuant to paragraph (c) who in good faith are entitled to, but are unable to procure, such coverage through ordinary means; or it shall adopt a reasonable plan or plans for the equitable apportionment or sharing among such insurers of windstorm coverage, which may include formation of an association for this purpose. As used in this subsection, the term "property insurance" means insurance on real or personal property, as defined in s. 624.604, including insurance for fire, industrial fire, allied lines, farmowners multiperil, homeowners' multiperil, commercial multiperil, and mobile homes, and including liability coverages on all such insurance, but

excluding inland marine as defined in s. 624.607(3) and excluding vehicle insurance as defined in s. 624.605(1)(a) other than insurance on mobile homes used as permanent dwellings. The department shall adopt rules that provide a formula for the recovery and repayment of any deferred assessments.

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

2.a.(I) All insurers required to be members of such association shall participate in its writings, expenses, and losses. Surplus of the association shall be retained for the payment of claims and shall not be distributed to the member insurers. Such participation by member insurers shall be in the proportion that the net direct premiums of each member insurer written for property insurance in this state during the preceding calendar year bear to the aggregate net direct premiums for property insurance of all member insurers, as reduced by any credits for voluntary writings, in this state during the preceding calendar year. For the purposes of this subsection, the term "net direct premiums" means direct written premiums for property insurance, reduced by premium for liability coverage and for the following if included in allied

lines: rain and hail on growing crops; livestock; association direct premiums booked; National Flood Insurance Program direct premiums; and similar deductions specifically authorized by the plan of operation and approved by the department. A member's participation shall begin on the first day of the calendar year following the year in which it is issued a certificate of authority to transact property insurance in the state and shall terminate 1 year after the end of the calendar year during which it no longer holds a certificate of authority to transact property insurance in the state. The commissioner, after review of annual statements, other reports, and any other statistics that the commissioner deems necessary, shall certify to the association the aggregate direct premiums written for property insurance in this state by all member insurers.

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

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

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

(V) There shall be no credits or relief from apportionment

to a company for emergency assessments collected from its policyholders under sub-sub-subparagraph d.(III).

(VI) The plan of operation may also provide for the award of credits, for a period not to exceed 3 years, from a regular assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II) as an incentive for taking policies out of the Residential Property and Casualty Joint Underwriting Association. In order to qualify for the exemption under this sub-sub-subparagraph, the take-out plan must provide that at least 40 percent of the policies removed from the Residential Property and Casualty Joint Underwriting Association cover risks located in Miami-Dade, Broward, and Palm Beach Counties or at least 30 percent of the policies so removed cover risks located in Miami-Dade, Broward, and Palm Beach Counties and an additional 50 percent of the policies so removed cover risks located in other coastal counties, and must also provide that no more than 15 percent of the policies so removed may exclude windstorm coverage. With the approval of the department, the association may waive these geographic criteria for a take-out plan that removes at least the lesser of 100,000 Residential Property and Casualty Joint Underwriting Association policies or 15 percent of the total number of Residential Property and Casualty Joint Underwriting Association policies, provided the governing board of the Residential Property and Casualty Joint Underwriting Association certifies that the take-out plan will materially reduce the Residential Property and Casualty Joint Underwriting Association's 100-year probable maximum loss from hurricanes. With the approval of the department, the board may extend such credits for an additional year if the insurer

guarantees an additional year of renewability for all policies removed from the Residential Property and Casualty Joint Underwriting Association, or for 2 additional years if the insurer guarantees 2 additional years of renewability for all policies removed from the Residential Property and Casualty Joint Underwriting Association.

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

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

d.(I) When the deficit incurred in a particular calendar year is 10 percent or less of the aggregate statewide direct written premium for property insurance for the prior calendar year for all member insurers, the association shall levy an assessment on member insurers in an amount equal to the deficit.

(II) When the deficit incurred in a particular calendar year exceeds 10 percent of the aggregate statewide direct written premium for property insurance for the prior calendar year for all member insurers, the association shall levy an assessment on member insurers in an amount equal to the greater

of 10 percent of the deficit or 10 percent of the aggregate statewide direct written premium for property insurance for the prior calendar year for member insurers. Any remaining deficit shall be recovered through emergency assessments under sub-sub-subparagraph (III).

(III) Upon a determination by the board of directors that a deficit exceeds the amount that will be recovered through regular assessments on member insurers, pursuant to sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the board shall levy, after verification by the department, emergency assessments to be collected by member insurers and by underwriting associations created pursuant to this section which write property insurance, upon issuance or renewal of property insurance policies other than National Flood Insurance policies in the year or years following levy of the regular assessments. The amount of the emergency assessment collected in a particular year shall be a uniform percentage of that year's direct written premium for property insurance for all member insurers and underwriting associations, excluding National Flood Insurance policy premiums, as annually determined by the board and verified by the department. The department shall verify the arithmetic calculations involved in the board's determination within 30 days after receipt of the information on which the determination was based. Notwithstanding any other provision of law, each member insurer and each underwriting association created pursuant to this section shall collect emergency assessments from its policyholders without such obligation being affected by any credit, limitation, exemption, or deferment. The emergency assessments so collected shall be transferred directly

to the association on a periodic basis as determined by the association. The aggregate amount of emergency assessments levied under this sub-sub-subparagraph in any calendar year may not exceed the greater of 10 percent of the amount needed to cover the original deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing of the original deficit, or 10 percent of the aggregate statewide direct written premium for property insurance written by member insurers and underwriting associations for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the original deficit. The board may pledge the proceeds of the emergency assessments under this sub-sub-subparagraph as the source of revenue for bonds, to retire any other debt incurred as a result of the deficit or events giving rise to the deficit, or in any other way that the board determines will efficiently recover the deficit. The emergency assessments under this sub-sub-subparagraph shall continue as long as any bonds issued or other indebtedness incurred with respect to a deficit for which the assessment was imposed remain outstanding, unless adequate provision has been made for the payment of such bonds or other indebtedness pursuant to the document governing such bonds or other indebtedness. Emergency assessments collected under this sub-sub-subparagraph are not part of an insurer's rates, are not premium, and are not subject to premium tax, fees, or commissions; however, failure to pay the emergency assessment shall be treated as failure to pay premium.

(IV) Each member insurer's share of the total regular assessments under sub-sub-subparagraph (I) or sub-sub-

subparagraph (II) shall be in the proportion that the insurer's net direct premium for property insurance in this state, for the year preceding the assessment bears to the aggregate statewide net direct premium for property insurance of all member insurers, as reduced by any credits for voluntary writings for that year.

(V) If regular deficit assessments are made under sub-sub-subparagraph (I) or sub-sub-subparagraph (II), or by the Residential Property and Casualty Joint Underwriting Association under sub-subparagraph (6)(b)3.a. ~~or sub-subparagraph (6)(b)3.b.~~, the association shall levy upon the association's policyholders, as part of its next rate filing, or by a separate rate filing solely for this purpose, a market equalization surcharge in a percentage equal to the total amount of such regular assessments divided by the aggregate statewide direct written premium for property insurance for member insurers for the prior calendar year. Market equalization surcharges under this sub-sub-subparagraph are not considered premium and are not subject to commissions, fees, or premium taxes; however, failure to pay a market equalization surcharge shall be treated as failure to pay premium.

e. The governing body of any unit of local government, any residents of which are insured under the plan, may issue bonds as defined in s. 125.013 or s. 166.101 to fund an assistance program, in conjunction with the association, for the purpose of defraying deficits of the association. In order to avoid needless and indiscriminate proliferation, duplication, and fragmentation of such assistance programs, any unit of local government, any residents of which are insured by the

association, may provide for the payment of losses, regardless of whether or not the losses occurred within or outside of the territorial jurisdiction of the local government. Revenue bonds may not be issued until validated pursuant to chapter 75, unless a state of emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 making such findings as are necessary to determine that it is in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of residents of this state and the protection and preservation of the economic stability of insurers operating in this state, and declaring it an essential public purpose to permit certain municipalities or counties to issue bonds as will provide relief to claimants and policyholders of the association and insurers responsible for apportionment of plan losses. Any such unit of local government may enter into such contracts with the association and with any other entity created pursuant to this subsection as are necessary to carry out this paragraph. Any bonds issued under this sub-subparagraph shall be payable from and secured by moneys received by the association from assessments under this subparagraph, and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds. If any of the bonds remain unsold 60 days after issuance, the department shall require all insurers subject to assessment to purchase the bonds, which shall be treated as admitted assets; each insurer shall be required to purchase that percentage of the unsold portion of

the bond issue that equals the insurer's relative share of assessment liability under this subsection. An insurer shall not be required to purchase the bonds to the extent that the department determines that the purchase would endanger or impair the solvency of the insurer. The authority granted by this sub-subparagraph is additional to any bonding authority granted by subparagraph 6.

