

By Senator Thrasher

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24          purpose, or have been impliedly repealed or  
25          superseded; replacing incorrect cross-references and  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

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

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

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

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

40 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

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

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

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

54 24.113 Minority participation.—

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

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59 288.703(3) ~~288.703(2)~~; however, no more than 35 percent of such  
60 retailers shall be owned by the same type of minority person, as  
61 defined in s. 288.703(4) ~~288.703(3)~~. The department is  
62 encouraged to meet the minority business enterprise procurement  
63 goals set forth in s. 287.09451 in the procurement of  
64 commodities, contractual services, construction, and  
65 architectural and engineering services. This section shall not  
66 preclude or prohibit a minority person from competing for any  
67 other retailing or vending agreement awarded by the department.  
68 Reviser's note.—Amended to conform to the redesignation of  
69 subsections within s. 288.703 by s. 172, ch. 2011-142, Laws  
70 of Florida.

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

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

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

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

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

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

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

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

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

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

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

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117 indicates otherwise:

118 (3) "Contribution" means:

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

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

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

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

138

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

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

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146 word "or" to improve clarity.

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

149 106.07 Reports; certification and filing.—

150 (8)

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

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

166 106.265 by s. 72, ch. 2011-40, Laws of Florida, which split  
167 former subsection (1) into two subsections; new subsection  
168 (2) references mitigating and aggravating circumstances.

169 Section 7. Paragraph (c) of subsection (7) of section  
170 106.0703, Florida Statutes, is amended to read:

171 106.0703 Electioneering communications organizations;  
172 reporting requirements; certification and filing; penalties.—

173 (7)

174 (c) The treasurer of an electioneering communications

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175 organization may appeal or dispute the fine, based upon, but not  
176 limited to, unusual circumstances surrounding the failure to  
177 file on the designated due date, and may request and shall be  
178 entitled to a hearing before the Florida Elections Commission,  
179 which shall have the authority to waive the fine in whole or in  
180 part. The Florida Elections Commission must consider the  
181 mitigating and aggravating circumstances contained in s.  
182 106.265(2) ~~106.265(1)~~ when determining the amount of a fine, if  
183 any, to be waived. Any such request shall be made within 20 days  
184 after receipt of the notice of payment due. In such case, the  
185 treasurer of the electioneering communications organization  
186 shall, within the 20-day period, notify the filing officer in  
187 writing of his or her intention to bring the matter before the  
188 commission.

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

190 106.265 by s. 72, ch. 2011-40, Laws of Florida, which split  
191 former subsection (1) into two subsections; new subsection  
192 (2) references mitigating and aggravating circumstances.

193 Section 8. Paragraph (b) of subsection (3) of section  
194 106.08, Florida Statutes, is amended to read:

195 106.08 Contributions; limitations on.—

196 (3)

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

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204 on behalf of the candidate.

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

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

209 106.143 Political advertisements circulated prior to  
210 election; requirements.—

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

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

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

221 120.745 Legislative review of agency rules in effect on or  
222 before November 16, 2010.—

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

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

230 1. The agency does not plan to repeal on or before December  
231 31, 2012;

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



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

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

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

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

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

264 121.021 Definitions.—The following words and phrases as  
265 used in this chapter have the respective meanings set forth  
266 unless a different meaning is plainly required by the context:

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

280 Reviser's note.—Amended to conform to the addition of a new s.

281 121.0515(2) by s. 8, ch. 2011-68, Laws of Florida, and the  
282 renumbering of existing subsections to conform.

283 Section 12. Paragraph (k) of subsection (3) of section  
284 121.0515, Florida Statutes, is amended to read:

285 121.0515 Special Risk Class.—

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

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

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

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

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

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

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

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

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320 functions of the member's position.

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

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

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

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

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

351 Reviser's note.—Amended to conform to ss. 6 and 8, ch. 2011-68,  
352 Laws of Florida, which moved the referenced text from s.  
353 121.021(15)(f) to s. 121.0515(2)(i), not s. 121.0515(2)(f).  
354 Section 13. Paragraph (c) of subsection (15) of section  
355 121.4501, Florida Statutes, is amended to read:

356 121.4501 Florida Retirement System Investment Plan.—

357 (15) STATEMENT OF FIDUCIARY STANDARDS AND  
358 RESPONSIBILITIES.—

359 (c) Subparagraph (8)(b)2. and paragraph (b) incorporate the  
360 federal law concept of participant control, established by  
361 regulations of the United States Department of Labor under s.  
362 404(c) of the Employee Retirement Income Security Act of 1974  
363 (ERISA). The purpose of this paragraph is to assist employers  
364 and the state board in maintaining compliance with s. 404(c),  
365 while avoiding unnecessary costs and eroding member benefits  
366 under the investment plan. Pursuant to 29 C.F.R. s. 2550.404c-  
367 1(b)(2)(i)(B)(1)(viii), the state board or its designated agents  
368 shall deliver to members of the investment plan a copy of the  
369 prospectus most recently provided to the plan, and, pursuant to  
370 29 C.F.R. s. 2550.404c-1(b)(2)(i)(B)(2)(ii), shall provide such  
371 members an opportunity to obtain this information, except that:

372 1. The requirement to deliver a prospectus shall be  
373 satisfied by delivery of a fund profile or summary profile that  
374 contains the information that would be included in a summary  
375 prospectus as described by Rule 498 under the Securities Act of  
376 1933, 17 C.F.R. s. 230.498. If the transaction fees, expense  
377 information or other information provided by a mutual fund in

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

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

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

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

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

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

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

404 Section 14. Paragraph (i) of subsection (3) of section  
405 163.06, Florida Statutes, is amended to read:

406 163.06 Miami River Commission.—

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

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

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

416 Section 15. Paragraph (b) of subsection (8) of section  
417 163.3184, Florida Statutes, is amended to read:

418 163.3184 Process for adoption of comprehensive plan or plan  
419 amendment.—

420 (8) ADMINISTRATION COMMISSION.—

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

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

432 a. The Florida Small Cities Community Development Block  
433 Grant Program, as authorized by ss. 290.0401-290.048 ~~290.0401-~~  
434 ~~290.049~~.

435 b. The Florida Recreation Development Assistance Program,

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436 as authorized by chapter 375.

437 c. Revenue sharing pursuant to ss. 206.60, 210.20, and  
438 218.61 and chapter 212, to the extent not pledged to pay back  
439 bonds.

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

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

457 Reviser's note.—Amended to conform to the repeal of s. 290.049  
458 by s. 44, ch. 2001-89, Laws of Florida, and s. 25, ch.

459 2001-201, Laws of Florida. Section 290.048 is now the last  
460 section in the range.

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

463 163.3213 Administrative review of land development  
464 regulations.—



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465 (6) If the administrative law judge in his or her order  
466 finds the land development regulation to be inconsistent with  
467 the local comprehensive plan, the order will be submitted to the  
468 Administration Commission. An appeal pursuant to s. 120.68 may  
469 not be taken until the Administration Commission acts pursuant  
470 to this subsection. The Administration Commission shall hold a  
471 hearing no earlier than 30 days or later than 60 days after the  
472 administrative law judge renders his or her final order. The  
473 sole issue before the Administration Commission shall be the  
474 extent to which any of the sanctions described in s.  
475 163.3184(8) (a) or (b)1. or 2. ~~163.3184(11) (a) or (b)~~ shall be  
476 applicable to the local government whose land development  
477 regulation has been found to be inconsistent with its  
478 comprehensive plan. If a land development regulation is not  
479 challenged within 12 months, it shall be deemed to be consistent  
480 with the adopted local plan.

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

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

486 163.3245 Sector plans.—

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

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494 apply to the subject parcels. After adoption of a long-term  
495 master plan, an owner may withdraw his or her property from the  
496 master plan only with the approval of the local government by  
497 plan amendment adopted and reviewed pursuant to s. 163.3184.  
498 Reviser's note.—Amended pursuant to the directive of the  
499 Legislature in s. 1, ch. 93-199, Laws of Florida, to remove  
500 gender-specific references applicable to human beings from  
501 the Florida Statutes without substantive change in legal  
502 effect.

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

505 163.3248 Rural land stewardship areas.—

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

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

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

527 Section 19. Paragraph (b) of subsection (1) of section  
528 189.421, Florida Statutes, is amended to read:

529 189.421 Failure of district to disclose financial reports.—  
530 (1)

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

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

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

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

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

556 Reviser's note.—Amended to conform to the redesignation of s.  
557 11.40(5)(b) as s. 11.40(2)(b) by s. 12, ch. 2011-34, Laws  
558 of Florida.

559 Section 20. Paragraph (a) of subsection (15) of section  
560 196.012, Florida Statutes, is amended to read:

561 196.012 Definitions.—For the purpose of this chapter, the  
562 following terms are defined as follows, except where the context  
563 clearly indicates otherwise:

564 (15) "New business" means:

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

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

574 b. Is a target industry business as defined in s.  
575 288.106(2)(q) ~~288.106(2)(t)~~;

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

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581 year the exemption is claimed; or

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

589 Reviser's note.—Amended to conform to the redesignation of s.

590 288.106(2)(t) as s. 288.106(2)(q) by s. 150, ch. 2011-142,  
591 Laws of Florida.

592 Section 21. Paragraph (g) of subsection (3) of section  
593 212.096, Florida Statutes, is amended to read:

594 212.096 Sales, rental, storage, use tax; enterprise zone  
595 jobs credit against sales tax.—

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

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

603 Reviser's note.—Amended to conform to the redesignation of s.

604 288.703(1) as s. 288.703(6) by s. 172, ch. 2011-142, Laws  
605 of Florida.

606 Section 22. Paragraph (d) of subsection (3) of section  
607 213.24, Florida Statutes, is amended to read:

608 213.24 Accrual of penalties and interest on deficiencies;  
609 deficiency billing costs.—

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

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

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

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

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

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

625 215.198 Operating ~~Operations~~ Trust Fund.—

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

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

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

637 Section 24. Paragraph (a) of subsection (4) of section  
638 215.425, Florida Statutes, is amended to read:

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639 215.425 Extra compensation claims prohibited; bonuses;  
640 severance pay.—

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

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

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

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

657 Section 25. Paragraph (c) of subsection (8) of section  
658 218.39, Florida Statutes, is amended to read:

659 218.39 Annual financial audit reports.—

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

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

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668 comply with committee requests made pursuant to this section,  
669 the committee may proceed in accordance with s. 11.40(2)  
670 ~~11.40(5)~~.

671 Reviser's note.—Amended to conform to the redesignation of s.  
672 11.40(5) as s. 11.40(2) by s. 12, ch. 2011-34, Laws of  
673 Florida.

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

676 255.21 Special facilities for physically disabled.—Any  
677 building or facility intended for use by the general public  
678 which, in whole or in part, is constructed or altered or  
679 operated as a lessee, by or on behalf of the state or any  
680 political subdivision, municipality, or special district thereof  
681 or any public administrative board or authority of the state  
682 shall, with respect to the altered or newly constructed or  
683 leased portion of such building or facility, comply with  
684 standards and specifications established by part II ~~∇~~ of chapter  
685 553.

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

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

692 260.0142 Florida Greenways and Trails Council; composition;  
693 powers and duties.—

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



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

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

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

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

710  
711 Those eligible to represent the trail user community shall be  
712 chosen from, but not be limited to, paved trail users, hikers,  
713 off-road bicyclists, users of off-highway vehicles, paddlers,  
714 equestrians, disabled outdoor recreational users, and commercial  
715 recreational interests. Those eligible to represent the greenway  
716 user community shall be chosen from, but not be limited to,  
717 conservation organizations, nature study organizations, and  
718 scientists and university experts.

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

720 1. The Secretary of Environmental Protection or a designee.

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

723 3. The Secretary of Transportation or a designee.

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

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

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

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

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

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

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

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

751           287.042 Powers, duties, and functions.—The department shall  
752 have the following powers, duties, and functions:

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

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

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

761 (4)

762 (b) To prescribe procedures for procuring information  
763 technology and information technology consultant services that  
764 provide for public announcement and qualification, competitive  
765 solicitations, contract award, and prohibition against  
766 contingent fees. Such procedures are limited to information  
767 technology consultant contracts for which the total project  
768 costs, or planning or study activities, are estimated to exceed  
769 the threshold amount provided in s. 287.017, for CATEGORY TWO.  
770 Reviser's note.—Amended to confirm editorial insertion of the  
771 word "that" to provide clarity.

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

774 287.0947 Florida Advisory Council on Small and Minority  
775 Business Development; creation; membership; duties.—

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

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784 invaluable insight and expertise for this state in the  
785 diversification of its markets and networking of business  
786 opportunities. The council shall initially consist of 19  
787 persons, each of whom is or has been actively engaged in small  
788 and minority business development, either in private industry,  
789 in governmental service, or as a scholar of recognized  
790 achievement in the study of such matters. Initially, the council  
791 shall consist of members representing all regions of the state  
792 and shall include at least one member from each group identified  
793 within the definition of "minority person" in s. 288.703(4)  
794 ~~288.703(3)~~, considering also gender and nationality subgroups,  
795 and shall consist of the following:

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

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

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

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

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

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

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813  
814 A candidate for appointment may be considered if eligible to be  
815 certified as an owner of a minority business enterprise, or if  
816 otherwise qualified under the criteria above. Vacancies may be  
817 filled by appointment of the secretary, in the manner of the  
818 original appointment.

819 Reviser's note.—Amended to conform to the redesignation of s.  
820 288.703(3) as s. 288.703(4) by s. 172, ch. 2011-142, Laws  
821 of Florida.

822 Section 30. Paragraph (f) of subsection (4) of section  
823 288.106, Florida Statutes, is amended to read:

824 288.106 Tax refund program for qualified target industry  
825 businesses.—

826 (4) APPLICATION AND APPROVAL PROCESS.—

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

838 Reviser's note.—Amended to conform to the redesignation of  
839 paragraph (2)(k) as paragraph (2)(j) by s. 150, ch. 2011-  
840 142, Laws of Florida.

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

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842 288.1089, Florida Statutes, is reenacted and amended to read:

843 288.1089 Innovation Incentive Program.—

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

845 (d) ~~(e)~~ "Cumulative investment" means cumulative capital  
846 investment and all eligible capital costs, as defined in s.  
847 220.191.

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

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

859 288.1226 Florida Tourism Industry Marketing Corporation;  
860 use of property; board of directors; duties; audit.—

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

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

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

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

886 288.706 Florida Minority Business Loan Mobilization  
887 Program.—

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

898 Reviser's note.—Amended to conform to the redesignation of s.  
899 288.703(2) as s. 288.703(3) by s. 172, ch. 2011-142, Laws

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900 of Florida.

901 Section 34. Paragraph (b) of subsection (4) of section  
902 288.7102, Florida Statutes, is amended to read:

903 288.7102 Black Business Loan Program.—

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

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

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

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

916 288.980 Military base retention; legislative intent; grants  
917 program.—

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

928 (a) The Florida Defense Planning Grant Program, through



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

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

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

953  
954 Applications for grants under this subsection must include a  
955 coordinated program of work or plan of action delineating how  
956 the eligible project will be administered and accomplished,  
957 which must include a plan for ensuring close cooperation between

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

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

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

967 290.0401 Florida Small Cities Community Development Block  
968 Grant Program Act; short title.—Sections 290.0401-290.048  
969 ~~290.0401-290.049~~ may be cited as the "Florida Small Cities  
970 Community Development Block Grant Program Act."

971 Reviser's note.—Amended to conform to the repeal of s. 290.049  
972 by s. 44, ch. 2001-89, Laws of Florida, and s. 25, ch.  
973 2001-201, Laws of Florida. Section 290.048 is now the last  
974 section in the range.

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

977 290.0411 Legislative intent and purpose of ss. 290.0401-  
978 290.048 ~~290.0401-290.049~~.—It is the intent of the Legislature to  
979 provide the necessary means to develop, preserve, redevelop, and  
980 revitalize Florida communities exhibiting signs of decline or  
981 distress by enabling local governments to undertake the  
982 necessary community development programs. The overall objective  
983 is to create viable communities by eliminating slum and blight,  
984 fortifying communities in urgent need, providing decent housing  
985 and suitable living environments, and expanding economic  
986 opportunities, principally for persons of low or moderate

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987 income. The purpose of ss. 290.0401-290.048 ~~290.0401-290.049~~ is  
988 to assist local governments in carrying out effective community  
989 development and project planning and design activities to arrest  
990 and reverse community decline and restore community vitality.  
991 Community development and project planning activities to  
992 maintain viable communities, revitalize existing communities,  
993 expand economic development and employment opportunities, and  
994 improve housing conditions and expand housing opportunities,  
995 providing direct benefit to persons of low or moderate income,  
996 are the primary purposes of ss. 290.0401-290.048 ~~290.0401-~~  
997 ~~290.049~~. The Legislature, therefore, declares that the  
998 development, redevelopment, preservation, and revitalization of  
999 communities in this state and all the purposes of ss. 290.0401-  
1000 290.048 ~~290.0401-290.049~~ are public purposes for which public  
1001 money may be borrowed, expended, loaned, pledged to guarantee  
1002 loans, and granted.