3. The plan shall also provide that any member with a surplus as to policyholders of $20 million or less writing 25 percent or more of its total countrywide property insurance premiums in this state may petition the department, within the first 90 days of each calendar year, to qualify as a limited apportionment company. The apportionment of such a member company in any calendar year for which it is qualified shall not exceed its gross participation, which shall not be affected by the formula for voluntary writings. In no event shall a limited apportionment company be required to participate in any apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds $50 million after payment of available plan funds in any calendar year. However, a limited apportionment company shall collect from its policyholders any emergency assessment imposed under sub-sub-subparagraph 2.d.(III). The plan shall provide that, if the department determines that any regular assessment will result in an impairment of the surplus of a limited apportionment company, the department may direct that all or part of such assessment be deferred. However, there shall be no limitation or deferment of an emergency assessment to be collected from policyholders under sub-sub-subparagraph

2.d.(III).

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

5.a. The plan of operation may include deductibles and rules for classification of risks and rate modifications consistent with the objective of providing and maintaining funds sufficient to pay catastrophe losses.

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

c. The association shall provide for windstorm coverage on residential properties in limits up to $10 million for commercial lines residential risks and up to $1 million for personal lines residential risks. If coverage with the association is sought for a residential risk valued in excess of these limits, coverage shall be available to the risk up to the replacement cost or actual cash value of the property, at the option of the insured, if coverage for the risk cannot be located in the authorized market. The association must accept a commercial lines residential risk with limits above $10 million or a personal lines residential risk with limits above $1 million if coverage is not available in the authorized market. The association may write coverage above the limits specified in this subparagraph with or without facultative or other reinsurance coverage, as the association determines appropriate.

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

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

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

The acceptance or rejection of a risk by the association pursuant to such criteria and procedures must be construed as

the private placement of insurance, and the provisions of chapter 120 do not apply.

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

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

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

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-subparagraph (I). Subject to the provisions of s. 627.3517, the policies issued by the association must provide that if the association obtains an offer from an authorized insurer to cover the risk at its approved rates under either a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the department, a basic policy including wind coverage, the risk is no longer

eligible for coverage through the association. Upon termination of eligibility, the association shall provide written notice to the policyholder and agent of record stating that the association policy must be canceled as of 60 days after the date of the notice because of the offer of coverage from an authorized insurer. Other provisions of the insurance code relating to cancellation and notice of cancellation do not apply to actions under this sub-subparagraph.

f. When the association enters into a contractual agreement for a take-out plan, the producing agent of record of the association policy is entitled to retain any unearned commission on the policy, and the insurer shall:

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

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

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

6.a. The plan of operation may authorize the formation of a private nonprofit corporation, a private nonprofit unincorporated association, a partnership, a trust, a limited

liability company, or a nonprofit mutual company which may be empowered, among other things, to borrow money by issuing bonds or by incurring other indebtedness and to accumulate reserves or funds to be used for the payment of insured catastrophe losses. The plan may authorize all actions necessary to facilitate the issuance of bonds, including the pledging of assessments or other revenues.

b. Any entity created under this subsection, or any entity formed for the purposes of this subsection, may sue and be sued, may borrow money; issue bonds, notes, or debt instruments; pledge or sell assessments, market equalization surcharges and other surcharges, rights, premiums, contractual rights, projected recoveries from the Florida Hurricane Catastrophe Fund, other reinsurance recoverables, and other assets as security for such bonds, notes, or debt instruments; enter into any contracts or agreements necessary or proper to accomplish such borrowings; and take other actions necessary to carry out the purposes of this subsection. The association may issue bonds or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (6)(q)2., in the absence of a hurricane or other weather-related event, upon a determination by the association subject to approval by the department that such action would enable it to efficiently meet the financial obligations of the association and that such financings are reasonably necessary to effectuate the requirements of this subsection. Any such entity may accumulate reserves and retain surpluses as of the end of any association year to provide for the payment of losses incurred by the association during that year or any future year. The association

shall incorporate and continue the plan of operation and articles of agreement in effect on the effective date of chapter 76-96, Laws of Florida, to the extent that it is not inconsistent with chapter 76-96, and as subsequently modified consistent with chapter 76-96. The board of directors and officers currently serving shall continue to serve until their successors are duly qualified as provided under the plan. The assets and obligations of the plan in effect immediately prior to the effective date of chapter 76-96 shall be construed to be the assets and obligations of the successor plan created herein.

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

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

8. Subject to approval by the department, the association may establish different eligibility requirements and operational procedures for any line or type of coverage for any specified eligible area or portion of an eligible area if the board determines that such changes to the eligibility requirements and operational procedures are justified due to the voluntary market

being sufficiently stable and competitive in such area or for such line or type of coverage and that consumers who, in good faith, are unable to obtain insurance through the voluntary market through ordinary methods would continue to have access to coverage from the association. When coverage is sought in connection with a real property transfer, such requirements and procedures shall not provide for an effective date of coverage later than the date of the closing of the transfer as established by the transferor, the transferee, and, if applicable, the lender.

9. Notwithstanding any other provision of law:

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

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

c. Each such pledge or sale of, lien upon, and security

interest in, including the priority of such pledge, lien, or security interest, any such assessments, emergency assessments, market equalization or renewal surcharges, projected recoveries from the Florida Hurricane Catastrophe Fund, reinsurance recoverables, or other rights, revenues, or other assets which are collected, or levied and collected, after the commencement of and during the pendency of or after any such proceeding shall continue unaffected by such proceeding.

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

e. Any such pledge or sale of assessments, revenues, contract rights or other rights or assets of the association shall constitute a lien and security interest, or sale, as the case may be, that is immediately effective and attaches to such assessments, revenues, contract, or other rights or assets, whether or not imposed or collected at the time the pledge or sale is made. Any such pledge or sale is effective, valid, binding, and enforceable against the association or other entity making such pledge or sale, and valid and binding against and superior to any competing claims or obligations owed to any

other person or entity, including policyholders in this state, asserting rights in any such assessments, revenues, contract, or other rights or assets to the extent set forth in and in accordance with the terms of the pledge or sale contained in the applicable financing documents, whether or not any such person or entity has notice of such pledge or sale and without the need for any physical delivery, recordation, filing, or other action.

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

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(b)1. All insurers authorized to write one or more subject lines of business in this state are subject to assessment by the corporation and, for the purposes of this subsection, are referred to collectively as "assessable insurers." Insurers writing one or more subject lines of business in this state pursuant to part VIII of chapter 626 are not assessable insurers, but insureds who procure one or more subject lines of business in this state pursuant to part VIII of chapter 626 are subject to assessment by the corporation and are referred to collectively as "assessable insureds." An insurer's assessment liability begins on the first day of the calendar year following the year in which the insurer was issued a certificate of

authority to transact insurance for subject lines of business in this state and terminates 1 year after the end of the first calendar year during which the insurer no longer holds a certificate of authority to transact insurance for subject lines of business in this state.