1003 Reviser's note.—Amended to conform to the repeal of s. 290.049  
1004 by s. 44, ch. 2001-89, Laws of Florida, and s. 25, ch.  
1005 2001-201, Laws of Florida. Section 290.048 is now the last  
1006 section in the range.

1007 Section 38. Section 290.042, Florida Statutes, is amended  
1008 to read:

1009 290.042 Definitions relating to Florida Small Cities  
1010 Community Development Block Grant Program Act.—As used in ss.  
1011 290.0401-290.048 ~~290.0401-290.049~~, the term:

1012 (1) "Administrative closeout" means the notification of a  
1013 grantee by the department that all applicable administrative  
1014 actions and all required work of the grant have been completed  
1015 with the exception of the final audit.

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1016 (2) "Administrative costs" means the payment of all  
1017 reasonable costs of management, coordination, monitoring, and  
1018 evaluation, and similar costs and carrying charges, related to  
1019 the planning and execution of community development activities  
1020 which are funded in whole or in part under the Florida Small  
1021 Cities Community Development Block Grant Program. Administrative  
1022 costs shall include all costs of administration, including  
1023 general administration, planning and urban design, and project  
1024 administration costs.

1025 (3) "Department" means the Department of Economic  
1026 Opportunity.

1027 (4) "Eligible activities" means those community development  
1028 activities authorized in s. 105(a) of Title I of the Housing and  
1029 Community Development Act of 1974, as amended, and applicable  
1030 federal regulations.

1031 (5) "Eligible local government" means any local government  
1032 which qualifies as eligible to participate in the Florida Small  
1033 Cities Community Development Block Grant Program in accordance  
1034 with s. 102(a)(7) of Title I of the Housing and Community  
1035 Development Act of 1974, as amended, and applicable federal  
1036 regulations, and any eligibility requirements which may be  
1037 imposed by this act or by department rule.

1038 (6) "Person of low or moderate income" means any person who  
1039 meets the definition established by the department in accordance  
1040 with the guidelines established in Title I of the Housing and  
1041 Community Development Act of 1974, as amended.

1042 (7) "Service area" means the total geographic area to be  
1043 directly or indirectly served by a community development block  
1044 grant project where at least 51 percent of the residents are

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1045 low-income and moderate-income persons.

1046 Reviser's note.—Amended to conform to the repeal of s. 290.049  
1047 by s. 44, ch. 2001-89, Laws of Florida, and s. 25, ch.  
1048 2001-201, Laws of Florida. Section 290.048 is now the last  
1049 section in the range.

1050 Section 39. Subsection (1) of section 290.044, Florida  
1051 Statutes, is amended to read:

1052 290.044 Florida Small Cities Community Development Block  
1053 Grant Program Fund; administration; distribution.—

1054 (1) The Florida Small Cities Community Development Block  
1055 Grant Program Fund is created. All revenue designated for  
1056 deposit in such fund shall be deposited by the appropriate  
1057 agency. The department shall administer this fund as a grant and  
1058 loan guarantee program for carrying out the purposes of ss.  
1059 290.0401-290.048 ~~290.0401-290.049~~.

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

1064 Section 40. Subsections (1), (3), and (4) of section  
1065 290.048, Florida Statutes, are amended to read:

1066 290.048 General powers of department under ss. 290.0401-  
1067 290.048 ~~290.0401-290.049~~.—The department has all the powers  
1068 necessary or appropriate to carry out the purposes and  
1069 provisions of the program, including the power to:

1070 (1) Make contracts and agreements with the Federal  
1071 Government; other agencies of the state; any other public  
1072 agency; or any other public person, association, corporation,  
1073 local government, or entity in exercising its powers and

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1074 performing its duties under ss. 290.0401-290.048 ~~290.0401-~~  
 1075 ~~290.049~~.

1076 (3) Adopt and enforce rules not inconsistent with ss.  
 1077 290.0401-290.048 ~~290.0401-290.049~~ for the administration of the  
 1078 fund.

1079 (4) Assist in training employees of local governing  
 1080 authorities to help achieve and increase their capacity to  
 1081 administer programs pursuant to ss. 290.0401-290.048 ~~290.0401-~~  
 1082 ~~290.049~~ and provide technical assistance and advice to local  
 1083 governing authorities involved with these programs.

1084 Reviser's note.—Amended to conform to the repeal of s. 290.049  
 1085 by s. 44, ch. 2001-89, Laws of Florida, and s. 25, ch.  
 1086 2001-201, Laws of Florida. Section 290.048 is now the last  
 1087 section in the range.

1088 Section 41. Subsection (1) of section 311.09, Florida  
 1089 Statutes, is amended to read:

1090 311.09 Florida Seaport Transportation and Economic  
 1091 Development Council.—

1092 (1) The Florida Seaport Transportation and Economic  
 1093 Development Council is created within the Department of  
 1094 Transportation. The council consists of the following 17 ~~18~~  
 1095 members: the port director, or the port director's designee, of  
 1096 each of the ports of Jacksonville, Port Canaveral, Port Citrus,  
 1097 Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee,  
 1098 St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key  
 1099 West, and Fernandina; the secretary of the Department of  
 1100 Transportation or his or her designee; and the director of the  
 1101 Department of Economic Opportunity or his or her designee.

1102 Reviser's note.—Amended to conform to the deletion of the

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1103 secretary of the Department of Community Affairs from the  
1104 list of members by s. 227, ch. 2011-142, Laws of Florida,  
1105 which changed the number of members on the council.

1106 Section 42. Paragraph (b) of subsection (1) of section  
1107 311.105, Florida Statutes, is amended to read:

1108 311.105 Florida Seaport Environmental Management Committee;  
1109 permitting; mitigation.—

1110 (1)

1111 (b) The committee shall consist of the following members:  
1112 the Secretary of Environmental Protection, or his or her  
1113 designee, as an ex officio, nonvoting member; a designee from  
1114 the United States Army Corps of Engineers, as an ex officio,  
1115 nonvoting member; a designee from the Florida Inland Navigation  
1116 District, as an ex officio, nonvoting member; the executive  
1117 director of the Department of Economic Opportunity, or his or  
1118 her designee, as an ex officio, nonvoting member; and five or  
1119 more port directors, as voting members, appointed to the  
1120 committee by the council chair, who shall also designate one  
1121 such member as committee chair.

1122 Reviser's note.—Amended to confirm editorial insertion of the  
1123 words "the Department of" to conform to the complete name  
1124 of the department.

1125 Section 43. Paragraph (c) of subsection (2) of section  
1126 316.302, Florida Statutes, is amended to read:

1127 316.302 Commercial motor vehicles; safety regulations;  
1128 transporters and shippers of hazardous materials; enforcement.—

1129 (2)

1130 (c) Except as provided in 49 C.F.R. s. 395.1, a person who  
1131 operates a commercial motor vehicle solely in intrastate

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1132 commerce not transporting any hazardous material in amounts that  
1133 require placarding pursuant to 49 C.F.R. part 172 may not drive  
1134 after having been on duty more than 70 hours in any period of 7  
1135 consecutive days or more than 80 hours in any period of 8  
1136 consecutive days if the motor carrier operates every day of the  
1137 week. Thirty-four consecutive hours off duty shall constitute  
1138 the end of any such period of 7 or 8 consecutive days. This  
1139 weekly limit does not apply to a person who operates a  
1140 commercial motor vehicle solely within this state while  
1141 transporting, during harvest periods, any unprocessed  
1142 agricultural products or unprocessed food or fiber that is  
1143 subject to seasonal harvesting from place of harvest to the  
1144 first place of processing or storage or from place of harvest  
1145 directly to market or while transporting livestock, livestock  
1146 feed, or farm supplies directly related to growing or harvesting  
1147 agricultural products. Upon request of the Department of Highway  
1148 Safety and Motor Vehicles ~~Transportation~~, motor carriers shall  
1149 furnish time records or other written verification to that  
1150 department so that the Department of Highway Safety and Motor  
1151 Vehicles ~~Transportation~~ can determine compliance with this  
1152 subsection. These time records must be furnished to the  
1153 Department of Highway Safety and Motor Vehicles ~~Transportation~~  
1154 within 2 days after receipt of that department's request.  
1155 Falsification of such information is subject to a civil penalty  
1156 not to exceed \$100. The provisions of this paragraph do not  
1157 apply to drivers of utility service vehicles as defined in 49  
1158 C.F.R. s. 395.2.

1159 Reviser's note.—Amended to conform to the transfer of motor  
1160 carrier compliance safety regulation from the Department of



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1161 Transportation to the Department of Highway Safety and  
1162 Motor Vehicles by ch. 2011-66, Laws of Florida.

1163 Section 44. Subsection (13) of section 373.414, Florida  
1164 Statutes, is amended to read:

1165 373.414 Additional criteria for activities in surface  
1166 waters and wetlands.—

1167 (13) Any declaratory statement issued by the department  
1168 under s. 403.914, 1984 Supplement to the Florida Statutes 1983,  
1169 as amended, or pursuant to rules adopted thereunder, or by a  
1170 water management district under s. 373.421, in response to a  
1171 petition filed on or before June 1, 1994, shall continue to be  
1172 valid for the duration of such declaratory statement. Any such  
1173 petition pending on June 1, 1994, shall be exempt from the  
1174 methodology ratified in s. 373.4211, but the rules of the  
1175 department or the relevant water management district, as  
1176 applicable, in effect prior to the effective date of s.  
1177 373.4211, shall apply. Until May 1, 1998, activities within the  
1178 boundaries of an area subject to a petition pending on June 1,  
1179 1994, and prior to final agency action on such petition, shall  
1180 be reviewed under the rules adopted pursuant to ss. 403.91-  
1181 403.929, 1984 Supplement to the Florida Statutes 1983, as  
1182 amended, and this part, in existence prior to the effective date  
1183 of the rules adopted under subsection (9), unless the applicant  
1184 elects to have such activities reviewed under the rules adopted  
1185 under this part, as amended in accordance with subsection (9).  
1186 In the event that a jurisdictional declaratory statement  
1187 pursuant to the vegetative index in effect prior to the  
1188 effective date of chapter 84-79, Laws of Florida, has been  
1189 obtained and is valid prior to the effective date of the rules

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1190 adopted under subsection (9) or July 1, 1994, whichever is  
1191 later, and the affected lands are part of a project for which a  
1192 master development order has been issued pursuant to s.  
1193 380.06(21), the declaratory statement shall remain valid for the  
1194 duration of the buildout period of the project. Any  
1195 jurisdictional determination validated by the department  
1196 pursuant to rule 17-301.400(8), Florida Administrative Code, as  
1197 it existed in rule 17-4.022, Florida Administrative Code, on  
1198 April 1, 1985, shall remain in effect for a period of 5 years  
1199 following the effective date of this act if proof of such  
1200 validation is submitted to the department prior to January 1,  
1201 1995. In the event that a jurisdictional determination has been  
1202 revalidated by the department pursuant to this subsection and  
1203 the affected lands are part of a project for which a development  
1204 order has been issued pursuant to s. 380.06(15), a final  
1205 development order to which s. 163.3167(5) ~~163.3167(8)~~ applies  
1206 has been issued, or a vested rights determination has been  
1207 issued pursuant to s. 380.06(20), the jurisdictional  
1208 determination shall remain valid until the completion of the  
1209 project, provided proof of such validation and documentation  
1210 establishing that the project meets the requirements of this  
1211 sentence are submitted to the department prior to January 1,  
1212 1995. Activities proposed within the boundaries of a valid  
1213 declaratory statement issued pursuant to a petition submitted to  
1214 either the department or the relevant water management district  
1215 on or before June 1, 1994, or a revalidated jurisdictional  
1216 determination, prior to its expiration shall continue thereafter  
1217 to be exempt from the methodology ratified in s. 373.4211 and to  
1218 be reviewed under the rules adopted pursuant to ss. 403.91-

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1219 403.929, 1984 Supplement to the Florida Statutes 1983, as  
1220 amended, and this part, in existence prior to the effective date  
1221 of the rules adopted under subsection (9), unless the applicant  
1222 elects to have such activities reviewed under the rules adopted  
1223 under this part, as amended in accordance with subsection (9).

1224 Reviser's note.—Amended to conform to the renumbering of  
1225 subunits within s. 163.3167 by s. 7, ch. 2011-139, Laws of  
1226 Florida.

1227 Section 45. Paragraph (a) of subsection (2) of section  
1228 376.3072, Florida Statutes, is amended to read:

1229 376.3072 Florida Petroleum Liability and Restoration  
1230 Insurance Program.—

1231 (2) (a) Any owner or operator of a petroleum storage system  
1232 may become an insured in the restoration insurance program at a  
1233 facility provided:

1234 1. A site at which an incident has occurred shall be  
1235 eligible for restoration if the insured is a participant in the  
1236 third-party liability insurance program or otherwise meets  
1237 applicable financial responsibility requirements. After July 1,  
1238 1993, the insured must also provide the required excess  
1239 insurance coverage or self-insurance for restoration to achieve  
1240 the financial responsibility requirements of 40 C.F.R. s.  
1241 280.97, subpart H, not covered by paragraph (d).

1242 2. A site which had a discharge reported prior to January  
1243 1, 1989, for which notice was given pursuant to s. 376.3071(9)  
1244 or (12), and which is ineligible for the third-party liability  
1245 insurance program solely due to that discharge shall be eligible  
1246 for participation in the restoration program for any incident  
1247 occurring on or after January 1, 1989, in accordance with

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1248 subsection (3). Restoration funding for an eligible contaminated  
1249 site will be provided without participation in the third-party  
1250 liability insurance program until the site is restored as  
1251 required by the department or until the department determines  
1252 that the site does not require restoration.

1253 3. Notwithstanding paragraph (b), a site where an  
1254 application is filed with the department prior to January 1,  
1255 1995, where the owner is a small business under s. 288.703(6)  
1256 ~~288.703(1)~~, a state community college with less than 2,500 FTE,  
1257 a religious institution as defined by s. 212.08(7)(m), a  
1258 charitable institution as defined by s. 212.08(7)(p), or a  
1259 county or municipality with a population of less than 50,000,  
1260 shall be eligible for up to \$400,000 of eligible restoration  
1261 costs, less a deductible of \$10,000 for small businesses,  
1262 eligible community colleges, and religious or charitable  
1263 institutions, and \$30,000 for eligible counties and  
1264 municipalities, provided that:

1265 a. Except as provided in sub-subparagraph e., the facility  
1266 was in compliance with department rules at the time of the  
1267 discharge.

1268 b. The owner or operator has, upon discovery of a  
1269 discharge, promptly reported the discharge to the department,  
1270 and drained and removed the system from service, if necessary.

1271 c. The owner or operator has not intentionally caused or  
1272 concealed a discharge or disabled leak detection equipment.

1273 d. The owner or operator proceeds to complete initial  
1274 remedial action as defined by department rules.

1275 e. The owner or operator, if required and if it has not  
1276 already done so, applies for third-party liability coverage for

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1277 the facility within 30 days of receipt of an eligibility order  
1278 issued by the department pursuant to this provision.

1279

1280 However, the department may consider in-kind services from  
1281 eligible counties and municipalities in lieu of the \$30,000  
1282 deductible. The cost of conducting initial remedial action as  
1283 defined by department rules shall be an eligible restoration  
1284 cost pursuant to this provision.

1285 4.a. By January 1, 1997, facilities at sites with existing  
1286 contamination shall be required to have methods of release  
1287 detection to be eligible for restoration insurance coverage for  
1288 new discharges subject to department rules for secondary  
1289 containment. Annual storage system testing, in conjunction with  
1290 inventory control, shall be considered to be a method of release  
1291 detection until the later of December 22, 1998, or 10 years  
1292 after the date of installation or the last upgrade. Other  
1293 methods of release detection for storage tanks which meet such  
1294 requirement are:

1295 (I) Interstitial monitoring of tank and integral piping  
1296 secondary containment systems;

1297 (II) Automatic tank gauging systems; or

1298 (III) A statistical inventory reconciliation system with a  
1299 tank test every 3 years.