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

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

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

(III) A coastal account for personal residential policies and commercial residential and commercial nonresidential

property policies issued by the corporation, or transferred to the corporation, which provides coverage for the peril of wind on risks that are located in areas eligible for coverage by the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002. The corporation may offer policies that provide multiperil coverage and the corporation shall continue to offer policies that provide coverage only for the peril of wind for risks located in areas eligible for coverage in the coastal account. In issuing multiperil coverage, the corporation may use its approved policy forms and rates for the personal lines account. An applicant or insured who is eligible to purchase a multiperil policy from the corporation may purchase a multiperil policy from an authorized insurer without prejudice to the applicant's or insured's eligibility to prospectively purchase a policy that provides coverage only for the peril of wind from the corporation. An applicant or insured who is eligible for a corporation policy that provides coverage only for the peril of wind may elect to purchase or retain such policy and also purchase or retain coverage excluding wind from an authorized insurer without prejudice to the applicant's or insured's eligibility to prospectively purchase a policy that provides multiperil coverage from the corporation. It is the goal of the Legislature that there be an overall average savings of 10 percent or more for a policyholder who currently has a wind-only policy with the corporation, and an ex-wind policy with a voluntary insurer or the corporation, and who obtains a multiperil policy from the corporation. It is the intent of the Legislature that the offer of multiperil coverage in the coastal account be made and implemented in a manner that does not

adversely affect the tax-exempt status of the corporation or creditworthiness of or security for currently outstanding financing obligations or credit facilities of the coastal account, the personal lines account, or the commercial lines account. The coastal account must also include quota share primary insurance under subparagraph (c)2. The area eligible for coverage under the coastal account also includes the area within Port Canaveral, which is bordered on the south by the City of Cape Canaveral, bordered on the west by the Banana River, and bordered on the north by Federal Government property.

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

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

Creditors of the Florida Windstorm Underwriting Association have a claim against, and recourse to, the account referred to in sub-sub-subparagraph a.(III) and no claim against, or recourse to, the accounts referred to in sub-sub-subparagraphs a.(I) and (II).

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

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

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

3. With respect to a deficit in an account:

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

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

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

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

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

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

sub-subparagraph h., the board, after verification by the office, shall levy emergency assessments for as many years as necessary to cover the deficits, to be collected by assessable insurers and the corporation and collected from assessable insureds upon issuance or renewal of policies for subject lines of business, excluding National Flood Insurance policies. The amount collected in a particular year must be a uniform percentage of that year's direct written premium for subject lines of business and all accounts of the corporation, excluding National Flood Insurance Program policy premiums, as annually determined by the board and verified by the office. The office shall verify the arithmetic calculations involved in the board's determination within 30 days after receipt of the information on which the determination was based. Notwithstanding any other provision of law, the corporation and each assessable insurer that writes subject lines of business shall collect emergency assessments from its policyholders without such obligation being affected by any credit, limitation, exemption, or deferment. Emergency assessments levied by the corporation on assessable insureds shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to that office. The emergency assessments collected shall be transferred directly to the corporation on a periodic basis as determined by the corporation and held by the corporation solely in the applicable account. The aggregate amount of emergency assessments levied for an account under this sub-subparagraph in any calendar year may be less than but not

exceed the greater of 10 percent of the amount needed to cover the deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing the original deficit, or 10 percent of the aggregate statewide direct written premium for subject lines of business and all accounts of the corporation for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the deficit.

d. The corporation may pledge the proceeds of assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other insurance and reinsurance recoverables, policyholder surcharges and other surcharges, and other funds available to the corporation as the source of revenue for and to secure bonds issued under paragraph (q), bonds or other indebtedness issued under subparagraph (c)3., or lines of credit or other financing mechanisms issued or created under this subsection, or to retire any other debt incurred as a result of deficits or events giving rise to deficits, or in any other way that the board determines will efficiently recover such deficits. The purpose of the lines of credit or other financing mechanisms is to provide additional resources to assist the corporation in covering claims and expenses attributable to a catastrophe. As used in this subsection, the term "assessments" includes regular assessments under sub-subparagraph a. or subparagraph (q)1. and emergency assessments under sub-subparagraph c. ~~d.~~ Emergency assessments collected under sub-subparagraph c. ~~d.~~ are not part of an insurer's rates, are not premium, and are not subject to premium tax, fees, or commissions; however, failure to pay the emergency assessment shall be treated as failure to pay premium. The

emergency assessments under sub-subparagraph c. shall continue as long as any bonds issued or other indebtedness incurred with respect to a deficit for which the assessment was imposed remain outstanding, unless adequate provision has been made for the payment of such bonds or other indebtedness pursuant to the documents governing such bonds or indebtedness.

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

f. The Florida Surplus Lines Service Office shall determine annually the aggregate statewide written premium in subject lines of business procured by assessable insureds and report that information to the corporation in a form and at a time the corporation specifies to ensure that the corporation can meet the requirements of this subsection and the corporation's financing obligations.

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

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

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

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

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

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

i. If the amount of any assessments or surcharges collected from corporation policyholders, assessable insurers or their

policyholders, or assessable insureds exceeds the amount of the deficits, such excess amounts shall be remitted to and retained by the corporation in a reserve to be used by the corporation, as determined by the board of governors and approved by the office, to pay claims or reduce any past, present, or future plan-year deficits or to reduce outstanding debt.

(c) The corporation's plan of operation:

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

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

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

c. Commercial lines residential and nonresidential policy forms that are generally similar to the basic perils of full coverage obtainable for commercial residential structures and commercial nonresidential structures in the admitted voluntary market.

d. Personal lines and commercial lines residential property insurance forms that cover the peril of wind only. The forms are applicable only to residential properties located in areas

eligible for coverage under the coastal account referred to in sub-subparagraph (b)2.a.

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

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

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

a. As used in this subsection, the term:

(I) "Quota share primary insurance" means an arrangement in which the primary hurricane coverage of an eligible risk is provided in specified percentages by the corporation and an authorized insurer. The corporation and authorized insurer are each solely responsible for a specified percentage of hurricane coverage of an eligible risk as set forth in a quota share primary insurance agreement between the corporation and an authorized insurer and the insurance contract. The responsibility of the corporation or authorized insurer to pay its specified percentage of hurricane losses of an eligible risk, as set forth in the agreement, may not be altered by the inability of the other party to pay its specified percentage of

losses. Eligible risks that are provided hurricane coverage through a quota share primary insurance arrangement must be provided policy forms that set forth the obligations of the corporation and authorized insurer under the arrangement, clearly specify the percentages of quota share primary insurance provided by the corporation and authorized insurer, and conspicuously and clearly state that the authorized insurer and the corporation may not be held responsible beyond their specified percentage of coverage of hurricane losses.

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

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

c. If the corporation determines that additional coverage levels are necessary to maximize participation in quota share primary insurance agreements by authorized insurers, the corporation may establish additional coverage levels. However, the corporation's quota share primary insurance coverage level may not exceed 90 percent.

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

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

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

g. The corporation board shall establish in its plan of operation standards for quota share agreements which ensure that there is no discriminatory application among insurers as to the terms of the agreements, pricing of the agreements, incentive provisions if any, and consideration paid for servicing policies or adjusting claims.

h. The quota share primary insurance agreement between the corporation and an authorized insurer must set forth the specific terms under which coverage is provided, including, but not limited to, the sale and servicing of policies issued under the agreement by the insurance agent of the authorized insurer producing the business, the reporting of information concerning eligible risks, the payment of premium to the corporation, and

arrangements for the adjustment and payment of hurricane claims incurred on eligible risks by the claims adjuster and personnel of the authorized insurer. Entering into a quota sharing insurance agreement between the corporation and an authorized insurer is voluntary and at the discretion of the authorized insurer.

3.a. May provide that the corporation may employ or otherwise contract with individuals or other entities to provide administrative or professional services that may be appropriate to effectuate the plan. The corporation may borrow funds by issuing bonds or by incurring other indebtedness, and shall have other powers reasonably necessary to effectuate the requirements of this subsection, including, without limitation, the power to issue bonds and incur other indebtedness in order to refinance outstanding bonds or other indebtedness. The corporation may seek judicial validation of its bonds or other indebtedness under chapter 75. The corporation may issue bonds or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (q)2. in the absence of a hurricane or other weather-related event, upon a determination by the corporation, subject to approval by the office, that such action would enable it to efficiently meet the financial obligations of the corporation and that such financings are reasonably necessary to effectuate the requirements of this subsection. The corporation may take all actions needed to facilitate tax-free status for such bonds or indebtedness, including formation of trusts or other affiliated entities. The corporation may pledge assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other

reinsurance recoverables, market equalization and other surcharges, and other funds available to the corporation as security for bonds or other indebtedness. In recognition of s. 10, Art. I of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature that no action be taken whose purpose is to impair any bond indenture or financing agreement or any revenue source committed by contract to such bond or other indebtedness.

b. To ensure that the corporation is operating in an efficient and economic manner while providing quality service to policyholders, applicants, and agents, the board shall commission an independent third-party consultant having expertise in insurance company management or insurance company management consulting to prepare a report and make recommendations on the relative costs and benefits of outsourcing various policy issuance and service functions to private servicing carriers or entities performing similar functions in the private market for a fee, rather than performing such functions in-house. In making such recommendations, the consultant shall consider how other residual markets, both in this state and around the country, outsource appropriate functions or use servicing carriers to better match expenses with revenues that fluctuate based on a widely varying policy count. The report must be completed by July 1, 2012. Upon receiving the report, the board shall develop a plan to implement the report and submit the plan for review, modification, and approval to the Financial Services Commission. Upon the commission’s approval of the plan, the board shall begin implementing the plan by January 1, 2013.

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

a. The Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives shall each appoint two members of the board. At least one of the two members appointed by each appointing officer must have demonstrated expertise in insurance and is deemed to be within the scope of the exemption provided in s. 112.313(7)(b). The Chief Financial Officer shall designate one of the appointees as chair. All board members serve at the pleasure of the appointing officer. All members of the board are subject to removal at will by the officers who appointed them. All board members, including the chair, must be appointed to serve for 3-year terms beginning annually on a date designated by the plan. However, for the first term beginning on or after July 1, 2009, each appointing officer shall appoint one member of the board for a 2-year term and one member for a 3-year term. A board vacancy shall be filled for the unexpired term by the appointing officer. The Chief Financial Officer shall appoint a technical advisory group to provide information and advice to the board in connection with the board's duties under this subsection. The executive director and senior managers of the corporation shall be engaged by the board and serve at the pleasure of the board. Any executive director appointed on or after July 1, 2006, is subject to confirmation by the Senate. The executive director is responsible for employing other staff as the corporation may require, subject to review and concurrence by the board.

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

(I) The members of the advisory committee consist of the following 11 persons, one of whom must be elected chair by the members of the committee: four representatives, one appointed by the Florida Association of Insurance Agents, one by the Florida Association of Insurance and Financial Advisors, one by the Professional Insurance Agents of Florida, and one by the Latin American Association of Insurance Agencies; three representatives appointed by the insurers with the three highest voluntary market share of residential property insurance business in the state; one representative from the Office of Insurance Regulation; one consumer appointed by the board who is insured by the corporation at the time of appointment to the committee; one representative appointed by the Florida Association of Realtors; and one representative appointed by the Florida Bankers Association. All members shall be appointed to 3-year terms and may serve for consecutive terms.

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

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

a. Subject to s. 627.3517, with respect to personal lines residential risks, if the risk is offered coverage from an authorized insurer at the insurer's approved rate under a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the office, a basic policy including wind coverage, for a new application to the corporation for coverage, the risk is not eligible for any policy issued by the corporation unless the premium for coverage from the authorized insurer is more than 15 percent greater than the premium for comparable coverage from the corporation. If the risk is not able to obtain such offer, the risk is eligible for a standard policy including wind coverage or a basic policy including wind coverage issued by the corporation; however, if the risk could not be insured under a standard policy including wind coverage regardless of market conditions, the risk is eligible for a basic policy including wind coverage unless rejected under subparagraph 8. However, a policyholder of the corporation or a policyholder removed from the corporation through an assumption agreement until the end of the assumption period remains eligible for coverage from the corporation regardless of any offer of coverage from an authorized insurer or surplus lines insurer. The corporation shall determine the type of policy to be provided on the basis of objective standards specified in the underwriting manual and based on generally accepted underwriting practices.

(I) If the risk accepts an offer of coverage through the market assistance plan or through a mechanism established by the corporation before a policy is issued to the risk by the corporation or during the first 30 days of coverage by the

corporation, and the producing agent who submitted the application to the plan or to the corporation is not currently appointed by the insurer, the insurer shall:

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

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

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

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

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

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

usual and customary commission for the type of policy written.

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

b. With respect to commercial lines residential risks, for a new application to the corporation for coverage, if the risk is offered coverage under a policy including wind coverage from an authorized insurer at its approved rate, the risk is not eligible for a policy issued by the corporation unless the premium for coverage from the authorized insurer is more than 15 percent greater than the premium for comparable coverage from the corporation. If the risk is not able to obtain any such offer, the risk is eligible for a policy including wind coverage issued by the corporation. However, a policyholder of the corporation or a policyholder removed from the corporation through an assumption agreement until the end of the assumption period remains eligible for coverage from the corporation regardless of an offer of coverage from an authorized insurer or surplus lines insurer.

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

(A) Pay to the producing agent of record of the policy, for the first year, an amount that is the greater of the insurer's

usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

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

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

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

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

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

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

c. For purposes of determining comparable coverage under sub-subparagraphs a. and b., the comparison must be based on those forms and coverages that are reasonably comparable. The corporation may rely on a determination of comparable coverage and premium made by the producing agent who submits the application to the corporation, made in the agent's capacity as the corporation's agent. A comparison may be made solely of the premium with respect to the main building or structure only on the following basis: the same coverage A or other building limits; the same percentage hurricane deductible that applies on an annual basis or that applies to each hurricane for commercial residential property; the same percentage of ordinance and law coverage, if the same limit is offered by both the corporation and the authorized insurer; the same mitigation credits, to the extent the same types of credits are offered both by the corporation and the authorized insurer; the same method for loss payment, such as replacement cost or actual cash value, if the same method is offered both by the corporation and the authorized insurer in accordance with underwriting rules; and any other form or coverage that is reasonably comparable as determined by the board. If an application is submitted to the corporation for wind-only coverage in the coastal account, the premium for the corporation's wind-only policy plus the premium for the ex-wind policy that is offered by an authorized insurer to the applicant must be compared to the premium for multiperil coverage offered by an authorized insurer, subject to the standards for comparison specified in this subparagraph. If the corporation or the applicant requests from the authorized insurer a breakdown of the premium of the offer by types of

coverage so that a comparison may be made by the corporation or its agent and the authorized insurer refuses or is unable to provide such information, the corporation may treat the offer as not being an offer of coverage from an authorized insurer at the insurer's approved rate.

6. Must include rules for classifications of risks and rates.

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

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

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

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

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

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

10. The policies issued by the corporation must provide that if the corporation or the market assistance plan obtains an offer from an authorized insurer to cover the risk at its approved rates, the risk is no longer eligible for renewal through the corporation, except as otherwise provided in this subsection.

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

12. May establish, subject to approval by the office, different eligibility requirements and operational procedures for any line or type of coverage for any specified county or area if the board determines that such changes are justified due to the voluntary market being sufficiently stable and competitive in such area or for such line or type of coverage and that consumers who, in good faith, are unable to obtain insurance through the voluntary market through ordinary methods continue to have access to coverage from the corporation. If coverage is sought in connection with a real property transfer, the requirements and procedures may not provide an effective date of coverage later than the date of the closing of the

transfer as established by the transferor, the transferee, and, if applicable, the lender.