1300 b. For pressurized integral piping systems, the owner or  
1301 operator must use:

1302 (I) An automatic in-line leak detector with flow  
1303 restriction meeting the requirements of department rules used in  
1304 conjunction with an annual tightness or pressure test; or

1305 (II) An automatic in-line leak detector with electronic

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1306 flow shut-off meeting the requirements of department rules.

1307 c. For suction integral piping systems, the owner or  
1308 operator must use:

1309 (I) A single check valve installed directly below the  
1310 suction pump, provided there are no other valves between the  
1311 dispenser and the tank; or

1312 (II) An annual tightness test or other approved test.

1313 d. Owners of facilities with existing contamination that  
1314 install internal release detection systems in accordance with  
1315 sub-subparagraph a. shall permanently close their external  
1316 groundwater and vapor monitoring wells in accordance with  
1317 department rules by December 31, 1998. Upon installation of the  
1318 internal release detection system, these wells shall be secured  
1319 and taken out of service until permanent closure.

1320 e. Facilities with vapor levels of contamination meeting  
1321 the requirements of or below the concentrations specified in the  
1322 performance standards for release detection methods specified in  
1323 department rules may continue to use vapor monitoring wells for  
1324 release detection.

1325 f. The department may approve other methods of release  
1326 detection for storage tanks and integral piping which have at  
1327 least the same capability to detect a new release as the methods  
1328 specified in this subparagraph.

1329 Reviser's note.—Amended to conform to the renumbering of  
1330 subunits within s. 288.703 by s. 172, ch. 2011-142, Laws of  
1331 Florida.

1332 Section 46. Subsection (2) of section 376.86, Florida  
1333 Statutes, is amended to read:

1334 376.86 Brownfield Areas Loan Guarantee Program.—

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1335 (2) The council shall consist of the secretary of the  
1336 Department of Environmental Protection or the secretary's  
1337 designee, the State Surgeon General or the State Surgeon  
1338 General's designee, the executive director of the State Board of  
1339 Administration or the executive director's designee, the  
1340 executive director of the Florida Housing Finance Corporation or  
1341 the executive director's designee, and the executive director of  
1342 the Department of Economic Opportunity or the director's  
1343 designee. The executive director of the Department of Economic  
1344 Opportunity or the director's designee shall serve as chair of  
1345 the council. Staff services for activities of the council shall  
1346 be provided as needed by the member agencies.

1347 Reviser's note.—Amended to confirm editorial insertion of the  
1348 words "the Department of" to conform to the complete name  
1349 of the department.

1350 Section 47. Section 379.2255, Florida Statutes, is amended  
1351 to read:

1352 379.2255 Wildlife Violator Compact Act.—The Wildlife  
1353 Violator Compact is created and entered into with all other  
1354 jurisdictions legally joining therein in the form substantially  
1355 as follows:

1356  
1357 ARTICLE I

1358 Findings and Purpose

1359  
1360 (1) The participating states find that:

1361 (a) Wildlife resources are managed in trust by the  
1362 respective states for the benefit of all residents and visitors.

1363 (b) The protection of the wildlife resources of a state is

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1364 materially affected by the degree of compliance with state  
1365 statutes, laws, regulations, ordinances, and administrative  
1366 rules relating to the management of such resources.

1367 (c) The preservation, protection, management, and  
1368 restoration of wildlife contributes immeasurably to the  
1369 aesthetic, recreational, and economic aspects of such natural  
1370 resources.

1371 (d) Wildlife resources are valuable without regard to  
1372 political boundaries; therefore, every person should be required  
1373 to comply with wildlife preservation, protection, management,  
1374 and restoration laws, ordinances, and administrative rules and  
1375 regulations of the participating states as a condition precedent  
1376 to the continuance or issuance of any license to hunt, fish,  
1377 trap, or possess wildlife.

1378 (e) Violation of wildlife laws interferes with the  
1379 management of wildlife resources and may endanger the safety of  
1380 persons and property.

1381 (f) The mobility of many wildlife law violators  
1382 necessitates the maintenance of channels of communication among  
1383 the various states.

1384 (g) In most instances, a person who is cited for a wildlife  
1385 violation in a state other than his or her home state is:

- 1386 1. Required to post collateral or a bond to secure  
1387 appearance for a trial at a later date;
- 1388 2. Taken into custody until the collateral or bond is  
1389 posted; or
- 1390 3. Taken directly to court for an immediate appearance.

1391 (h) The purpose of the enforcement practices set forth in  
1392 paragraph (g) is to ensure compliance with the terms of a



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1393 wildlife citation by the cited person who, if permitted to  
1394 continue on his or her way after receiving the citation, could  
1395 return to his or her home state and disregard his or her duty  
1396 under the terms of the citation.

1397 (i) In most instances, a person receiving a wildlife  
1398 citation in his or her home state is permitted to accept the  
1399 citation from the officer at the scene of the violation and  
1400 immediately continue on his or her way after agreeing or being  
1401 instructed to comply with the terms of the citation.

1402 (j) The practices described in paragraph (g) cause  
1403 unnecessary inconvenience and, at times, a hardship for the  
1404 person who is unable at the time to post collateral, furnish a  
1405 bond, stand trial, or pay a fine, and thus is compelled to  
1406 remain in custody until some alternative arrangement is made.

1407 (k) The enforcement practices described in paragraph (g)  
1408 consume an undue amount of time of law enforcement agencies.

1409 (2) It is the policy of the participating states to:

1410 (a) Promote compliance with the statutes, laws, ordinances,  
1411 regulations, and administrative rules relating to the management  
1412 of wildlife resources in their respective states.

1413 (b) Recognize a suspension of the wildlife license  
1414 privileges of any person whose license privileges have been  
1415 suspended by a participating state and treat such suspension as  
1416 if it had occurred in each respective state.

1417 (c) Allow a violator, except as provided in subsection (2)  
1418 of Article III, to accept a wildlife citation and, without  
1419 delay, proceed on his or her way, whether or not the violator is  
1420 a resident of the state in which the citation was issued, if the  
1421 violator's home state is party to this compact.

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1422 (d) Report to the appropriate participating state, as  
1423 provided in the compact manual, any conviction recorded against  
1424 any person whose home state was not the issuing state.

1425 (e) Allow the home state to recognize and treat convictions  
1426 recorded against its residents, which convictions occurred in a  
1427 participating state, as though they had occurred in the home  
1428 state.

1429 (f) Extend cooperation to its fullest extent among the  
1430 participating states for enforcing compliance with the terms of  
1431 a wildlife citation issued in one participating state to a  
1432 resident of another participating state.

1433 (g) Maximize the effective use of law enforcement personnel  
1434 and information.

1435 (h) Assist court systems in the efficient disposition of  
1436 wildlife violations.

1437 (3) The purpose of this compact is to:

1438 (a) Provide a means through which participating states may  
1439 join in a reciprocal program to effectuate the policies  
1440 enumerated in subsection (2) in a uniform and orderly manner.

1441 (b) Provide for the fair and impartial treatment of  
1442 wildlife violators operating within participating states in  
1443 recognition of the violator's right to due process and the  
1444 sovereign status of a participating state.

1446 ARTICLE II

1447 Definitions

1448  
1449 As used in this compact, the term:

1450 (1) "Citation" means any summons, complaint, summons and

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1451 complaint, ticket, penalty assessment, or other official  
1452 document issued to a person by a wildlife officer or other peace  
1453 officer for a wildlife violation which contains an order  
1454 requiring the person to respond.

1455 (2) "Collateral" means any cash or other security deposited  
1456 to secure an appearance for trial in connection with the  
1457 issuance by a wildlife officer or other peace officer of a  
1458 citation for a wildlife violation.

1459 (3) "Compliance" with respect to a citation means the act  
1460 of answering a citation through an appearance in a court or  
1461 tribunal, or through the payment of fines, costs, and  
1462 surcharges, if any.

1463 (4) "Conviction" means a conviction that results in  
1464 suspension or revocation of a license, including any court  
1465 conviction, for any offense related to the preservation,  
1466 protection, management, or restoration of wildlife which is  
1467 prohibited by state statute, law, regulation, ordinance, or  
1468 administrative rule. The term also includes the forfeiture of  
1469 any bail, bond, or other security deposited to secure appearance  
1470 by a person charged with having committed any such offense, the  
1471 payment of a penalty assessment, a plea of nolo contendere, or  
1472 the imposition of a deferred or suspended sentence by the court.

1473 (5) "Court" means a court of law, including magistrate's  
1474 court and the justice of the peace court.

1475 (6) "Home state" means the state of primary residence of a  
1476 person.

1477 (7) "Issuing state" means the participating state that  
1478 issues a wildlife citation to the violator.

1479 (8) "License" means any license, permit, or other public

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1480 document that conveys to the person to whom it was issued the  
1481 privilege of pursuing, possessing, or taking any wildlife  
1482 regulated by statute, law, regulation, ordinance, or  
1483 administrative rule of a participating state; any privilege to  
1484 obtain such license, permit, or other public document; or any  
1485 statutory exemption from the requirement to obtain such license,  
1486 permit, or other public document. However, when applied to a  
1487 license, permit, or privilege issued or granted by the State of  
1488 Florida, only a license or permit issued under s. 379.354, or a  
1489 privilege granted under s. 379.353, shall be considered a  
1490 license.

1491 (9) "Licensing authority" means the department or division  
1492 within each participating state which is authorized by law to  
1493 issue or approve licenses or permits to hunt, fish, trap, or  
1494 possess wildlife.

1495 (10) "Participating state" means any state that enacts  
1496 legislation to become a member of this wildlife compact.

1497 (11) "Personal recognizance" means an agreement by a person  
1498 made at the time of issuance of the wildlife citation that such  
1499 person will comply with the terms of the citation.

1500 (12) "State" means any state, territory, or possession of  
1501 the United States, the District of Columbia, the Commonwealth of  
1502 Puerto Rico, the Provinces of Canada, and other countries.

1503 (13) "Suspension" means any revocation, denial, or  
1504 withdrawal of any or all license privileges, including the  
1505 privilege to apply for, purchase, or exercise the benefits  
1506 conferred by any license.

1507 (14) "Terms of the citation" means those conditions and  
1508 options expressly stated upon the citation.

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1509 (15) "Wildlife" means all species of animals, including,  
1510 but not limited to, mammals, birds, fish, reptiles, amphibians,  
1511 mollusks, and crustaceans, which are defined as "wildlife" and  
1512 are protected or otherwise regulated by statute, law,  
1513 regulation, ordinance, or administrative rule in a participating  
1514 state. Species included in the definition of "wildlife" vary  
1515 from state to state and the determination of whether a species  
1516 is "wildlife" for the purposes of this compact shall be based on  
1517 local law.

1518 (16) "Wildlife law" means any statute, law, regulation,  
1519 ordinance, or administrative rule developed and enacted for the  
1520 management of wildlife resources and the uses thereof.

1521 (17) "Wildlife officer" means any individual authorized by  
1522 a participating state to issue a citation for a wildlife  
1523 violation.

1524 (18) "Wildlife violation" means any cited violation of a  
1525 statute, law, regulation, ordinance, or administrative rule  
1526 developed and enacted for the management of wildlife resources  
1527 and the uses thereof.

1528

## 1529 ARTICLE III

## 1530 Procedures for Issuing State

1531

1532 (1) When issuing a citation for a wildlife violation, a  
1533 wildlife officer shall issue a citation to any person whose  
1534 primary residence is in a participating state in the same manner  
1535 as though the person were a resident of the issuing state and  
1536 shall not require such person to post collateral to secure  
1537 appearance, subject to the exceptions noted in subsection (2),

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1538 if the officer receives the recognizance of such person that he  
1539 will comply with the terms of the citation.

1540 (2) Personal recognizance is acceptable if not prohibited  
1541 by local law; by policy, procedure, or regulation of the issuing  
1542 agency; or by the compact manual and if the violator provides  
1543 adequate proof of identification to the wildlife officer.

1544 (3) Upon conviction or failure of a person to comply with  
1545 the terms of a wildlife citation, the appropriate official shall  
1546 report the conviction or failure to comply to the licensing  
1547 authority of the participating state in which the wildlife  
1548 citation was issued. The report shall be made in accordance with  
1549 procedures specified by the issuing state and must contain  
1550 information as specified in the compact manual as minimum  
1551 requirements for effective processing by the home state.

1552 (4) Upon receipt of the report of conviction or  
1553 noncompliance pursuant to subsection (3), the licensing  
1554 authority of the issuing state shall transmit to the licensing  
1555 authority of the home state of the violator the information in  
1556 the form and content prescribed in the compact manual.

#### 1557 1558 ARTICLE IV

#### 1559 Procedure for Home State

1560  
1561 (1) Upon receipt of a report from the licensing authority  
1562 of the issuing state reporting the failure of a violator to  
1563 comply with the terms of a citation, the licensing authority of  
1564 the home state shall notify the violator and shall initiate a  
1565 suspension action in accordance with the home state's suspension  
1566 procedures and shall suspend the violator's license privileges

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1567 until satisfactory evidence of compliance with the terms of the  
1568 wildlife citation has been furnished by the issuing state to the  
1569 home state licensing authority. Due-process safeguards shall be  
1570 accorded.

1571 (2) Upon receipt of a report of conviction from the  
1572 licensing authority of the issuing state, the licensing  
1573 authority of the home state shall enter such conviction in its  
1574 records and shall treat such conviction as though it occurred in  
1575 the home state for purposes of the suspension of license  
1576 privileges.

1577 (3) The licensing authority of the home state shall  
1578 maintain a record of actions taken and shall make reports to  
1579 issuing states as provided in the compact manual.

1580

#### 1581 ARTICLE V

#### 1582 Reciprocal Recognition of Suspension

1583

1584 (1) Each participating state may recognize the suspension  
1585 of license privileges of any person by any other participating  
1586 state as though the violation resulting in the suspension had  
1587 occurred in that state and would have been the basis for  
1588 suspension of license privileges in that state.

1589 (2) Each participating state shall communicate suspension  
1590 information to other participating states in the form and  
1591 content contained in the compact manual.

1592

#### 1593 ARTICLE VI

#### 1594 Applicability of Other Laws

1595

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1596 Except as expressly required by provisions of this compact, this  
1597 compact does not affect the right of any participating state to  
1598 apply any of its laws relating to license privileges to any  
1599 person or circumstance or to invalidate or prevent any agreement  
1600 or other cooperative arrangement between a participating state  
1601 and a nonparticipating state concerning the enforcement of  
1602 wildlife laws.

## ARTICLE VII

## Compact Administrator Procedures

1607 (1) For the purpose of administering the provisions of this  
1608 compact and to serve as a governing body for the resolution of  
1609 all matters relating to the operation of this compact, a board  
1610 of compact administrators is established. The board shall be  
1611 composed of one representative from each of the participating  
1612 states to be known as the compact administrator. The compact  
1613 administrator shall be appointed by the head of the licensing  
1614 authority of each participating state and shall serve and be  
1615 subject to removal in accordance with the laws of the state he  
1616 or she represents. A compact administrator may provide for the  
1617 discharge of his or her duties and the performance of his or her  
1618 functions as a board member by an alternate. An alternate is not  
1619 entitled to serve unless written notification of his or her  
1620 identity has been given to the board.

1621 (2) Each member of the board of compact administrators  
1622 shall be entitled to one vote. No action of the board shall be  
1623 binding unless taken at a meeting at which a majority of the  
1624 total number of the board's votes are cast in favor thereof.



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1625 Action by the board shall be only at a meeting at which a  
1626 majority of the participating states are represented.

1627 (3) The board shall elect annually from its membership a  
1628 chairperson ~~chairman~~ and vice chairperson ~~chairman~~.

1629 (4) The board shall adopt bylaws not inconsistent with the  
1630 provisions of this compact or the laws of a participating state  
1631 for the conduct of its business and shall have the power to  
1632 amend and rescind its bylaws.

1633 (5) The board may accept for any of its purposes and  
1634 functions under this compact any and all donations and grants of  
1635 moneys, equipment, supplies, materials, and services,  
1636 conditional or otherwise, from any state, the United States, or  
1637 any governmental agency, and may receive, use, and dispose of  
1638 the same.

1639 (6) The board may contract with, or accept services or  
1640 personnel from, any governmental or intergovernmental agency,  
1641 individual, firm, corporation, or private nonprofit organization  
1642 or institution.