13. Must provide that, with respect to the coastal account, any assessable insurer with a surplus as to policyholders of $25 million or less writing 25 percent or more of its total countrywide property insurance premiums in this state may petition the office, within the first 90 days of each calendar year, to qualify as a limited apportionment company. A regular assessment levied by the corporation on a limited apportionment company for a deficit incurred by the corporation for the coastal account may be paid to the corporation on a monthly basis as the assessments are collected by the limited apportionment company from its insureds pursuant to s. 627.3512, but the regular assessment must be paid in full within 12 months after being levied by the corporation. A limited apportionment company shall collect from its policyholders any emergency assessment imposed under sub-subparagraph (b)3.c. ~~(b)3.d.~~ The plan must provide that, if the office determines that any regular assessment will result in an impairment of the surplus of a limited apportionment company, the office may direct that all or part of such assessment be deferred as provided in subparagraph (q)4. However, an emergency assessment to be collected from policyholders under sub-subparagraph (b)3.c. ~~(b)3.d.~~ may not be limited or deferred.

14. Must provide that the corporation appoint as its licensed agents only those agents who also hold an appointment as defined in s. 626.015(3) with an insurer who at the time of the agent's initial appointment by the corporation is authorized to write and is actually writing personal lines residential

property coverage, commercial residential property coverage, or commercial nonresidential property coverage within the state.

15. Must provide a premium payment plan option to its policyholders which, at a minimum, allows for quarterly and semiannual payment of premiums. A monthly payment plan may, but is not required to, be offered.

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

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

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

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

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

ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE

AND ASSESSMENT LIABILITY:

1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON, MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.

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

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

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

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

(q)1. The corporation shall certify to the office its needs for annual assessments as to a particular calendar year, and for any interim assessments that it deems to be necessary to sustain

operations as to a particular year pending the receipt of annual assessments. Upon verification, the office shall approve such certification, and the corporation shall levy such annual or interim assessments. Such assessments shall be prorated as provided in paragraph (b). The corporation shall take all reasonable and prudent steps necessary to collect the amount of assessment due from each assessable insurer, including, if prudent, filing suit to collect such assessment. If the corporation is unable to collect an assessment from any assessable insurer, the uncollected assessments shall be levied as an additional assessment against the assessable insurers and any assessable insurer required to pay an additional assessment as a result of such failure to pay shall have a cause of action against such nonpaying assessable insurer. Assessments shall be included as an appropriate factor in the making of rates. The failure of a surplus lines agent to collect and remit any regular or emergency assessment levied by the corporation is considered to be a violation of s. 626.936 and subjects the surplus lines agent to the penalties provided in that section.

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

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

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

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

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

(II) Offer to allow the producing agent of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the insurer's usual and

customary commission for the type of policy written. If the producing agent is unwilling or unable to accept appointment by the new insurer, the new insurer shall pay the agent in accordance with sub-sub-subparagraph (I).

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

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

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

5. Effective July 1, 2007, in order to evaluate the costs and benefits of approved take-out plans, if the corporation pays a bonus or other payment to an insurer for an approved take-out

plan, it shall maintain a record of the address or such other identifying information on the property or risk removed in order to track if and when the property or risk is later insured by the corporation.

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

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

2. Effective July 1, 2002, policies of the Florida Windstorm Underwriting Association are transferred to the corporation and become policies of the corporation. All obligations, rights, assets, and liabilities of the association, including bonds, note and debt obligations, and the financing documents pertaining to them are transferred to and assumed by the corporation on July 1, 2002. The corporation is not required to issue endorsements or certificates of assumption to insureds during the remaining term of in-force transferred policies.

3. The Florida Windstorm Underwriting Association and the Residential Property and Casualty Joint Underwriting Association shall take all actions necessary to further evidence the transfers and provide the documents and instruments of further assurance as may reasonably be requested by the corporation for that purpose. The corporation shall execute assumptions and instruments as the trustees or other parties to the financing documents of the Florida Windstorm Underwriting Association or the Residential Property and Casualty Joint Underwriting Association may reasonably request to further evidence the transfers and assumptions, which transfers and assumptions, however, are effective on the date provided under this paragraph whether or not, and regardless of the date on which, the assumptions or instruments are executed by the corporation. Subject to the relevant financing documents pertaining to their outstanding bonds, notes, indebtedness, or other financing obligations, the moneys, investments, receivables, choses in action, and other intangibles of the Florida Windstorm Underwriting Association shall be credited to the coastal account of the corporation, and those of the personal lines residential coverage account and the commercial lines residential coverage account of the Residential Property and Casualty Joint Underwriting Association shall be credited to the personal lines account and the commercial lines account, respectively, of the corporation.

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

subsection.

5. The transfer of all policies, obligations, rights, assets, and liabilities from the Florida Windstorm Underwriting Association to the corporation and the renaming of the Residential Property and Casualty Joint Underwriting Association as the corporation does not affect the coverage with respect to covered policies as defined in s. 215.555(2)(c) provided to these entities by the Florida Hurricane Catastrophe Fund. The coverage provided by the fund to the Florida Windstorm Underwriting Association based on its exposures as of June 30, 2002, and each June 30 thereafter shall be redesignated as coverage for the coastal account of the corporation. Notwithstanding any other provision of law, the coverage provided by the fund to the Residential Property and Casualty Joint Underwriting Association based on its exposures as of June 30, 2002, and each June 30 thereafter shall be transferred to the personal lines account and the commercial lines account of the corporation. Notwithstanding any other provision of law, the coastal account shall be treated, for all Florida Hurricane Catastrophe Fund purposes, as if it were a separate participating insurer with its own exposures, reimbursement premium, and loss reimbursement. Likewise, the personal lines and commercial lines accounts shall be viewed together, for all fund purposes, as if the two accounts were one and represent a single, separate participating insurer with its own exposures, reimbursement premium, and loss reimbursement. The coverage provided by the fund to the corporation shall constitute and operate as a full transfer of coverage from the Florida Windstorm Underwriting Association and Residential Property and

Casualty Joint Underwriting Association to the corporation.

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

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

627.3511 Depopulation of Citizens Property Insurance Corporation.—

(3) EXEMPTION FROM DEFICIT ASSESSMENTS.—

(a) The calculation of an insurer's assessment liability under s. 627.351(6)(b)3.a. ~~or b.~~ shall, for an insurer that in any calendar year removes 50,000 or more risks from the Citizens Property Insurance Corporation, either by issuance of a policy upon expiration or cancellation of the corporation policy or by assumption of the corporation's obligations with respect to in-force policies, exclude such removed policies for the succeeding 3 years, as follows:

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

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

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

If the removal of risks is accomplished through assumption of obligations with respect to in-force policies, the corporation shall pay to the assuming insurer all unearned premium with respect to such policies less any policy acquisition costs agreed to by the corporation and assuming insurer. The term "policy acquisition costs" is defined as costs of issuance of the policy by the corporation which includes agent commissions, servicing company fees, and premium tax. This paragraph does not apply to an insurer that, at any time within 5 years before removing the risks, had a market share in excess of 0.1 percent of the statewide aggregate gross direct written premium for any line of property insurance, or to an affiliate of such an insurer. This paragraph does not apply unless either at least 40 percent of the risks removed from the corporation are located in Miami-Dade, Broward, and Palm Beach Counties, or at least 30 percent of the risks removed from the corporation are located in such counties and an additional 50 percent of the risks removed from the corporation are located in other coastal counties.

(b) An insurer that first wrote personal lines residential property coverage in this state on or after July 1, 1994, is exempt from regular deficit assessments imposed pursuant to s. 627.351(6)(b)3.a. ~~and b.~~, but not emergency assessments

collected from policyholders pursuant to s. 627.351(6)(b)3.c. ~~627.351(6)(b)3.d.~~, of the Citizens Property Insurance Corporation until the earlier of the following:

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

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

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

(6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.—

(d) The calculation of an insurer's regular assessment liability under s. 627.351(6)(b)3.a. ~~and b.~~, but not emergency assessments collected from policyholders pursuant to s. 627.351(6)(b)3.c. ~~627.351(6)(b)3.d.~~, shall, with respect to commercial residential policies removed from the corporation under an approved take-out plan, exclude such removed policies for the succeeding 3 years, as follows:

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

2. In the second year following removal of the policies,

the policies are excluded from the calculation to the extent of 75 percent.

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

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

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

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

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

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

(6)(b)3.c. by s. 15, ch. 2011-39.

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

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

(1) LOANS; GENERAL LIMITATIONS.—

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

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

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

667.003 Applicability of chapter 658.—Any state savings bank is subject to all the provisions, and entitled to all the privileges, of the financial institutions codes except where it appears, from the context or otherwise, that such provisions clearly apply only to banks or trust companies organized under the laws of this state or the United States. Without limiting the foregoing general provisions, it is the intent of the Legislature that the following provisions apply to a savings bank to the same extent as if the savings bank were a "bank" operating under such provisions:

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

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

Section 81. Subsection (1) of section 681.108, Florida

Statutes, is amended to read:

681.108 Dispute-settlement procedures.—

(1) If a manufacturer has established a procedure that the department has certified as substantially complying with the provisions of 16 C.F.R. part 703, in effect October 1, 1983, and with the provisions of this chapter and the rules adopted under this chapter, and has informed the consumer how and where to file a claim with such procedure pursuant to s. 681.103(3), the provisions of s. 681.104(2) apply to the consumer only if the consumer has first resorted to such procedure. The decisionmakers for a certified procedure shall, in rendering decisions, take into account all legal and equitable factors germane to a fair and just decision, including, but not limited to, the warranty; the rights and remedies conferred under 16 C.F.R. part 703, in effect October 1, 1983; the provisions of this chapter; and any other equitable considerations appropriate under the circumstances. Decisionmakers and staff for ~~of~~ a procedure shall be trained in the provisions of this chapter and in 16 C.F.R. part 703, in effect October 1, 1983. In an action brought by a consumer concerning an alleged nonconformity, the decision that results from a certified procedure is admissible in evidence.

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

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

753.03 Standards for supervised visitation and supervised exchange programs.—

~~(4) The clearinghouse shall submit a preliminary report~~

~~containing its recommendations for the uniform standards by December 31, 2007, and a final report of all recommendations, including those related to the certification and monitoring developed to date, by December 31, 2008, to the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court.~~

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

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

766.1065 Authorization for release of protected health information.—

(3) The authorization required by this section shall be in the following form and shall be construed in accordance with the "Standards for Privacy of Individually Identifiable Health Information" in 45 C.F.R. parts 160 and 164:

AUTHORIZATION FOR RELEASE OF
PROTECTED HEALTH INFORMATION

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

1. Facilitating the investigation and evaluation

of the medical negligence claim described in the accompanying presuit notice; or

2. Defending against any litigation arising out of the medical negligence claim made on the basis of the accompanying presuit notice.

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

1. The health information in the custody of the following health care providers who have examined, evaluated, or treated the Patient in connection with injuries complained of after the alleged act of negligence: (List the name and current address of all health care providers). This authorization extends to any additional health care providers that may in the future evaluate, examine, or treat the Patient for the injuries complained of.

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

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

C. This authorization does not apply to the following list of health care providers possessing health care information about the Patient because the

Patient certifies that such health care information is not potentially relevant to the claim of personal injury or wrongful death that is the basis of the accompanying presuit notice.

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

D. The persons or class of persons to whom the Patient authorizes such health information to be disclosed or by whom such health information is to be used:

1. Any health care provider providing care or treatment for the Patient.

2. Any liability insurer or self-insurer providing liability insurance coverage, self-insurance, or defense to any health care provider to whom presuit notice is given regarding the care and treatment of the Patient.

3. Any consulting or testifying expert employed by or on behalf of (name of health care provider to whom presuit notice was given) and his/her/its insurer(s), self-insurer(s), or attorney(s) regarding ~~to~~ the matter of the presuit notice accompanying this authorization.

4. Any attorney (including secretarial, clerical, or paralegal staff) employed by or on behalf of (name

of health care provider to whom presuit notice was given) regarding the matter of the presuit notice accompanying this authorization.

5. Any trier of the law or facts relating to any suit filed seeking damages arising out of the medical care or treatment of the Patient.

E. This authorization expires upon resolution of the claim or at the conclusion of any litigation instituted in connection with the matter of the presuit notice accompanying this authorization, whichever occurs first.

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

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

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

Signature of Patient/Representative: ....

Date: ....

Name of Patient/Representative: ....

Description of Representative's Authority: ....

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

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

794.056 Rape Crisis Program Trust Fund.—

(2) The Department of Health shall establish by rule criteria consistent with the provisions of s. 794.055(3)(b) ~~794.055(3)(a)~~ for distributing moneys from the trust fund to rape crisis centers.

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

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

847.0141 Sexting; prohibited acts; penalties.—

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

(b) Possesses a photograph or video of any person that was transmitted or distributed by another minor which depicts

nudity, as defined in s. 847.001(9), and is harmful to minors, as defined in s. 847.001(6). A minor does not violate ~~paragraph~~ this paragraph if all of the following apply:

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

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

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

Reviser's note.—Amended to confirm editorial deletion of the word "paragraph" preceding the word "this."

Section 86. Paragraph (d) of subsection (11) of section 893.055, Florida Statutes, is amended to read:

893.055 Prescription drug monitoring program.—

(11) The department may establish a direct-support organization that has a board consisting of at least five members to provide assistance, funding, and promotional support for the activities authorized for the prescription drug monitoring program.

(d) The direct-support organization shall operate under written contract with the department. The contract must, at a minimum, provide for:

1. Approval of the articles of incorporation and bylaws of the direct-support organization by the department.

2. Submission of an annual budget for the approval of the department.

3. Certification by the department ~~in consultation with the department~~ that the direct-support organization is complying with the terms of the contract in a manner consistent with and

in furtherance of the goals and purposes of the prescription drug monitoring program and in the best interests of the state. Such certification must be made annually and reported in the official minutes of a meeting of the direct-support organization.

4. The reversion, without penalty, to the state of all moneys and property held in trust by the direct-support organization for the benefit of the prescription drug monitoring program if the direct-support organization ceases to exist or if the contract is terminated.

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

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

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

the prescription drug monitoring program by:

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

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

c. Providing funds for future enhancements of the program within the intent of this section.

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

e. Providing funds for travel expenses.

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

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

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

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

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

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

(7) An order entered under subsection (5) ~~(4)~~ may be

enforced pursuant to the procedures contained in s. 120.69. This subsection does not subject a municipality that creates a board under this section, or the board so created, to any other provision of chapter 120.

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

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

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

(3) The commission shall, by rule, establish, implement, supervise, and evaluate the expenditures of the Criminal Justice Standards and Training Trust Fund for approved advanced and specialized training program courses. Criminal justice training school enhancements may be authorized by the commission subject to the provisions of subsection (6) ~~(7)~~. The commission may approve the training of appropriate support personnel when it can be demonstrated that these personnel directly support the criminal justice function.

(4) The commission shall authorize the establishment of regional training councils to advise and assist the commission in developing and maintaining a plan assessing regional criminal justice training needs and to act as an extension of the commission in the planning, programming, and budgeting for expenditures of the moneys in the Criminal Justice Standards and Training Trust Fund.

(d) A public criminal justice training school must be designated by the commission to receive and distribute the

disbursements authorized under subsection (8) ~~(9)~~.

Reviser's note.—Amended to conform to the renumbering of subunits within the section as a result of the repeal of subsection (3) by s. 8, ch. 2011-52, Laws of Florida.

Section 89. Subsection (48) of section 984.03, Florida Statutes, is amended to read:

984.03 Definitions.—When used in this chapter, the term:

~~(48) "Serious or habitual juvenile offender program" means the program established in s. 985.47.~~

Reviser's note.—Amended to conform to the repeal of s. 985.47 by s. 4, ch. 2011-70, Laws of Florida.