1643 (7) The board shall formulate all necessary procedures and  
1644 develop uniform forms and documents for administering the  
1645 provisions of this compact. All procedures and forms adopted  
1646 pursuant to board action shall be contained in a compact manual.

#### 1648 ARTICLE VIII

##### 1649 Entry into Compact and Withdrawal

1650  
1651 (1) This compact shall become effective at such time as it  
1652 is adopted in substantially similar form by two or more states.

1653 (2)

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1654 (a) Entry into the compact shall be made by resolution of  
1655 ratification executed by the authorized officials of the  
1656 applying state and submitted to the chairperson ~~chairman~~ of the  
1657 board.

1658 (b) The resolution shall substantially be in the form and  
1659 content as provided in the compact manual and must include the  
1660 following:

1661 1. A citation of the authority from which the state is  
1662 empowered to become a party to this compact;

1663 2. An agreement of compliance with the terms and provisions  
1664 of this compact; and

1665 3. An agreement that compact entry is with all states  
1666 participating in the compact and with all additional states  
1667 legally becoming a party to the compact.

1668 (c) The effective date of entry shall be specified by the  
1669 applying state, but may not be less than 60 days after notice  
1670 has been given by the chairperson ~~chairman~~ of the board of the  
1671 compact administrators or by the secretariat of the board to  
1672 each participating state that the resolution from the applying  
1673 state has been received.

1674 (3) A participating state may withdraw from participation  
1675 in this compact by official written notice to each participating  
1676 state, but withdrawal shall not become effective until 90 days  
1677 after the notice of withdrawal is given. The notice must be  
1678 directed to the compact administrator of each member state. The  
1679 withdrawal of any state does not affect the validity of this  
1680 compact as to the remaining participating states.

1681  
1682 ARTICLE IX

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## 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

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1712 This compact shall be known as the "Wildlife Violator  
1713 Compact."

1714 Reviser's note.—Amended pursuant to the directive of the  
1715 Legislature in s. 1, ch. 93-199, Laws of Florida, to remove  
1716 gender-specific references applicable to human beings from  
1717 the Florida Statutes without substantive change in legal  
1718 effect.

1719 Section 48. Paragraphs (b) and (c) of subsection (4) of  
1720 section 381.026, Florida Statutes, are amended to read:

1721 381.026 Florida Patient's Bill of Rights and  
1722 Responsibilities.—

1723 (4) RIGHTS OF PATIENTS.—Each health care facility or  
1724 provider shall observe the following standards:

1725 (b) Information.—

1726 1. A patient has the right to know the name, function, and  
1727 qualifications of each health care provider who is providing  
1728 medical services to the patient. A patient may request such  
1729 information from his or her responsible provider or the health  
1730 care facility in which he or she is receiving medical services.

1731 2. A patient in a health care facility has the right to  
1732 know what patient support services are available in the  
1733 facility.

1734 3. A patient has the right to be given by his or her health  
1735 care provider information concerning diagnosis, planned course  
1736 of treatment, alternatives, risks, and prognosis, unless it is  
1737 medically inadvisable or impossible to give this information to  
1738 the patient, in which case the information must be given to the  
1739 patient's guardian or a person designated as the patient's  
1740 representative. A patient has the right to refuse this

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1741 information.

1742 4. A patient has the right to refuse any treatment based on  
1743 information required by this paragraph, except as otherwise  
1744 provided by law. The responsible provider shall document any  
1745 such refusal.

1746 5. A patient in a health care facility has the right to  
1747 know what facility rules and regulations apply to patient  
1748 conduct.

1749 6. A patient has the right to express grievances to a  
1750 health care provider, a health care facility, or the appropriate  
1751 state licensing agency regarding alleged violations of patients'  
1752 rights. A patient has the right to know the health care  
1753 provider's or health care facility's procedures for expressing a  
1754 grievance.

1755 7. A patient in a health care facility who does not speak  
1756 English has the right to be provided an interpreter when  
1757 receiving medical services if the facility has a person readily  
1758 available who can interpret on behalf of the patient.

1759 8. A health care provider or health care facility shall  
1760 respect a patient's right to privacy and should refrain from  
1761 making a written inquiry or asking questions concerning the  
1762 ownership of a firearm or ammunition by the patient or by a  
1763 family member of the patient, or the presence of a firearm in a  
1764 private home or other domicile of the patient or a family member  
1765 of the patient. Notwithstanding this provision, a health care  
1766 provider or health care facility that in good faith believes  
1767 that this information is relevant to the patient's medical care  
1768 or safety, or safety of ~~or~~ others, may make such a verbal or  
1769 written inquiry.

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1770           9. A patient may decline to answer or provide any  
1771 information regarding ownership of a firearm by the patient or a  
1772 family member of the patient, or the presence of a firearm in  
1773 the domicile of the patient or a family member of the patient. A  
1774 patient's decision not to answer a question relating to the  
1775 presence or ownership of a firearm does not alter existing law  
1776 regarding a physician's authorization to choose his or her  
1777 patients.

1778           10. A health care provider or health care facility may not  
1779 discriminate against a patient based solely upon the patient's  
1780 exercise of the constitutional right to own and possess firearms  
1781 or ammunition.

1782           11. A health care provider or health care facility shall  
1783 respect a patient's legal right to own or possess a firearm and  
1784 should refrain from unnecessarily harassing a patient about  
1785 firearm ownership during an examination.

1786           (c) Financial information and disclosure.—

1787           1. A patient has the right to be given, upon request, by  
1788 the responsible provider, his or her designee, or a  
1789 representative of the health care facility full information and  
1790 necessary counseling on the availability of known financial  
1791 resources for the patient's health care.

1792           2. A health care provider or a health care facility shall,  
1793 upon request, disclose to each patient who is eligible for  
1794 Medicare, before treatment, whether the health care provider or  
1795 the health care facility in which the patient is receiving  
1796 medical services accepts assignment under Medicare reimbursement  
1797 as payment in full for medical services and treatment rendered  
1798 in the health care provider's office or health care facility.

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1799           3. A primary care provider may publish a schedule of  
1800 charges for the medical services that the provider offers to  
1801 patients. The schedule must include the prices charged to an  
1802 uninsured person paying for such services by cash, check, credit  
1803 card, or debit card. The schedule must be posted in a  
1804 conspicuous place in the reception area of the provider's office  
1805 and must include, but is not limited to, the 50 services most  
1806 frequently provided by the primary care provider. The schedule  
1807 may group services by three price levels, listing services in  
1808 each price level. The posting must be at least 15 square feet in  
1809 size. A primary care provider who publishes and maintains a  
1810 schedule of charges for medical services is exempt from the  
1811 license fee requirements for a single period of renewal of a  
1812 professional license under chapter 456 for that licensure term  
1813 and is exempt from the continuing education requirements of  
1814 chapter 456 and the rules implementing those requirements for a  
1815 single 2-year period.

1816           4. If a primary care provider publishes a schedule of  
1817 charges pursuant to subparagraph 3., he or she must continually  
1818 post it at all times for the duration of active licensure in  
1819 this state when primary care services are provided to patients.  
1820 If a primary care provider fails to post the schedule of charges  
1821 in accordance with this subparagraph, the provider shall be  
1822 required to pay any license fee and comply with any continuing  
1823 education requirements for which an exemption was received.

1824           5. A health care provider or a health care facility shall,  
1825 upon request, furnish a person, before the provision of medical  
1826 services, a reasonable estimate of charges for such services.  
1827 The health care provider or the health care facility shall

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1828 provide an uninsured person, before the provision of a planned  
1829 nonemergency medical service, a reasonable estimate of charges  
1830 for such service and information regarding the provider's or  
1831 facility's discount or charity policies for which the uninsured  
1832 person may be eligible. Such estimates by a primary care  
1833 provider must be consistent with the schedule posted under  
1834 subparagraph 3. Estimates shall, to the extent possible, be  
1835 written in a language comprehensible to an ordinary layperson.  
1836 Such reasonable estimate does not preclude the health care  
1837 provider or health care facility from exceeding the estimate or  
1838 making additional charges based on changes in the patient's  
1839 condition or treatment needs.

1840 6. Each licensed facility not operated by the state shall  
1841 make available to the public on its Internet website or by other  
1842 electronic means a description of and a link to the performance  
1843 outcome and financial data that is published by the agency  
1844 pursuant to s. 408.05(3)(k). The facility shall place a notice  
1845 in the reception area that such information is available  
1846 electronically and the website address. The licensed facility  
1847 may indicate that the pricing information is based on a  
1848 compilation of charges for the average patient and that each  
1849 patient's bill may vary from the average depending upon the  
1850 severity of illness and individual resources consumed. The  
1851 licensed facility may also indicate that the price of service is  
1852 negotiable for eligible patients based upon the patient's  
1853 ability to pay.

1854 7. A patient has the right to receive a copy of an itemized  
1855 bill upon request. A patient has a right to be given an  
1856 explanation of charges upon request.



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1857 Reviser's note.—Paragraph (4) (b) is amended to confirm editorial  
1858 substitution of the word "of" for the word "or." Paragraph  
1859 (4) (c) is amended to delete the word "a" to improve  
1860 clarity.

1861 Section 49. Subsection (17) of section 409.9122, Florida  
1862 Statutes, is amended to read:

1863 409.9122 Mandatory Medicaid managed care enrollment;  
1864 programs and procedures.—

1865 (17) The agency shall establish and maintain an information  
1866 system to make encounter data, financial data, and other  
1867 measures of plan performance available to the public and any  
1868 interested party.

1869 (a) Information submitted by the managed care plans shall  
1870 be available online as well as in other formats.

1871 (b) Periodic agency reports shall be published that include  
1872 ~~provide~~ summary as well as plan specific measures of financial  
1873 performance and service utilization.

1874 (c) Any release of the financial and encounter data  
1875 submitted by managed care plans shall ensure the confidentiality  
1876 of personal health information.

1877 Reviser's note.—Amended to confirm editorial insertion of the  
1878 word "available" and deletion of the word "provide."

1879 Section 50. Paragraphs (c) and (e) of subsection (3) of  
1880 section 409.966, Florida Statutes, are amended to read:

1881 409.966 Eligible plans; selection.—

1882 (3) QUALITY SELECTION CRITERIA.—

1883 (c) After negotiations are conducted, the agency shall  
1884 select the eligible plans that are determined to be responsive  
1885 and provide the best value to the state. Preference shall be

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1886 given to plans that:

1887 1. Have signed contracts with primary and specialty  
1888 physicians in sufficient numbers to meet the specific standards  
1889 established pursuant to s. 409.967(2)(c) ~~409.967(2)(b)~~.

1890 2. Have well-defined programs for recognizing patient-  
1891 centered medical homes and providing for increased compensation  
1892 for recognized medical homes, as defined by the plan.

1893 3. Are organizations that are based in and perform  
1894 operational functions in this state, in-house or through  
1895 contractual arrangements, by staff located in this state. Using  
1896 a tiered approach, the highest number of points shall be awarded  
1897 to a plan that has all or substantially all of its operational  
1898 functions performed in the state. The second highest number of  
1899 points shall be awarded to a plan that has a majority of its  
1900 operational functions performed in the state. The agency may  
1901 establish a third tier; however, preference points may not be  
1902 awarded to plans that perform only community outreach, medical  
1903 director functions, and state administrative functions in the  
1904 state. For purposes of this subparagraph, operational functions  
1905 include claims processing, member services, provider relations,  
1906 utilization and prior authorization, case management, disease  
1907 and quality functions, and finance and administration. For  
1908 purposes of this subparagraph, the term "based in this state"  
1909 means that the entity's principal office is in this state and  
1910 the plan is not a subsidiary, directly or indirectly through one  
1911 or more subsidiaries of, or a joint venture with, any other  
1912 entity whose principal office is not located in the state.

1913 4. Have contracts or other arrangements for cancer disease  
1914 management programs that have a proven record of clinical

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1915 efficiencies and cost savings.

1916         5. Have contracts or other arrangements for diabetes  
1917 disease management programs that have a proven record of  
1918 clinical efficiencies and cost savings.

1919         6. Have a claims payment process that ensures that claims  
1920 that are not contested or denied will be promptly paid pursuant  
1921 to s. 641.3155.

1922         (e) To ensure managed care plan participation in Regions 1  
1923 and 2, the agency shall award an additional contract to each  
1924 plan with a contract award in Region 1 or Region 2. Such  
1925 contract shall be in any other region in which the plan  
1926 submitted a responsive bid and negotiates a rate acceptable to  
1927 the agency. If a plan that is awarded an additional contract  
1928 pursuant to this paragraph is subject to penalties pursuant to  
1929 s. 409.967(2)(h) ~~s. 409.967(2)(g)~~ for activities in Region 1 or  
1930 Region 2, the additional contract is automatically terminated  
1931 180 days after the imposition of the penalties. The plan must  
1932 reimburse the agency for the cost of enrollment changes and  
1933 other transition activities.

1934 Reviser's note.—Paragraph (3)(c) is amended to substitute a  
1935 reference to s. 409.967(2)(c) for a reference to s.  
1936 409.967(2)(b). Section 409.967(2)(c) establishes standards  
1937 for access to care. Section 409.967(2)(b) references  
1938 emergency services. Paragraph (3)(e) is amended to  
1939 substitute a reference to s. 409.967(2)(h) for a reference  
1940 to s. 409.967(2)(g). Section 409.967(2)(h) relates to  
1941 penalties. Section 409.967(2)(g) relates to grievance  
1942 resolution.

1943 Section 51. Subsection (1) of section 409.972, Florida

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1944 Statutes, is amended to read:

1945 409.972 Mandatory and voluntary enrollment.—

1946 (1) Persons eligible for the program known as “medically  
1947 needy” pursuant to s. 409.904(2) ~~409.904(2)(a)~~ shall enroll in  
1948 managed care plans. Medically needy recipients shall meet the  
1949 share of the cost by paying the plan premium, up to the share of  
1950 the cost amount, contingent upon federal approval.

1951 Reviser’s note.—Amended to conform to the repeal of s.

1952 409.904(2)(b) by s. 3, ch. 2011-61, Laws of Florida, which  
1953 resulted in subsection (2) having no subunits.

1954 Section 52. Paragraph (e) of subsection (4) of section  
1955 409.973, Florida Statutes, is amended to read:

1956 409.973 Benefits.—

1957 (4) PRIMARY CARE INITIATIVE.—Each plan operating in the  
1958 managed medical assistance program shall establish a program to  
1959 encourage enrollees to establish a relationship with their  
1960 primary care provider. Each plan shall:

1961 (e) Report to the agency the number of emergency room  
1962 visits by enrollees who have not had at ~~a~~ least one appointment  
1963 with their primary care provider.

1964 Reviser’s note.—Amended to confirm editorial substitution of the  
1965 word “at” for the word “a.”

1966 Section 53. Subsection (2) of section 409.974, Florida  
1967 Statutes, is amended to read:

1968 409.974 Eligible plans.—

1969 (2) QUALITY SELECTION CRITERIA.—In addition to the criteria  
1970 established in s. 409.966, the agency shall consider evidence  
1971 that an eligible plan has written agreements or signed contracts  
1972 or has made substantial progress in establishing relationships

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1973 with providers before the plan submitting a response. The agency  
 1974 shall evaluate and give special weight to evidence of signed  
 1975 contracts with essential providers as defined by the agency  
 1976 pursuant to s. 409.975(1) ~~409.975(2)~~. The agency shall exercise  
 1977 a preference for plans with a provider network in which over 10  
 1978 percent of the providers use electronic health records, as  
 1979 defined in s. 408.051. When all other factors are equal, the  
 1980 agency shall consider whether the organization has a contract to  
 1981 provide managed long-term care services in the same region and  
 1982 shall exercise a preference for such plans.

1983 Reviser's note.—Amended to substitute a reference to s.

1984 409.975(1) for a reference to s. 409.975(2). Material  
 1985 concerning essential providers is in s. 409.975(1). Section  
 1986 409.975(2) relates to the Florida Medical Schools Quality  
 1987 Network.

1988 Section 54. Subsection (1) of section 409.975, Florida  
 1989 Statutes, is amended to read:

1990 409.975 Managed care plan accountability.—In addition to  
 1991 the requirements of s. 409.967, plans and providers  
 1992 participating in the managed medical assistance program shall  
 1993 comply with the requirements of this section.