Section 90. Paragraphs (a), (b), (c), (d), (e), and (g) of subsection (5) of section 985.0301, Florida Statutes, are amended to read:

985.0301 Jurisdiction.—

(5)(a) Notwithstanding ss. 743.07, 985.43, 985.433, 985.435, 985.439, and 985.441, and except as provided in ss. 985.461~~,~~ and 985.465~~, and 985.47~~ and paragraph (f), when the jurisdiction of any child who is alleged to have committed a delinquent act or violation of law is obtained, the court shall retain jurisdiction, unless relinquished by its order, until the child reaches 19 years of age, with the same power over the child which the court had before the child became an adult. For the purposes of s. 985.461, the court may retain jurisdiction for an additional 365 days following the child's 19th birthday if the child is participating in transition-to-adulthood services. The additional services do not extend involuntary court-sanctioned residential commitment and therefore require voluntary participation by the affected youth.

(b) Notwithstanding ss. 743.07 and 985.455(3), ~~and except as provided in s. 985.47,~~ the term of any order placing a child in a probation program must be until the child's 19th birthday unless he or she is released by the court on the motion of an interested party or on his or her own motion.

(c) Notwithstanding ss. 743.07 and 985.455(3), ~~and except as provided in s. 985.47,~~ the term of the commitment must be until the child is discharged by the department or until he or she reaches the age of 21 years. Notwithstanding ss. 743.07, 985.435, 985.437, 985.439, 985.441, 985.455, and 985.513, and except as provided in this section ~~and s. 985.47~~, a child may not be held under a commitment from a court under s. 985.439, s. 985.441(1)(a) or (b), or s. 985.455 after becoming 21 years of age.

(d) The court may retain jurisdiction over a child committed to the department for placement in a juvenile prison or in a high-risk or maximum-risk residential commitment program to allow the child to participate in a juvenile conditional release program pursuant to s. 985.46. The jurisdiction of the court may not be retained after ~~beyond~~ the child's 22nd birthday. However, if the child is not successful in the conditional release program, the department may use the transfer procedure under s. 985.441(4).

(e) The court may retain jurisdiction over a child committed to the department for placement in an intensive residential treatment program for 10-year-old to 13-year-old offenders, in the residential commitment program in a juvenile prison, in a residential sex offender program, or in a program for serious or habitual juvenile offenders ~~as provided in s.~~

~~985.47 or s. 985.483~~ until the child reaches the age of 21. If the court exercises this jurisdiction retention, it shall do so solely for the purpose of the child completing the intensive residential treatment program for 10-year-old to 13-year-old offenders, in the residential commitment program in a juvenile prison, in a residential sex offender program, or the program for serious or habitual juvenile offenders. Such jurisdiction retention does not apply for other programs, other purposes, or new offenses.

(g)1. Notwithstanding ss. 743.07 and 985.455(3), a serious or habitual juvenile offender shall not be held under commitment from a court under s. 985.441(1)(c)~~, s. 985.47,~~ or s. 985.565 after becoming 21 years of age. This subparagraph shall apply only for the purpose of completing the serious or habitual juvenile offender program under this chapter and shall be used solely for the purpose of treatment.

2. The court may retain jurisdiction over a child who has been placed in a program or facility for serious or habitual juvenile offenders until the child reaches the age of 21, specifically for the purpose of the child completing the program.

Reviser's note.—Amended to conform to the repeal of s. 985.47 by s. 4, ch. 2011-70, Laws of Florida, and the repeal of s. 985.483 by s. 5, ch. 2011-70. Paragraph (5)(d) is amended to confirm editorial deletion of the word "beyond" following the word "after."

Section 91. Paragraph (a) of subsection (3) of section 985.14, Florida Statutes, is amended to read:

985.14 Intake and case management system.—

(3) The intake and case management system shall facilitate consistency in the recommended placement of each child, and in the assessment, classification, and placement process, with the following purposes:

(a) An individualized, multidisciplinary assessment process that identifies the priority needs of each individual child for rehabilitation and treatment and identifies any needs of the child's parents or guardians for services that would enhance their ability to provide adequate support, guidance, and supervision for the child. This process shall begin with the detention risk assessment instrument and decision, shall include the intake preliminary screening and comprehensive assessment for substance abuse treatment services, mental health services, retardation services, literacy services, and other educational and treatment services as components, additional assessment of the child's treatment needs, and classification regarding the child's risks to the community and, for a serious or habitual delinquent child, shall include the assessment for placement in a serious or habitual delinquent children program ~~under s. 985.47~~. The completed multidisciplinary assessment process shall result in the predisposition report.

Reviser's note.—Amended to conform to the repeal of s. 985.47 by s. 4, ch. 2011-70, Laws of Florida.

Section 92. Paragraph (c) of subsection (1) of section 985.441, Florida Statutes, is amended to read:

985.441 Commitment.—

(1) The court that has jurisdiction of an adjudicated delinquent child may, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made

at the disposition hearing:

(c) Commit the child to the department for placement in a program or facility for serious or habitual juvenile offenders ~~in accordance with s. 985.47~~.

1. Following a delinquency adjudicatory hearing under s. 985.35 and a delinquency disposition hearing under s. 985.433 that results in a commitment determination, the court shall, on its own or upon request by the state or the department, determine whether the protection of the public requires that the child be placed in a program for serious or habitual juvenile offenders and whether the particular needs of the child would be best served by a program for serious or habitual juvenile offenders ~~as provided in s. 985.47~~. The determination shall be made under s. ~~ss. 985.47(1) and~~ 985.433(7).

2. Any commitment of a child to a program or facility for serious or habitual juvenile offenders must be for an indeterminate period of time, but the time may not exceed the maximum term of imprisonment that an adult may serve for the same offense.

Reviser's note.—Amended to conform to the repeal of s. 985.47 by s. 4, ch. 2011-70, Laws of Florida.

Section 93. Subsection (1) of section 1002.33, Florida Statutes, is amended to read:

1002.33 Charter schools.—

(1) AUTHORIZATION.—Charter schools shall be part of the state's program of public education. All charter schools in Florida are public schools. A charter school may be formed by creating a new school or converting an existing public school to charter status. A charter school may operate a virtual charter

school pursuant to s. 1002.45(1)(d) to provide full-time online instruction to eligible students, pursuant to s. 1002.455, in kindergarten through grade 12. A charter school must amend its charter or submit a new application pursuant to subsection (6) to become a virtual charter school. A virtual charter school is subject to the requirements of this section; however, a virtual charter school is exempt from subsections (18) and (19), subparagraphs (20)(a)2., 4., 5., and 7. ~~(20)(a)2.-5.~~, paragraph (20)(c), and s. 1003.03. A public school may not use the term charter in its name unless it has been approved under this section.

Reviser's note.—Amended to conform to the redesignation of subparagraphs (20)(a)2.-5. as subparagraphs (20)(a)2., 4., 5., and 7. by s. 8, ch. 2011-55, Laws of Florida.

Section 94. Paragraph (b) of subsection (2) of section 1003.498, Florida Statutes, is amended to read:

1003.498 School district virtual course offerings.—

(2) School districts may offer virtual courses for students enrolled in the school district. These courses must be identified in the course code directory. Students who meet the eligibility requirements of s. 1002.455 may participate in these virtual course offerings.

(b) Any eligible student who is enrolled in a school district may register and enroll in an online course offered by any other school district in the state, except as limited by the following:

1. A student may not enroll in a course offered through a virtual instruction program provided pursuant to s. 1002.45.

2. A student may not enroll in a virtual course offered by

another school district if:

a. The course is offered online by the school district in which the student resides; or

b. The course is offered in the school in which the student is enrolled. However, a student may enroll in an online course offered by another school district if the school in which the student is enrolled offers the course but the student is unable to schedule the course in his or her school.

3. The school district in which the student completes the course shall report the student's completion of that course for funding pursuant to s. 1011.61(1)(c)1.b.(VI) ~~1011.61(1)(c)b.(VI)~~, and the home school district shall not report the student for funding for that course.