1994 (1) PROVIDER NETWORKS.—Managed care plans must develop and  
 1995 maintain provider networks that meet the medical needs of their  
 1996 enrollees in accordance with standards established pursuant to  
 1997 s. 409.967(2)(c) ~~409.967(2)(b)~~. Except as provided in this  
 1998 section, managed care plans may limit the providers in their  
 1999 networks based on credentials, quality indicators, and price.

2000 (a) Plans must include all providers in the region that are  
 2001 classified by the agency as essential Medicaid providers, unless

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2002 the agency approves, in writing, an alternative arrangement for  
2003 securing the types of services offered by the essential  
2004 providers. Providers are essential for serving Medicaid  
2005 enrollees if they offer services that are not available from any  
2006 other provider within a reasonable access standard, or if they  
2007 provided a substantial share of the total units of a particular  
2008 service used by Medicaid patients within the region during the  
2009 last 3 years and the combined capacity of other service  
2010 providers in the region is insufficient to meet the total needs  
2011 of the Medicaid patients. The agency may not classify physicians  
2012 and other practitioners as essential providers. The agency, at a  
2013 minimum, shall determine which providers in the following  
2014 categories are essential Medicaid providers:

- 2015 1. Federally qualified health centers.
- 2016 2. Statutory teaching hospitals as defined in s.  
2017 408.07(45).
- 2018 3. Hospitals that are trauma centers as defined in s.  
2019 395.4001(14).
- 2020 4. Hospitals located at least 25 miles from any other  
2021 hospital with similar services.

2022  
2023 Managed care plans that have not contracted with all essential  
2024 providers in the region as of the first date of recipient  
2025 enrollment, or with whom an essential provider has terminated  
2026 its contract, must negotiate in good faith with such essential  
2027 providers for 1 year or until an agreement is reached, whichever  
2028 is first. Payments for services rendered by a nonparticipating  
2029 essential provider shall be made at the applicable Medicaid rate  
2030 as of the first day of the contract between the agency and the

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2031 plan. A rate schedule for all essential providers shall be  
2032 attached to the contract between the agency and the plan. After  
2033 1 year, managed care plans that are unable to contract with  
2034 essential providers shall notify the agency and propose an  
2035 alternative arrangement for securing the essential services for  
2036 Medicaid enrollees. The arrangement must rely on contracts with  
2037 other participating providers, regardless of whether those  
2038 providers are located within the same region as the  
2039 nonparticipating essential service provider. If the alternative  
2040 arrangement is approved by the agency, payments to  
2041 nonparticipating essential providers after the date of the  
2042 agency's approval shall equal 90 percent of the applicable  
2043 Medicaid rate. If the alternative arrangement is not approved by  
2044 the agency, payment to nonparticipating essential providers  
2045 shall equal 110 percent of the applicable Medicaid rate.

2046 (b) Certain providers are statewide resources and essential  
2047 providers for all managed care plans in all regions. All managed  
2048 care plans must include these essential providers in their  
2049 networks. Statewide essential providers include:

- 2050 1. Faculty plans of Florida medical schools.
- 2051 2. Regional perinatal intensive care centers as defined in  
2052 s. 383.16(2).
- 2053 3. Hospitals licensed as specialty children's hospitals as  
2054 defined in s. 395.002(28).
- 2055 4. Accredited and integrated systems serving medically  
2056 complex children that are comprised of separately licensed, but  
2057 commonly owned, health care providers delivering at least the  
2058 following services: medical group home, in-home and outpatient  
2059 nursing care and therapies, pharmacy services, durable medical

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2060 equipment, and Prescribed Pediatric Extended Care.

2061  
2062 Managed care plans that have not contracted with all statewide  
2063 essential providers in all regions as of the first date of  
2064 recipient enrollment must continue to negotiate in good faith.  
2065 Payments to physicians on the faculty of nonparticipating  
2066 Florida medical schools shall be made at the applicable Medicaid  
2067 rate. Payments for services rendered by regional perinatal  
2068 intensive care centers shall be made at the applicable Medicaid  
2069 rate as of the first day of the contract between the agency and  
2070 the plan. Payments to nonparticipating specialty children's  
2071 hospitals shall equal the highest rate established by contract  
2072 between that provider and any other Medicaid managed care plan.

2073 (c) After 12 months of active participation in a plan's  
2074 network, the plan may exclude any essential provider from the  
2075 network for failure to meet quality or performance criteria. If  
2076 the plan excludes an essential provider from the plan, the plan  
2077 must provide written notice to all recipients who have chosen  
2078 that provider for care. The notice shall be provided at least 30  
2079 days before the effective date of the exclusion.

2080 (d) Each managed care plan must offer a network contract to  
2081 each home medical equipment and supplies provider in the region  
2082 which meets quality and fraud prevention and detection standards  
2083 established by the plan and which agrees to accept the lowest  
2084 price previously negotiated between the plan and another such  
2085 provider.

2086 Reviser's note.—Amended to substitute a reference to s.

2087 409.967(2)(c) for a reference to s. 409.967(2)(b). Section  
2088 409.967(2)(c) establishes standards for access to care.



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2089 Section 409.067(2)(b) references emergency services.

2090 Section 55. Paragraph (b) of subsection (4) of section  
2091 409.983, Florida Statutes, is amended to read:

2092 409.983 Long-term care managed care plan payment.—In  
2093 addition to the payment provisions of s. 409.968, the agency  
2094 shall provide payment to plans in the long-term care managed  
2095 care program pursuant to this section.

2096 (4) The initial assessment of an enrollee's level of care  
2097 shall be made by the Comprehensive Assessment and Review for  
2098 Long-Term-Care Services (CARES) program, which shall assign the  
2099 recipient into one of the following levels of care:

2100 (b) Level of care 2 consists of recipients at imminent risk  
2101 of nursing home placement, as evidenced by the need for the  
2102 constant availability of routine medical and nursing treatment  
2103 and care, and who require extensive health-related care and  
2104 services because of mental or physical incapacitation.

2105  
2106 The agency shall periodically adjust payment rates to account  
2107 for changes in the level of care profile for each managed care  
2108 plan based on encounter data.

2109 Reviser's note.—Amended to confirm editorial insertion of the  
2110 word "who."

2111 Section 56. Subsection (3) of section 409.984, Florida  
2112 Statutes, is amended to read:

2113 409.984 Enrollment in a long-term care managed care plan.—

2114 (3) Notwithstanding s. 409.969(2) ~~409.969(3)(c)~~, if a  
2115 recipient is referred for hospice services, the recipient has 30  
2116 days during which the recipient may select to enroll in another  
2117 managed care plan to access the hospice provider of the

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2118 recipient's choice.

2119 Reviser's note.—Amended to substitute a reference to s.

2120 409.969(2) for a reference to s. 409.969(3)(c). Section

2121 409.969(2) references a 90-day period during which a

2122 Medicaid recipient may disenroll and select another plan.

2123 Section 409.969(3)(c) does not exist.

2124 Section 57. Paragraph (b) of subsection (3) of section

2125 409.985, Florida Statutes, is amended to read:

2126 409.985 Comprehensive Assessment and Review for Long-Term  
2127 Care Services (CARES) Program.—

2128 (3) The CARES program shall determine if an individual  
2129 requires nursing facility care and, if the individual requires  
2130 such care, assign the individual to a level of care as described  
2131 in s. 409.983(4). When determining the need for nursing facility  
2132 care, consideration shall be given to the nature of the services  
2133 prescribed and which level of nursing or other health care  
2134 personnel meets the qualifications necessary to provide such  
2135 services and the availability to and access by the individual of  
2136 community or alternative resources. For the purposes of the  
2137 long-term care managed care program, the term "nursing facility  
2138 care" means the individual:

2139 (b) Requires or is at imminent risk of nursing home  
2140 placement as evidenced by the need for observation throughout a  
2141 24-hour period and care and the constant availability of medical  
2142 and nursing treatment and requires services on a daily or  
2143 intermittent basis that are to be performed under the  
2144 supervision of licensed nursing or other health professionals  
2145 because the individual ~~who~~ is incapacitated mentally or  
2146 physically; or

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2147 Reviser's note.—Amended to confirm editorial deletion of the  
2148 word "who."

2149 Section 58. Subsection (1) of section 420.602, Florida  
2150 Statutes, is amended to read:

2151 420.602 Definitions.—As used in this part, the following  
2152 terms shall have the following meanings, unless the context  
2153 otherwise requires:

2154 (1) "Adjusted for family size" means adjusted in a manner  
2155 which results in an income eligibility level which is lower for  
2156 households with fewer than four people, or higher for households  
2157 with more than four people, than the base income eligibility  
2158 level determined as provided in subsection (9) ~~(8)~~, subsection  
2159 (10) ~~(9)~~, or subsection (12), based upon a formula as  
2160 established by rule of the corporation.

2161 Reviser's note.—Amended to conform to the redesignation of  
2162 subsections (8) and (9) as subsections (9) and (10) by s.  
2163 333, ch. 2011-142, Laws of Florida.

2164 Section 59. Paragraph (g) of subsection (1) of section  
2165 427.012, Florida Statutes, is amended to read:

2166 427.012 The Commission for the Transportation  
2167 Disadvantaged.—There is created the Commission for the  
2168 Transportation Disadvantaged in the Department of  
2169 Transportation.

2170 (1) The commission shall consist of seven members, all of  
2171 whom shall be appointed by the Governor, in accordance with the  
2172 requirements of s. 20.052.

2173 (g) The Secretary of Transportation, the Secretary of  
2174 Children and Family Services, the executive director of the  
2175 Department of Economic Opportunity, the executive director of

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2176 the Department of Veterans' Affairs, the Secretary of Elderly  
2177 Affairs, the Secretary of Health Care Administration, the  
2178 director of the Agency for Persons with Disabilities, and a  
2179 county manager or administrator who is appointed by the  
2180 Governor, or a senior management level representative of each,  
2181 shall serve as ex officio, nonvoting advisors to the commission.

2182 Reviser's note.—Amended to confirm editorial insertion of the  
2183 words "the Department of" to conform to the complete name  
2184 of the department.

2185 Section 60. Paragraph (b) of subsection (2) of section  
2186 440.45, Florida Statutes, is amended to read:

2187 440.45 Office of the Judges of Compensation Claims.—

2188 (2)

2189 (b) Except as provided in paragraph (c), the Governor shall  
2190 appoint a judge of compensation claims from a list of three  
2191 persons nominated by a statewide nominating commission. The  
2192 statewide nominating commission shall be composed of the  
2193 following:

2194 1. Five members, at least one of whom must be a member of a  
2195 minority group as defined in s. 288.703, one of each who resides  
2196 in each of the territorial jurisdictions of the district courts  
2197 of appeal, appointed by the Board of Governors of The Florida  
2198 Bar from among The Florida Bar members who are engaged in the  
2199 practice of law. ~~On July 1, 1999, the term of office of each~~  
2200 ~~person appointed by the Board of Governors of The Florida Bar to~~  
2201 ~~the commission expires.~~ The Board of Governors shall appoint  
2202 members who reside in the odd-numbered district court of appeal  
2203 jurisdictions to 4-year terms each, beginning July 1, 1999, and  
2204 members who reside in the even-numbered district court of appeal

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2205 jurisdictions to 2-year terms each, beginning July 1, 1999.  
2206 Thereafter, each member shall be appointed for a 4-year term;  
2207         2. Five electors, at least one of whom must be a member of  
2208 a minority group as defined in s. 288.703, one of each who  
2209 resides in each of the territorial jurisdictions of the district  
2210 courts of appeal, appointed by the Governor. ~~On July 1, 1999,~~  
2211 ~~the term of office of each person appointed by the Governor to~~  
2212 ~~the commission expires.~~ The Governor shall appoint members who  
2213 reside in the odd-numbered district court of appeal  
2214 jurisdictions to 2-year terms each, beginning July 1, 1999, and  
2215 members who reside in the even-numbered district court of appeal  
2216 jurisdictions to 4-year terms each, beginning July 1, 1999.  
2217 Thereafter, each member shall be appointed for a 4-year term;  
2218 and

2219         3. Five electors, at least one of whom must be a member of  
2220 a minority group as defined in s. 288.703, one of each who  
2221 resides in the territorial jurisdictions of the district courts  
2222 of appeal, selected and appointed by a majority vote of the  
2223 other 10 members of the commission. ~~On October 1, 1999, the term~~  
2224 ~~of office of each person appointed to the commission by its~~  
2225 ~~other members expires.~~ A majority of the other members of the  
2226 commission shall appoint members who reside in the odd-numbered  
2227 district court of appeal jurisdictions to 2-year terms each,  
2228 beginning October 1, 1999, and members who reside in the even-  
2229 numbered district court of appeal jurisdictions to 4-year terms  
2230 each, beginning October 1, 1999. Thereafter, each member shall  
2231 be appointed for a 4-year term.

2232  
2233 A vacancy occurring on the commission shall be filled by the

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2234 original appointing authority for the unexpired balance of the  
2235 term. No attorney who appears before any judge of compensation  
2236 claims more than four times a year is eligible to serve on the  
2237 statewide nominating commission. The meetings and determinations  
2238 of the nominating commission as to the judges of compensation  
2239 claims shall be open to the public.

2240 Reviser's note.—Amended to delete obsolete provisions.

2241 Section 61. Subsection (26) of section 443.036, Florida  
2242 Statutes, is amended to read:

2243 443.036 Definitions.—As used in this chapter, the term:

2244 (26) "Initial skills review" means an online education or  
2245 training program, such as that established under s. 445.06  
2246 ~~1004.99~~, that is approved by the Agency for Workforce Innovation  
2247 and designed to measure an individual's mastery level of  
2248 workplace skills.

2249 Reviser's note.—Amended to conform to the transfer of s. 1004.99  
2250 to s. 445.06 by s. 476, ch. 2011-142, Laws of Florida.

2251 Section 62. Paragraph (f) of subsection (13) of section  
2252 443.1216, Florida Statutes, is amended to read:

2253 443.1216 Employment.—Employment, as defined in s. 443.036,  
2254 is subject to this chapter under the following conditions:

2255 (13) The following are exempt from coverage under this  
2256 chapter:

2257 (f) Service performed in the employ of a public employer as  
2258 defined in s. 443.036, except as provided in subsection (2), and  
2259 service performed in the employ of an instrumentality of a  
2260 public employer as described in s. 443.036(36)(b) or (c)  
2261 ~~443.036(35)(b) or (c)~~, to the extent that the instrumentality is  
2262 immune under the United States Constitution from the tax imposed

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2263 by s. 3301 of the Internal Revenue Code for that service.  
2264 Reviser's note.—Amended to conform to the redesignation of  
2265 subunits within s. 443.036 by s. 3, ch. 2011-235, Laws of  
2266 Florida.  
2267 Section 63. Paragraph (d) of subsection (1) of section  
2268 468.841, Florida Statutes, is amended to read:  
2269 468.841 Exemptions.—  
2270 (1) The following persons are not required to comply with  
2271 any provisions of this part relating to mold assessment:  
2272 (d) Persons or business organizations acting within the  
2273 scope of the respective licenses required under part XV of this  
2274 chapter, chapter 471, part I of chapter 481, chapter 482, or  
2275 chapter 489 ~~or part XV of this chapter~~ are acting on behalf of  
2276 an insurer under part VI of chapter 626, or are persons in the  
2277 manufactured housing industry who are licensed under chapter  
2278 320, except when any such persons or business organizations hold  
2279 themselves out for hire to the public as a "certified mold  
2280 assessor," "registered mold assessor," "licensed mold assessor,"  
2281 "mold assessor," "professional mold assessor," or any  
2282 combination thereof stating or implying licensure under this  
2283 part.  
2284 Reviser's note.—Amended to confirm editorial deletion of the  
2285 words "or part XV of this chapter" to eliminate redundancy.  
2286 Section 64. Paragraph (a) of subsection (5) of section  
2287 474.203, Florida Statutes, is amended to read:  
2288 474.203 Exemptions.—This chapter does not apply to:  
2289 (5) (a) Any person, or the person's regular employee,  
2290 administering to the ills or injuries of her or his own animals,  
2291 including, but not limited to, castration, spaying, and

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2292 dehorning of herd animals, unless title is transferred or  
2293 employment provided for the purpose of circumventing this law.  
2294 This exemption does not apply to any person licensed as a  
2295 veterinarian in another state or foreign jurisdiction and ~~is~~  
2296 practicing temporarily in this state. However, only a  
2297 veterinarian may immunize or treat an animal for diseases that  
2298 are communicable to humans and that are of public health  
2299 significance.

2300  
2301 For the purposes of chapters 465 and 893, persons exempt  
2302 pursuant to subsection (1), subsection (2), or subsection (4)  
2303 are deemed to be duly licensed practitioners authorized by the  
2304 laws of this state to prescribe drugs or medicinal supplies.  
2305 Reviser's note.—Amended to confirm editorial deletion of the  
2306 word "is."

2307 Section 65. Subsection (1) of section 474.2125, Florida  
2308 Statutes, is amended to read:

2309 474.2125 Temporary license.—

2310 (1) The board shall adopt rules providing for the issuance  
2311 of a temporary license to a licensed veterinarian of another  
2312 state for the purpose of enabling her or him to provide  
2313 veterinary medical services in this state for the animals of a  
2314 specific owner or, as may be needed in an emergency as defined  
2315 in s. 252.34(3) ~~252.34(2)~~, for the animals of multiple owners,  
2316 provided the applicant would qualify for licensure by  
2317 endorsement under s. 474.217. No temporary license shall be  
2318 valid for more than 30 days after its issuance, and no license  
2319 shall cover more than the treatment of the animals of one owner  
2320 except in an emergency as defined in s. 252.34(3) ~~252.34(2)~~.



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2321 After the expiration of 30 days, a new license is required.  
2322 Reviser's note.—Amended to conform to the correct location of  
2323 the definition of the word "emergency."  
2324 Section 66. Subsection (3) of section 493.6402, Florida  
2325 Statutes, is amended to read:  
2326 493.6402 Fees.—  
2327 (3) The fees set forth in this section must be paid by  
2328 check or money order, or, at the discretion of the department,  
2329 by ~~or~~ electronic funds transfer at the time the application is  
2330 approved, except that the applicant for a Class "E," Class "EE,"  
2331 or Class "MR" license must pay the license fee at the time the  
2332 application is made. If a license is revoked or denied, or if an  
2333 application is withdrawn, the license fee is nonrefundable.  
2334 Reviser's note.—Amended to confirm editorial deletion of the  
2335 word "or."  
2336 Section 67. Paragraph (o) of subsection (8) of section  
2337 499.012, Florida Statutes, is amended to read:  
2338 499.012 Permit application requirements.—  
2339 (8) An application for a permit or to renew a permit for a  
2340 prescription drug wholesale distributor or an out-of-state  
2341 prescription drug wholesale distributor submitted to the  
2342 department must include:  
2343 (o) Documentation of the credentialing policies and  
2344 procedures required by s. 499.0121(15) ~~499.0121(14)~~.  
2345 Reviser's note.—Amended to correct an apparent error. Section  
2346 499.0121(15) references credentialing. Section 499.0121(14)  
2347 references distribution reporting.  
2348 Section 68. Subsection (2) of section 514.0315, Florida  
2349 Statutes, is amended to read:

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2350           514.0315 Required safety features for public swimming pools  
2351 and spas.—

2352           (2) A public swimming pool or spa built before January 1,  
2353 1993, with a single main drain other than an unblockable drain  
2354 must be equipped with at least one of the following features  
2355 that complies with any American Society of Mechanical Engineers,  
2356 American National Standards Institute, American Society Standard  
2357 for Testing and Materials, or other applicable consumer product  
2358 safety standard for such system or device and protects against  
2359 evisceration and body-and-limb suction entrapment:

2360           (a) A safety vacuum release system that ceases operation of  
2361 the pump, reverses the circulation flow, or otherwise provides a  
2362 vacuum release at a suction outlet when a blockage is detected  
2363 and that has been tested by an independent third party and found  
2364 to conform to American Society of Mechanical Engineers/American  
2365 National Standards Institute standard A112.19.17, American  
2366 Society Standard for Testing and Materials standard ~~26~~ F2387, or  
2367 any successor standard.

2368           (b) A suction-limiting vent system with a tamper-resistant  
2369 atmospheric opening.

2370           (c) A gravity drainage system that uses a collector tank.

2371           (d) An automatic pump shut-off system.

2372           (e) A device or system that disables the drain.

2373 Reviser's note.—The introductory paragraph of subsection (2) and  
2374 paragraph (2) (a) are amended to confirm editorial  
2375 substitution of the word "Society" for the word "Standard"  
2376 to conform to the correct name of the society. Paragraph  
2377 (2) (a) is also amended to confirm editorial deletion of the  
2378 number "26" to conform to the fact that there is no

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2379 standard 26 F2387, only a standard F2387.

2380 Section 69. Section 514.072, Florida Statutes, is amended  
2381 to read:

2382 514.072 Certification of swimming instructors for people  
2383 who have developmental disabilities required.—Any person working  
2384 at a swimming pool who holds himself or herself out as a  
2385 swimming instructor specializing in training people who have  
2386 developmental disabilities, as defined in s. 393.063(9)  
2387 ~~393.063(10)~~, may be certified by the Dan Marino Foundation,  
2388 Inc., in addition to being certified under s. 514.071. The Dan  
2389 Marino Foundation, Inc., must develop certification requirements  
2390 and a training curriculum for swimming instructors for people  
2391 who have developmental disabilities and must submit the  
2392 certification requirements to the Department of Health for  
2393 review by January 1, 2007. A person certified under s. 514.071  
2394 before July 1, 2007, must meet the additional certification  
2395 requirements of this section before January 1, 2008. A person  
2396 certified under s. 514.071 on or after July 1, 2007, must meet  
2397 the additional certification requirements of this section within  
2398 6 months after receiving certification under s. 514.071.

2399 Reviser's note.—Amended to correct an apparent error and

2400 facilitate correct interpretation. "Developmental  
2401 disabilities center" is defined in s. 393.063(10);

2402 "developmental disability" is defined in s. 393.063(9).

2403 Section 70. Section 526.207, Florida Statutes, is amended  
2404 to read:

2405 526.207 Studies and reports.—

2406 ~~(1)~~ The Department of Agriculture and Consumer Services  
2407 shall conduct a study to evaluate and recommend the life-cycle

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2408 greenhouse gas emissions associated with all renewable fuels,  
2409 including, but not limited to, biodiesel, renewable diesel,  
2410 biobutanol, and ethanol derived from any source. In addition,  
2411 the department shall evaluate and recommend a requirement that  
2412 all renewable fuels introduced into commerce in the state, as a  
2413 result of the renewable fuel standard, shall reduce the life-  
2414 cycle greenhouse gas emissions by an average percentage. The  
2415 department may also evaluate and recommend any benefits  
2416 associated with the creation, banking, transfer, and sale of  
2417 credits among fuel refiners, blenders, and importers.

2418 ~~(2) The Department of Agriculture and Consumer Services~~  
2419 ~~shall submit a report containing specific recommendations to the~~  
2420 ~~President of the Senate and the Speaker of the House of~~  
2421 ~~Representatives no later than December 31, 2010.~~

2422 Reviser's note.—Amended to delete a provision that has served  
2423 its purpose.

2424 Section 71. Subsection (1) of section 538.09, Florida  
2425 Statutes, is amended to read:

2426 538.09 Registration.—

2427 (1) A secondhand dealer shall not engage in the business of  
2428 purchasing, consigning, or trading secondhand goods from any  
2429 location without registering with the Department of Revenue. A  
2430 fee equal to the federal and state costs for processing required  
2431 fingerprints must be submitted to the department with each  
2432 application for registration. One application is required for  
2433 each dealer. If a secondhand dealer is the owner of more than  
2434 one secondhand store location, the application must list each  
2435 location, and the department shall issue a duplicate  
2436 registration for each location. For purposes of subsections (4)

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2437 and (5) of this section, these duplicate registrations shall be  
2438 deemed individual registrations. A dealer shall pay a fee of \$6  
2439 per location at the time of registration and an annual renewal  
2440 fee of \$6 per location on October 1 of each year. All fees  
2441 collected, less costs of administration, shall be transferred  
2442 into the Operating ~~Operations~~ Trust Fund. The Department of  
2443 Revenue shall forward the full set of fingerprints to the  
2444 Department of Law Enforcement for state and federal processing,  
2445 provided the federal service is available, to be processed for  
2446 any criminal justice information as defined in s. 943.045. The  
2447 cost of processing such fingerprints shall be payable to the  
2448 Department of Law Enforcement by the Department of Revenue. The  
2449 department may issue a temporary registration to each location  
2450 pending completion of the background check by state and federal  
2451 law enforcement agencies, but shall revoke such temporary  
2452 registration if the completed background check reveals a  
2453 prohibited criminal background. An applicant for a secondhand  
2454 dealer registration must be a natural person who has reached the  
2455 age of 18 years.

2456 (a) If the applicant is a partnership, all the partners  
2457 must apply.

2458 (b) If the applicant is a joint venture, association, or  
2459 other noncorporate entity, all members of such joint venture,  
2460 association, or other noncorporate entity must make application  
2461 for registration as natural persons.

2462 (c) If the applicant is a corporation, the registration  
2463 must include the name and address of such corporation's  
2464 registered agent for service of process in the state and a  
2465 certified copy of statement from the Secretary of State that the

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2466 corporation is duly organized in the state or, if the  
2467 corporation is organized in a state other than Florida, a  
2468 certified copy of statement from the Secretary of State that the  
2469 corporation is duly qualified to do business in this state. If  
2470 the dealer has more than one location, the application must list  
2471 each location owned by the same legal entity and the department  
2472 shall issue a duplicate registration for each location.

2473 Reviser's note.—Amended to confirm editorial substitution of the  
2474 word "Operating" for the word "Operations" to conform to  
2475 the renaming of the trust fund by s. 1, ch. 2011-28, Laws  
2476 of Florida.

2477 Section 72. Paragraph (a) of subsection (1) of section  
2478 538.25, Florida Statutes, is amended to read:

2479 538.25 Registration.—

2480 (1) No person shall engage in business as a secondary  
2481 metals recycler at any location without registering with the  
2482 department.

2483 (a) A fee equal to the federal and state costs for  
2484 processing required fingerprints must be submitted to the  
2485 department with each application for registration. One  
2486 application is required for each secondary metals recycler. If a  
2487 secondary metals recycler is the owner of more than one  
2488 secondary metals recycling location, the application must list  
2489 each location, and the department shall issue a duplicate  
2490 registration for each location. For purposes of subsections (3),  
2491 (4), and (5), these duplicate registrations shall be deemed  
2492 individual registrations. A secondary metals recycler shall pay  
2493 a fee of \$6 per location at the time of registration and an  
2494 annual renewal fee of \$6 per location on October 1 of each year.

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2495 All fees collected, less costs of administration, shall be  
2496 transferred into the Operating ~~Operations~~ Trust Fund.

2497 Reviser's note.—Amended to confirm editorial substitution of the  
2498 word "Operating" for the word "Operations" to conform to  
2499 the renaming of the trust fund by s. 1, ch. 2011-28, Laws  
2500 of Florida.

2501 Section 73. Paragraph (a) of subsection (5) and subsection  
2502 (11) of section 553.79, Florida Statutes, are amended to read:

2503 553.79 Permits; applications; issuance; inspections.—

2504 (5) (a) The enforcing agency shall require a special  
2505 inspector to perform structural inspections on a threshold  
2506 building pursuant to a structural inspection plan prepared by  
2507 the engineer or architect of record. The structural inspection  
2508 plan must be submitted to and approved by the enforcing agency  
2509 prior to the issuance of a building permit for the construction  
2510 of a threshold building. The purpose of the structural  
2511 inspection plan is to provide specific inspection procedures and  
2512 schedules so that the building can be adequately inspected for  
2513 compliance with the permitted documents. The special inspector  
2514 may not serve as a surrogate in carrying out the  
2515 responsibilities of the building official, the architect, or the  
2516 engineer of record. The contractor's contractual or statutory  
2517 obligations are not relieved by any action of the special  
2518 inspector. The special inspector shall determine that a  
2519 professional engineer who specializes in shoring design has  
2520 inspected the shoring and reshoring for conformance with the  
2521 shoring and reshoring plans submitted to the enforcing agency. A  
2522 fee simple title owner of a building, which does not meet the  
2523 minimum size, height, occupancy, occupancy classification, or

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2524 number-of-stories criteria which would result in classification  
2525 as a threshold building under s. 553.71(11) ~~553.71(7)~~, may  
2526 designate such building as a threshold building, subject to more  
2527 than the minimum number of inspections required by the Florida  
2528 Building Code.

2529 (11) Nothing in this section shall be construed to alter or  
2530 supplement the provisions of part I ~~IV~~ of this chapter relating  
2531 to manufactured buildings.

2532 Reviser's note.—Paragraph (5) (a) is amended to conform to the  
2533 redesignation of s. 553.71(7) as s. 553.71(11) by s. 413,  
2534 ch. 2011-142, Laws of Florida. Subsection (11) is amended  
2535 to conform to context; part I of chapter 553 relates to  
2536 manufactured buildings; part IV relates to the Florida  
2537 Building Code.

2538 Section 74. Section 590.33, Florida Statutes, is amended to  
2539 read:

2540 590.33 State compact administrator; compact advisory  
2541 committee.—In pursuance of art. III of the compact, the director  
2542 of the division shall act as compact administrator for Florida  
2543 of the Southeastern Interstate Forest Fire Protection Compact  
2544 during his or her term of office as director, and his or her  
2545 successor as compact administrator shall be his or her successor  
2546 as director of the division. As compact administrator, he or she  
2547 shall be an ex officio member of the advisory committee of the  
2548 Southeastern Interstate Forest Fire Protection Compact, and  
2549 chair ex officio of the Florida members of the advisory  
2550 committee. There shall be four members of the Southeastern  
2551 Interstate Forest Fire Protection Compact Advisory Committee  
2552 from Florida. Two of the members from Florida shall be members



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2553 of the Legislature of Florida, one from the Senate designated by  
2554 the President of the Senate and one from the House of  
2555 Representatives designated by the Speaker of the House of  
2556 Representatives, and the terms of any such members shall  
2557 terminate at the time they cease to hold legislative office, and  
2558 their successors as members shall be named in like manner. The  
2559 Governor shall appoint the other two members from Florida, one  
2560 of whom shall be associated with forestry or forest products  
2561 industries. The terms of such members shall be 3 years and such  
2562 members shall hold office until their respective successors  
2563 shall be appointed and qualified. Vacancies occurring in the  
2564 office of such members from any reason or cause shall be filled  
2565 by appointment by the Governor for the unexpired term. The  
2566 director of the division as compact administrator for Florida  
2567 may delegate, from time to time, to any deputy or other  
2568 subordinate in his or her department or office, the power to be  
2569 present and participate, including voting as his or her  
2570 representative or substitute at any meeting of or hearing by or  
2571 other proceeding of the compact administrators or of the  
2572 advisory committee. The terms of each of the initial four  
2573 memberships, whether appointed at said time or not, shall begin  
2574 upon the date upon which the compact shall become effective in  
2575 accordance with art. II of said compact. Any member of the  
2576 advisory committee may be removed from office by the Governor  
2577 upon charges and after a hearing.

2578 Reviser's note.—Amended to confirm editorial insertion of the  
2579 words "of Representatives."  
2580 Section 75. Paragraph (a) of subsection (2) of section  
2581 604.50, Florida Statutes, is amended to read:

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2582 604.50 Nonresidential farm buildings and farm fences.—

2583 (2) As used in this section, the term:

2584 (a) "Nonresidential farm building" means any temporary or  
2585 permanent building or support structure that is classified as a  
2586 nonresidential farm building on a farm under s. 553.73(10)(c)  
2587 ~~553.73(9)(e)~~ or that is used primarily for agricultural  
2588 purposes, is located on land that is an integral part of a farm  
2589 operation or is classified as agricultural land under s.  
2590 193.461, and is not intended to be used as a residential  
2591 dwelling. The term may include, but is not limited to, a barn,  
2592 greenhouse, shade house, farm office, storage building, or  
2593 poultry house.

2594 Reviser's note.—Amended to conform to the redesignation of s.  
2595 553.73(9)(c) as s. 553.73(10)(c) by s. 32, ch. 2010-176,  
2596 Laws of Florida.