For purposes of this paragraph, the combined total of all school district reported FTE may not be reported as more than 1.0 full-time equivalent student in any given school year. The Department of Education shall establish procedures to enable interdistrict coordination for the delivery and funding of this online option.

Reviser's note.—Amended to confirm editorial substitution of the reference to s. 1011.61(1)(c)1.b.(VI) for a reference to s. 1011.61(1)(c)b.(VI) to conform to the complete citation for the provision created by s. 9, ch. 2011-137, relating to FTE calculation for funding for completion of an online course in a district other than the student's home district.

Section 95. Paragraph (d) of subsection (5) of section 1004.41, Florida Statutes, is amended to read:

1004.41 University of Florida; J. Hillis Miller Health

Center.—

(5)

(d) For purposes of sovereign immunity pursuant to s. 768.28(2), Shands Jacksonville Medical Center, Inc., Shands Jacksonville HealthCare, Inc., and any not-for-profit subsidiary which directly delivers health care services and whose governing board is chaired by the President of the University of Florida or his or her designee and is controlled by the University of Florida Board of Trustees, which may act through the president of the university or his or her designee and whose primary purpose is the support of the University of Florida Board of Trustees' health affairs mission, shall be conclusively deemed corporations primarily acting as instrumentalities of the state.

Reviser's note.—Amended to confirm editorial insertion of the word "her."

Section 96. Subsection (5) of section 1007.28, Florida Statutes, is amended to read:

1007.28 Computer-assisted student advising system.—The Department of Education, in conjunction with the Board of Governors, shall establish and maintain a single, statewide computer-assisted student advising system, which must be an integral part of the process of advising, registering, and certifying students for graduation and must be accessible to all Florida students. The state universities and Florida College System institutions shall interface institutional systems with the computer-assisted advising system required by this section. The State Board of Education and the Board of Governors shall specify in the statewide articulation agreement required by s. 1007.23(1) the roles and responsibilities of the department, the

state universities, and the Florida College System institutions in the design, implementation, promotion, development, and analysis of the system. The system shall consist of a degree audit and an articulation component that includes the following characteristics:

(5) The system must provide the admissions application for transient students who are undergraduate students currently enrolled and pursuing a degree at a public postsecondary educational institution and who want to enroll in a course listed in the Florida Higher Education Distance Learning ~~Leaning~~ Catalog which is offered by a public postsecondary educational institution that is not the student's degree-granting institution. This system must include the electronic transfer and receipt of information and records for the following functions:

(a) Admissions and readmissions;

(b) Financial aid; and

(c) Transfer of credit awarded by the institution offering the distance learning course to the transient student's degree-granting institution.

Reviser's note.—Amended to confirm editorial substitution of the word "Learning" for the word "Leaning" to conform to the correct name of the catalog.

Section 97. Section 1010.82, Florida Statutes, is amended to read:

1010.82 Textbook Bid Trust Fund.—Chapter 99-36, Laws of Florida, re-created the Textbook Bid Trust Fund to record the revenue and disbursements of textbook bid performance deposits submitted to the Department of Education as required in s.

1006.33 ~~1006.32~~.

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation. Section 233.15, 2001 Florida Statutes, which related to the deposit of funds required to be paid by each publisher or manufacturer of instructional materials upon submission of a bid or proposal to the Department of Education into the Textbook Bid Trust Fund, was repealed by s. 1058, ch. 2002-387, Laws of Florida. That language was recreated as s. 1006.33(3) by s. 308, ch. 2002-387. Similar language was not recreated in s. 1006.32, which relates to prohibited acts with regard to instructional materials.

Section 98. Paragraph (b) of subsection (3) of section 1011.71, Florida Statutes, is amended to read:

1011.71 District school tax.—

(3)

(b) Local funds generated by the additional 0.25 mills authorized in paragraph (b) and state funds provided pursuant to s. 1011.62(5) may not be included in the calculation of the Florida Education Finance Program in 2011-2012 or any subsequent year and may not be incorporated in the calculation of any hold-harmless or other component of the Florida Education Finance Program in any year, except as provided in paragraph (c) ~~(d)~~.

Reviser's note.—Amended to conform to the redesignation of paragraph (d) as paragraph (c) as a result of the repeal of former paragraph (b) by s. 36, ch. 2011-55, Laws of Florida.

Section 99. Subsection (3) of section 1011.81, Florida Statutes, is amended to read:

1011.81 Florida College System Program Fund.—

(3) State funds provided for the Florida College System ~~Community College~~ Program Fund may not be expended for the education of state or federal inmates.

Reviser's note.—Amended to confirm editorial substitution of the words "Florida College System" for the words "Community College" to conform to the renaming of the fund by s. 176, ch. 2011-5, Laws of Florida.

Section 100. Paragraph (c) of subsection (4) and subsection (5) of section 1013.33, Florida Statutes, are amended to read:

1013.33 Coordination of planning with local governing bodies.—

(4)

(c) If the state land planning agency enters a final order that finds that the interlocal agreement is inconsistent with the requirements of subsection (3) or this subsection, the state land planning agency shall forward it to the Administration Commission, which may impose sanctions against the local government pursuant to s. 163.3184(8) ~~163.3184(11)~~ and may impose sanctions against the district school board by directing the Department of Education to withhold an equivalent amount of funds for school construction available pursuant to ss. 1013.65, 1013.68, 1013.70, and 1013.72.

(5) If an executed interlocal agreement is not timely submitted to the state land planning agency for review, the state land planning agency shall, within 15 working days after the deadline for submittal, issue to the local government and the district school board a notice to show cause why sanctions should not be imposed for failure to submit an executed

interlocal agreement by the deadline established by the agency. The agency shall forward the notice and the responses to the Administration Commission, which may enter a final order citing the failure to comply and imposing sanctions against the local government and district school board by directing the appropriate agencies to withhold at least 5 percent of state funds pursuant to s. 163.3184(8) ~~163.3184(11)~~ and by directing the Department of Education to withhold from the district school board at least 5 percent of funds for school construction available pursuant to ss. 1013.65, 1013.68, 1013.70, and 1013.72.

Reviser's note.—Amended to conform to the redesignation of s. 163.3184(11) as s. 163.3184(8) by s. 17, ch. 2011-139, Laws of Florida.

Section 101. Subsection (6) of section 1013.36, Florida Statutes, is amended to read:

1013.36 Site planning and selection.—

(6) If the school board and local government have entered into an interlocal agreement pursuant to s. 1013.33(2) and ~~either s. 163.3177(6)(h)4. or~~ s. 163.31777 or have developed a process to ensure consistency between the local government comprehensive plan and the school district educational facilities plan, site planning and selection must be consistent with the interlocal agreements and the plans.

Reviser's note.—Amended to conform to the repeal of s. 163.3177(6)(h)4. by s. 12, ch. 2011-139, Laws of Florida.

Section 102. Paragraph (a) of subsection (1) of section 1013.51, Florida Statutes, is amended to read:

1013.51 Expenditures authorized for certain

infrastructure.—

(1)(a) Subject to exemption from the assessment of fees pursuant to s. 1013.371(1) ~~1013.37(1)~~, education boards, boards of county commissioners, municipal boards, and other agencies and boards of the state may expend funds, separately or collectively, by contract or agreement, for the placement, paving, or maintaining of any road, byway, or sidewalk if the road, byway, or sidewalk is contiguous to or runs through the property of any educational plant or for the maintenance or improvement of the property of any educational plant or of any facility on such property. Expenditures may also be made for sanitary sewer, water, stormwater, and utility improvements upon, or contiguous to, and for the installation, operation, and maintenance of traffic control and safety devices upon, or contiguous to, any existing or proposed educational plant.

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation. There is no reference to fees in s. 1013.37(1); it relates to the adoption and standards of a uniform statewide building code for the planning and construction of public educational facilities. Section 1013.371(1) provides that public and ancillary plans constructed by a board are exempt from the assessment of certain fees.

Section 103. This act shall take effect on the 60th day after adjournment sine die of the session of the Legislature in which enacted.