2597 Section 76. Subsection (4) of section 627.0628, Florida  
2598 Statutes, is amended to read:

2599 627.0628 Florida Commission on Hurricane Loss Projection  
2600 Methodology; public records exemption; public meetings  
2601 exemption.—

2602 ~~(4) REVIEW OF DISCOUNTS, CREDITS, OTHER RATE DIFFERENTIALS,  
2603 AND REDUCTIONS IN DEDUCTIBLES RELATING TO WINDSTORM MITIGATION.—~~

2604 ~~The commission shall hold public meetings for the purpose of  
2605 receiving testimony and data regarding the implementation of  
2606 windstorm mitigation discounts, credits, other rate  
2607 differentials, and appropriate reductions in deductibles  
2608 pursuant to s. 627.0629. After reviewing the testimony and data  
2609 as well as any other information the commission deems  
2610 appropriate, the commission shall present a report by February~~

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2611 ~~1, 2010, to the Governor, the Cabinet, the President of the~~  
2612 ~~Senate, and the Speaker of the House of Representatives,~~  
2613 ~~including recommendations on improving the process of assessing,~~  
2614 ~~determining, and applying windstorm mitigation discounts,~~  
2615 ~~credits, other rate differentials, and appropriate reductions in~~  
2616 ~~deductibles pursuant to s. 627.0629.~~

2617 Reviser's note.—Amended to delete a provision that has served  
2618 its purpose.

2619 Section 77. Paragraph (b) of subsection (2) and paragraphs  
2620 (b), (c), (q), and (v) of subsection (6) of section 627.351,  
2621 Florida Statutes, are amended to read:

2622 627.351 Insurance risk apportionment plans.—

2623 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

2624 (b) The department shall require all insurers holding a  
2625 certificate of authority to transact property insurance on a  
2626 direct basis in this state, other than joint underwriting  
2627 associations and other entities formed pursuant to this section,  
2628 to provide windstorm coverage to applicants from areas  
2629 determined to be eligible pursuant to paragraph (c) who in good  
2630 faith are entitled to, but are unable to procure, such coverage  
2631 through ordinary means; or it shall adopt a reasonable plan or  
2632 plans for the equitable apportionment or sharing among such  
2633 insurers of windstorm coverage, which may include formation of  
2634 an association for this purpose. As used in this subsection, the  
2635 term "property insurance" means insurance on real or personal  
2636 property, as defined in s. 624.604, including insurance for  
2637 fire, industrial fire, allied lines, farmowners multiperil,  
2638 homeowners' multiperil, commercial multiperil, and mobile homes,  
2639 and including liability coverages on all such insurance, but

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2640 excluding inland marine as defined in s. 624.607(3) and  
2641 excluding vehicle insurance as defined in s. 624.605(1)(a) other  
2642 than insurance on mobile homes used as permanent dwellings. The  
2643 department shall adopt rules that provide a formula for the  
2644 recovery and repayment of any deferred assessments.

2645 1. For the purpose of this section, properties eligible for  
2646 such windstorm coverage are defined as dwellings, buildings, and  
2647 other structures, including mobile homes which are used as  
2648 dwellings and which are tied down in compliance with mobile home  
2649 tie-down requirements prescribed by the Department of Highway  
2650 Safety and Motor Vehicles pursuant to s. 320.8325, and the  
2651 contents of all such properties. An applicant or policyholder is  
2652 eligible for coverage only if an offer of coverage cannot be  
2653 obtained by or for the applicant or policyholder from an  
2654 admitted insurer at approved rates.

2655 2.a.(I) All insurers required to be members of such  
2656 association shall participate in its writings, expenses, and  
2657 losses. Surplus of the association shall be retained for the  
2658 payment of claims and shall not be distributed to the member  
2659 insurers. Such participation by member insurers shall be in the  
2660 proportion that the net direct premiums of each member insurer  
2661 written for property insurance in this state during the  
2662 preceding calendar year bear to the aggregate net direct  
2663 premiums for property insurance of all member insurers, as  
2664 reduced by any credits for voluntary writings, in this state  
2665 during the preceding calendar year. For the purposes of this  
2666 subsection, the term "net direct premiums" means direct written  
2667 premiums for property insurance, reduced by premium for  
2668 liability coverage and for the following if included in allied

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2669 lines: rain and hail on growing crops; livestock; association  
2670 direct premiums booked; National Flood Insurance Program direct  
2671 premiums; and similar deductions specifically authorized by the  
2672 plan of operation and approved by the department. A member's  
2673 participation shall begin on the first day of the calendar year  
2674 following the year in which it is issued a certificate of  
2675 authority to transact property insurance in the state and shall  
2676 terminate 1 year after the end of the calendar year during which  
2677 it no longer holds a certificate of authority to transact  
2678 property insurance in the state. The commissioner, after review  
2679 of annual statements, other reports, and any other statistics  
2680 that the commissioner deems necessary, shall certify to the  
2681 association the aggregate direct premiums written for property  
2682 insurance in this state by all member insurers.

2683 (II) Effective July 1, 2002, the association shall operate  
2684 subject to the supervision and approval of a board of governors  
2685 who are the same individuals that have been appointed by the  
2686 Treasurer to serve on the board of governors of the Citizens  
2687 Property Insurance Corporation.

2688 (III) The plan of operation shall provide a formula whereby  
2689 a company voluntarily providing windstorm coverage in affected  
2690 areas will be relieved wholly or partially from apportionment of  
2691 a regular assessment pursuant to sub-sub-subparagraph d.(I) or  
2692 sub-sub-subparagraph d.(II).

2693 (IV) A company which is a member of a group of companies  
2694 under common management may elect to have its credits applied on  
2695 a group basis, and any company or group may elect to have its  
2696 credits applied to any other company or group.

2697 (V) There shall be no credits or relief from apportionment

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2698 to a company for emergency assessments collected from its  
2699 policyholders under sub-sub-subparagraph d.(III).

2700 (VI) The plan of operation may also provide for the award  
2701 of credits, for a period not to exceed 3 years, from a regular  
2702 assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-  
2703 subparagraph d.(II) as an incentive for taking policies out of  
2704 the Residential Property and Casualty Joint Underwriting  
2705 Association. In order to qualify for the exemption under this  
2706 sub-sub-subparagraph, the take-out plan must provide that at  
2707 least 40 percent of the policies removed from the Residential  
2708 Property and Casualty Joint Underwriting Association cover risks  
2709 located in Miami-Dade, Broward, and Palm Beach Counties or at  
2710 least 30 percent of the policies so removed cover risks located  
2711 in Miami-Dade, Broward, and Palm Beach Counties and an  
2712 additional 50 percent of the policies so removed cover risks  
2713 located in other coastal counties, and must also provide that no  
2714 more than 15 percent of the policies so removed may exclude  
2715 windstorm coverage. With the approval of the department, the  
2716 association may waive these geographic criteria for a take-out  
2717 plan that removes at least the lesser of 100,000 Residential  
2718 Property and Casualty Joint Underwriting Association policies or  
2719 15 percent of the total number of Residential Property and  
2720 Casualty Joint Underwriting Association policies, provided the  
2721 governing board of the Residential Property and Casualty Joint  
2722 Underwriting Association certifies that the take-out plan will  
2723 materially reduce the Residential Property and Casualty Joint  
2724 Underwriting Association's 100-year probable maximum loss from  
2725 hurricanes. With the approval of the department, the board may  
2726 extend such credits for an additional year if the insurer

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2727 guarantees an additional year of renewability for all policies  
2728 removed from the Residential Property and Casualty Joint  
2729 Underwriting Association, or for 2 additional years if the  
2730 insurer guarantees 2 additional years of renewability for all  
2731 policies removed from the Residential Property and Casualty  
2732 Joint Underwriting Association.

2733       b. Assessments to pay deficits in the association under  
2734 this subparagraph shall be included as an appropriate factor in  
2735 the making of rates as provided in s. 627.3512.

2736       c. The Legislature finds that the potential for unlimited  
2737 deficit assessments under this subparagraph may induce insurers  
2738 to attempt to reduce their writings in the voluntary market, and  
2739 that such actions would worsen the availability problems that  
2740 the association was created to remedy. It is the intent of the  
2741 Legislature that insurers remain fully responsible for paying  
2742 regular assessments and collecting emergency assessments for any  
2743 deficits of the association; however, it is also the intent of  
2744 the Legislature to provide a means by which assessment  
2745 liabilities may be amortized over a period of years.

2746       d.(I) When the deficit incurred in a particular calendar  
2747 year is 10 percent or less of the aggregate statewide direct  
2748 written premium for property insurance for the prior calendar  
2749 year for all member insurers, the association shall levy an  
2750 assessment on member insurers in an amount equal to the deficit.

2751       (II) When the deficit incurred in a particular calendar  
2752 year exceeds 10 percent of the aggregate statewide direct  
2753 written premium for property insurance for the prior calendar  
2754 year for all member insurers, the association shall levy an  
2755 assessment on member insurers in an amount equal to the greater

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2756 of 10 percent of the deficit or 10 percent of the aggregate  
2757 statewide direct written premium for property insurance for the  
2758 prior calendar year for member insurers. Any remaining deficit  
2759 shall be recovered through emergency assessments under sub-sub-  
2760 subparagraph (III).

2761 (III) Upon a determination by the board of directors that a  
2762 deficit exceeds the amount that will be recovered through  
2763 regular assessments on member insurers, pursuant to sub-sub-  
2764 subparagraph (I) or sub-sub-subparagraph (II), the board shall  
2765 levy, after verification by the department, emergency  
2766 assessments to be collected by member insurers and by  
2767 underwriting associations created pursuant to this section which  
2768 write property insurance, upon issuance or renewal of property  
2769 insurance policies other than National Flood Insurance policies  
2770 in the year or years following levy of the regular assessments.  
2771 The amount of the emergency assessment collected in a particular  
2772 year shall be a uniform percentage of that year's direct written  
2773 premium for property insurance for all member insurers and  
2774 underwriting associations, excluding National Flood Insurance  
2775 policy premiums, as annually determined by the board and  
2776 verified by the department. The department shall verify the  
2777 arithmetic calculations involved in the board's determination  
2778 within 30 days after receipt of the information on which the  
2779 determination was based. Notwithstanding any other provision of  
2780 law, each member insurer and each underwriting association  
2781 created pursuant to this section shall collect emergency  
2782 assessments from its policyholders without such obligation being  
2783 affected by any credit, limitation, exemption, or deferment. The  
2784 emergency assessments so collected shall be transferred directly



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2785 to the association on a periodic basis as determined by the  
2786 association. The aggregate amount of emergency assessments  
2787 levied under this sub-sub-subparagraph in any calendar year may  
2788 not exceed the greater of 10 percent of the amount needed to  
2789 cover the original deficit, plus interest, fees, commissions,  
2790 required reserves, and other costs associated with financing of  
2791 the original deficit, or 10 percent of the aggregate statewide  
2792 direct written premium for property insurance written by member  
2793 insurers and underwriting associations for the prior year, plus  
2794 interest, fees, commissions, required reserves, and other costs  
2795 associated with financing the original deficit. The board may  
2796 pledge the proceeds of the emergency assessments under this sub-  
2797 sub-subparagraph as the source of revenue for bonds, to retire  
2798 any other debt incurred as a result of the deficit or events  
2799 giving rise to the deficit, or in any other way that the board  
2800 determines will efficiently recover the deficit. The emergency  
2801 assessments under this sub-sub-subparagraph shall continue as  
2802 long as any bonds issued or other indebtedness incurred with  
2803 respect to a deficit for which the assessment was imposed remain  
2804 outstanding, unless adequate provision has been made for the  
2805 payment of such bonds or other indebtedness pursuant to the  
2806 document governing such bonds or other indebtedness. Emergency  
2807 assessments collected under this sub-sub-subparagraph are not  
2808 part of an insurer's rates, are not premium, and are not subject  
2809 to premium tax, fees, or commissions; however, failure to pay  
2810 the emergency assessment shall be treated as failure to pay  
2811 premium.

2812 (IV) Each member insurer's share of the total regular  
2813 assessments under sub-sub-subparagraph (I) or sub-sub-

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2814 subparagraph (II) shall be in the proportion that the insurer's  
2815 net direct premium for property insurance in this state, for the  
2816 year preceding the assessment bears to the aggregate statewide  
2817 net direct premium for property insurance of all member  
2818 insurers, as reduced by any credits for voluntary writings for  
2819 that year.

2820 (V) If regular deficit assessments are made under sub-sub-  
2821 subparagraph (I) or sub-sub-subparagraph (II), or by the  
2822 Residential Property and Casualty Joint Underwriting Association  
2823 under sub-subparagraph (6) (b) 3.a. ~~or sub-subparagraph~~  
2824 ~~(6) (b) 3.b.~~, the association shall levy upon the association's  
2825 policyholders, as part of its next rate filing, or by a separate  
2826 rate filing solely for this purpose, a market equalization  
2827 surcharge in a percentage equal to the total amount of such  
2828 regular assessments divided by the aggregate statewide direct  
2829 written premium for property insurance for member insurers for  
2830 the prior calendar year. Market equalization surcharges under  
2831 this sub-sub-subparagraph are not considered premium and are not  
2832 subject to commissions, fees, or premium taxes; however, failure  
2833 to pay a market equalization surcharge shall be treated as  
2834 failure to pay premium.

2835 e. The governing body of any unit of local government, any  
2836 residents of which are insured under the plan, may issue bonds  
2837 as defined in s. 125.013 or s. 166.101 to fund an assistance  
2838 program, in conjunction with the association, for the purpose of  
2839 defraying deficits of the association. In order to avoid  
2840 needless and indiscriminate proliferation, duplication, and  
2841 fragmentation of such assistance programs, any unit of local  
2842 government, any residents of which are insured by the

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2843 association, may provide for the payment of losses, regardless  
2844 of whether or not the losses occurred within or outside of the  
2845 territorial jurisdiction of the local government. Revenue bonds  
2846 may not be issued until validated pursuant to chapter 75, unless  
2847 a state of emergency is declared by executive order or  
2848 proclamation of the Governor pursuant to s. 252.36 making such  
2849 findings as are necessary to determine that it is in the best  
2850 interests of, and necessary for, the protection of the public  
2851 health, safety, and general welfare of residents of this state  
2852 and the protection and preservation of the economic stability of  
2853 insurers operating in this state, and declaring it an essential  
2854 public purpose to permit certain municipalities or counties to  
2855 issue bonds as will provide relief to claimants and  
2856 policyholders of the association and insurers responsible for  
2857 apportionment of plan losses. Any such unit of local government  
2858 may enter into such contracts with the association and with any  
2859 other entity created pursuant to this subsection as are  
2860 necessary to carry out this paragraph. Any bonds issued under  
2861 this sub-subparagraph shall be payable from and secured by  
2862 moneys received by the association from assessments under this  
2863 subparagraph, and assigned and pledged to or on behalf of the  
2864 unit of local government for the benefit of the holders of such  
2865 bonds. The funds, credit, property, and taxing power of the  
2866 state or of the unit of local government shall not be pledged  
2867 for the payment of such bonds. If any of the bonds remain unsold  
2868 60 days after issuance, the department shall require all  
2869 insurers subject to assessment to purchase the bonds, which  
2870 shall be treated as admitted assets; each insurer shall be  
2871 required to purchase that percentage of the unsold portion of

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2872 the bond issue that equals the insurer's relative share of  
2873 assessment liability under this subsection. An insurer shall not  
2874 be required to purchase the bonds to the extent that the  
2875 department determines that the purchase would endanger or impair  
2876 the solvency of the insurer. The authority granted by this sub-  
2877 subparagraph is additional to any bonding authority granted by  
2878 subparagraph 6.

2879         3. The plan shall also provide that any member with a  
2880 surplus as to policyholders of \$20 million or less writing 25  
2881 percent or more of its total countrywide property insurance  
2882 premiums in this state may petition the department, within the  
2883 first 90 days of each calendar year, to qualify as a limited  
2884 apportionment company. The apportionment of such a member  
2885 company in any calendar year for which it is qualified shall not  
2886 exceed its gross participation, which shall not be affected by  
2887 the formula for voluntary writings. In no event shall a limited  
2888 apportionment company be required to participate in any  
2889 apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)  
2890 or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds  
2891 \$50 million after payment of available plan funds in any  
2892 calendar year. However, a limited apportionment company shall  
2893 collect from its policyholders any emergency assessment imposed  
2894 under sub-sub-subparagraph 2.d.(III). The plan shall provide  
2895 that, if the department determines that any regular assessment  
2896 will result in an impairment of the surplus of a limited  
2897 apportionment company, the department may direct that all or  
2898 part of such assessment be deferred. However, there shall be no  
2899 limitation or deferment of an emergency assessment to be  
2900 collected from policyholders under sub-sub-subparagraph

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2901 2.d.(III).

2902 4. The plan shall provide for the deferment, in whole or in  
2903 part, of a regular assessment of a member insurer under sub-sub-  
2904 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but not  
2905 for an emergency assessment collected from policyholders under  
2906 sub-sub-subparagraph 2.d.(III), if, in the opinion of the  
2907 commissioner, payment of such regular assessment would endanger  
2908 or impair the solvency of the member insurer. In the event a  
2909 regular assessment against a member insurer is deferred in whole  
2910 or in part, the amount by which such assessment is deferred may  
2911 be assessed against the other member insurers in a manner  
2912 consistent with the basis for assessments set forth in sub-sub-  
2913 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

2914 5.a. The plan of operation may include deductibles and  
2915 rules for classification of risks and rate modifications  
2916 consistent with the objective of providing and maintaining funds  
2917 sufficient to pay catastrophe losses.

2918 b. It is the intent of the Legislature that the rates for  
2919 coverage provided by the association be actuarially sound and  
2920 not competitive with approved rates charged in the admitted  
2921 voluntary market such that the association functions as a  
2922 residual market mechanism to provide insurance only when the  
2923 insurance cannot be procured in the voluntary market. The plan  
2924 of operation shall provide a mechanism to assure that, beginning  
2925 no later than January 1, 1999, the rates charged by the  
2926 association for each line of business are reflective of approved  
2927 rates in the voluntary market for hurricane coverage for each  
2928 line of business in the various areas eligible for association  
2929 coverage.

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2930 c. The association shall provide for windstorm coverage on  
2931 residential properties in limits up to \$10 million for  
2932 commercial lines residential risks and up to \$1 million for  
2933 personal lines residential risks. If coverage with the  
2934 association is sought for a residential risk valued in excess of  
2935 these limits, coverage shall be available to the risk up to the  
2936 replacement cost or actual cash value of the property, at the  
2937 option of the insured, if coverage for the risk cannot be  
2938 located in the authorized market. The association must accept a  
2939 commercial lines residential risk with limits above \$10 million  
2940 or a personal lines residential risk with limits above \$1  
2941 million if coverage is not available in the authorized market.  
2942 The association may write coverage above the limits specified in  
2943 this subparagraph with or without facultative or other  
2944 reinsurance coverage, as the association determines appropriate.

2945 d. The plan of operation must provide objective criteria  
2946 and procedures, approved by the department, to be uniformly  
2947 applied for all applicants in determining whether an individual  
2948 risk is so hazardous as to be uninsurable. In making this  
2949 determination and in establishing the criteria and procedures,  
2950 the following shall be considered:

2951 (I) Whether the likelihood of a loss for the individual  
2952 risk is substantially higher than for other risks of the same  
2953 class; and

2954 (II) Whether the uncertainty associated with the individual  
2955 risk is such that an appropriate premium cannot be determined.

2956

2957 The acceptance or rejection of a risk by the association  
2958 pursuant to such criteria and procedures must be construed as

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2959 the private placement of insurance, and the provisions of  
2960 chapter 120 do not apply.

2961 e. If the risk accepts an offer of coverage through the  
2962 market assistance program or through a mechanism established by  
2963 the association, either before the policy is issued by the  
2964 association or during the first 30 days of coverage by the  
2965 association, and the producing agent who submitted the  
2966 application to the association is not currently appointed by the  
2967 insurer, the insurer shall:

2968 (I) Pay to the producing agent of record of the policy, for  
2969 the first year, an amount that is the greater of the insurer's  
2970 usual and customary commission for the type of policy written or  
2971 a fee equal to the usual and customary commission of the  
2972 association; or

2973 (II) Offer to allow the producing agent of record of the  
2974 policy to continue servicing the policy for a period of not less  
2975 than 1 year and offer to pay the agent the greater of the  
2976 insurer's or the association's usual and customary commission  
2977 for the type of policy written.

2978  
2979 If the producing agent is unwilling or unable to accept  
2980 appointment, the new insurer shall pay the agent in accordance  
2981 with sub-sub-subparagraph (I). Subject to the provisions of s.  
2982 627.3517, the policies issued by the association must provide  
2983 that if the association obtains an offer from an authorized  
2984 insurer to cover the risk at its approved rates under either a  
2985 standard policy including wind coverage or, if consistent with  
2986 the insurer's underwriting rules as filed with the department, a  
2987 basic policy including wind coverage, the risk is no longer

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2988 eligible for coverage through the association. Upon termination  
2989 of eligibility, the association shall provide written notice to  
2990 the policyholder and agent of record stating that the  
2991 association policy must be canceled as of 60 days after the date  
2992 of the notice because of the offer of coverage from an  
2993 authorized insurer. Other provisions of the insurance code  
2994 relating to cancellation and notice of cancellation do not apply  
2995 to actions under this sub-subparagraph.

2996 f. When the association enters into a contractual agreement  
2997 for a take-out plan, the producing agent of record of the  
2998 association policy is entitled to retain any unearned commission  
2999 on the policy, and the insurer shall:

3000 (I) Pay to the producing agent of record of the association  
3001 policy, for the first year, an amount that is the greater of the  
3002 insurer's usual and customary commission for the type of policy  
3003 written or a fee equal to the usual and customary commission of  
3004 the association; or

3005 (II) Offer to allow the producing agent of record of the  
3006 association policy to continue servicing the policy for a period  
3007 of not less than 1 year and offer to pay the agent the greater  
3008 of the insurer's or the association's usual and customary  
3009 commission for the type of policy written.

3010  
3011 If the producing agent is unwilling or unable to accept  
3012 appointment, the new insurer shall pay the agent in accordance  
3013 with sub-sub-subparagraph (I).

3014 6.a. The plan of operation may authorize the formation of a  
3015 private nonprofit corporation, a private nonprofit  
3016 unincorporated association, a partnership, a trust, a limited



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3017 liability company, or a nonprofit mutual company which may be  
3018 empowered, among other things, to borrow money by issuing bonds  
3019 or by incurring other indebtedness and to accumulate reserves or  
3020 funds to be used for the payment of insured catastrophe losses.  
3021 The plan may authorize all actions necessary to facilitate the  
3022 issuance of bonds, including the pledging of assessments or  
3023 other revenues.

3024       b. Any entity created under this subsection, or any entity  
3025 formed for the purposes of this subsection, may sue and be sued,  
3026 may borrow money; issue bonds, notes, or debt instruments;  
3027 pledge or sell assessments, market equalization surcharges and  
3028 other surcharges, rights, premiums, contractual rights,  
3029 projected recoveries from the Florida Hurricane Catastrophe  
3030 Fund, other reinsurance recoverables, and other assets as  
3031 security for such bonds, notes, or debt instruments; enter into  
3032 any contracts or agreements necessary or proper to accomplish  
3033 such borrowings; and take other actions necessary to carry out  
3034 the purposes of this subsection. The association may issue bonds  
3035 or incur other indebtedness, or have bonds issued on its behalf  
3036 by a unit of local government pursuant to subparagraph (6)(q)2.,  
3037 in the absence of a hurricane or other weather-related event,  
3038 upon a determination by the association subject to approval by  
3039 the department that such action would enable it to efficiently  
3040 meet the financial obligations of the association and that such  
3041 financings are reasonably necessary to effectuate the  
3042 requirements of this subsection. Any such entity may accumulate  
3043 reserves and retain surpluses as of the end of any association  
3044 year to provide for the payment of losses incurred by the  
3045 association during that year or any future year. The association

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3046 shall incorporate and continue the plan of operation and  
3047 articles of agreement in effect on the effective date of chapter  
3048 76-96, Laws of Florida, to the extent that it is not  
3049 inconsistent with chapter 76-96, and as subsequently modified  
3050 consistent with chapter 76-96. The board of directors and  
3051 officers currently serving shall continue to serve until their  
3052 successors are duly qualified as provided under the plan. The  
3053 assets and obligations of the plan in effect immediately prior  
3054 to the effective date of chapter 76-96 shall be construed to be  
3055 the assets and obligations of the successor plan created herein.

3056 c. In recognition of s. 10, Art. I of the State  
3057 Constitution, prohibiting the impairment of obligations of  
3058 contracts, it is the intent of the Legislature that no action be  
3059 taken whose purpose is to impair any bond indenture or financing  
3060 agreement or any revenue source committed by contract to such  
3061 bond or other indebtedness issued or incurred by the association  
3062 or any other entity created under this subsection.

3063 7. On such coverage, an agent's remuneration shall be that  
3064 amount of money payable to the agent by the terms of his or her  
3065 contract with the company with which the business is placed.  
3066 However, no commission will be paid on that portion of the  
3067 premium which is in excess of the standard premium of that  
3068 company.

3069 8. Subject to approval by the department, the association  
3070 may establish different eligibility requirements and operational  
3071 procedures for any line or type of coverage for any specified  
3072 eligible area or portion of an eligible area if the board  
3073 determines that such changes to the eligibility requirements and  
3074 operational procedures are justified due to the voluntary market

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3075 being sufficiently stable and competitive in such area or for  
3076 such line or type of coverage and that consumers who, in good  
3077 faith, are unable to obtain insurance through the voluntary  
3078 market through ordinary methods would continue to have access to  
3079 coverage from the association. When coverage is sought in  
3080 connection with a real property transfer, such requirements and  
3081 procedures shall not provide for an effective date of coverage  
3082 later than the date of the closing of the transfer as  
3083 established by the transferor, the transferee, and, if  
3084 applicable, the lender.

3085 9. Notwithstanding any other provision of law:

3086 a. The pledge or sale of, the lien upon, and the security  
3087 interest in any rights, revenues, or other assets of the  
3088 association created or purported to be created pursuant to any  
3089 financing documents to secure any bonds or other indebtedness of  
3090 the association shall be and remain valid and enforceable,  
3091 notwithstanding the commencement of and during the continuation  
3092 of, and after, any rehabilitation, insolvency, liquidation,  
3093 bankruptcy, receivership, conservatorship, reorganization, or  
3094 similar proceeding against the association under the laws of  
3095 this state or any other applicable laws.

3096 b. No such proceeding shall relieve the association of its  
3097 obligation, or otherwise affect its ability to perform its  
3098 obligation, to continue to collect, or levy and collect,  
3099 assessments, market equalization or other surcharges, projected  
3100 recoveries from the Florida Hurricane Catastrophe Fund,  
3101 reinsurance recoverables, or any other rights, revenues, or  
3102 other assets of the association pledged.

3103 c. Each such pledge or sale of, lien upon, and security

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3104 interest in, including the priority of such pledge, lien, or  
3105 security interest, any such assessments, emergency assessments,  
3106 market equalization or renewal surcharges, projected recoveries  
3107 from the Florida Hurricane Catastrophe Fund, reinsurance  
3108 recoverables, or other rights, revenues, or other assets which  
3109 are collected, or levied and collected, after the commencement  
3110 of and during the pendency of or after any such proceeding shall  
3111 continue unaffected by such proceeding.

3112 d. As used in this subsection, the term "financing  
3113 documents" means any agreement, instrument, or other document  
3114 now existing or hereafter created evidencing any bonds or other  
3115 indebtedness of the association or pursuant to which any such  
3116 bonds or other indebtedness has been or may be issued and  
3117 pursuant to which any rights, revenues, or other assets of the  
3118 association are pledged or sold to secure the repayment of such  
3119 bonds or indebtedness, together with the payment of interest on  
3120 such bonds or such indebtedness, or the payment of any other  
3121 obligation of the association related to such bonds or  
3122 indebtedness.

3123 e. Any such pledge or sale of assessments, revenues,  
3124 contract rights or other rights or assets of the association  
3125 shall constitute a lien and security interest, or sale, as the  
3126 case may be, that is immediately effective and attaches to such  
3127 assessments, revenues, contract, or other rights or assets,  
3128 whether or not imposed or collected at the time the pledge or  
3129 sale is made. Any such pledge or sale is effective, valid,  
3130 binding, and enforceable against the association or other entity  
3131 making such pledge or sale, and valid and binding against and  
3132 superior to any competing claims or obligations owed to any

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3133 other person or entity, including policyholders in this state,  
3134 asserting rights in any such assessments, revenues, contract, or  
3135 other rights or assets to the extent set forth in and in  
3136 accordance with the terms of the pledge or sale contained in the  
3137 applicable financing documents, whether or not any such person  
3138 or entity has notice of such pledge or sale and without the need  
3139 for any physical delivery, recordation, filing, or other action.

3140 f. There shall be no liability on the part of, and no cause  
3141 of action of any nature shall arise against, any member insurer  
3142 or its agents or employees, agents or employees of the  
3143 association, members of the board of directors of the  
3144 association, or the department or its representatives, for any  
3145 action taken by them in the performance of their duties or  
3146 responsibilities under this subsection. Such immunity does not  
3147 apply to actions for breach of any contract or agreement  
3148 pertaining to insurance, or any willful tort.

3149 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

3150 (b)1. All insurers authorized to write one or more subject  
3151 lines of business in this state are subject to assessment by the  
3152 corporation and, for the purposes of this subsection, are  
3153 referred to collectively as "assessable insurers." Insurers  
3154 writing one or more subject lines of business in this state  
3155 pursuant to part VIII of chapter 626 are not assessable  
3156 insurers, but insureds who procure one or more subject lines of  
3157 business in this state pursuant to part VIII of chapter 626 are  
3158 subject to assessment by the corporation and are referred to  
3159 collectively as "assessable insureds." An insurer's assessment  
3160 liability begins on the first day of the calendar year following  
3161 the year in which the insurer was issued a certificate of

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3162 authority to transact insurance for subject lines of business in  
3163 this state and terminates 1 year after the end of the first  
3164 calendar year during which the insurer no longer holds a  
3165 certificate of authority to transact insurance for subject lines  
3166 of business in this state.

3167 2.a. All revenues, assets, liabilities, losses, and  
3168 expenses of the corporation shall be divided into three separate  
3169 accounts as follows:

3170 (I) A personal lines account for personal residential  
3171 policies issued by the corporation, or issued by the Residential  
3172 Property and Casualty Joint Underwriting Association and renewed  
3173 by the corporation, which provides comprehensive, multiperil  
3174 coverage on risks that are not located in areas eligible for  
3175 coverage by the Florida Windstorm Underwriting Association as  
3176 those areas were defined on January 1, 2002, and for policies  
3177 that do not provide coverage for the peril of wind on risks that  
3178 are located in such areas;

3179 (II) A commercial lines account for commercial residential  
3180 and commercial nonresidential policies issued by the  
3181 corporation, or issued by the Residential Property and Casualty  
3182 Joint Underwriting Association and renewed by the corporation,  
3183 which provides coverage for basic property perils on risks that  
3184 are not located in areas eligible for coverage by the Florida  
3185 Windstorm Underwriting Association as those areas were defined  
3186 on January 1, 2002, and for policies that do not provide  
3187 coverage for the peril of wind on risks that are located in such  
3188 areas; and

3189 (III) A coastal account for personal residential policies  
3190 and commercial residential and commercial nonresidential

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3191 property policies issued by the corporation, or transferred to  
3192 the corporation, which provides coverage for the peril of wind  
3193 on risks that are located in areas eligible for coverage by the  
3194 Florida Windstorm Underwriting Association as those areas were  
3195 defined on January 1, 2002. The corporation may offer policies  
3196 that provide multiperil coverage and the corporation shall  
3197 continue to offer policies that provide coverage only for the  
3198 peril of wind for risks located in areas eligible for coverage  
3199 in the coastal account. In issuing multiperil coverage, the  
3200 corporation may use its approved policy forms and rates for the  
3201 personal lines account. An applicant or insured who is eligible  
3202 to purchase a multiperil policy from the corporation may  
3203 purchase a multiperil policy from an authorized insurer without  
3204 prejudice to the applicant's or insured's eligibility to  
3205 prospectively purchase a policy that provides coverage only for  
3206 the peril of wind from the corporation. An applicant or insured  
3207 who is eligible for a corporation policy that provides coverage  
3208 only for the peril of wind may elect to purchase or retain such  
3209 policy and also purchase or retain coverage excluding wind from  
3210 an authorized insurer without prejudice to the applicant's or  
3211 insured's eligibility to prospectively purchase a policy that  
3212 provides multiperil coverage from the corporation. It is the  
3213 goal of the Legislature that there be an overall average savings  
3214 of 10 percent or more for a policyholder who currently has a  
3215 wind-only policy with the corporation, and an ex-wind policy  
3216 with a voluntary insurer or the corporation, and who obtains a  
3217 multiperil policy from the corporation. It is the intent of the  
3218 Legislature that the offer of multiperil coverage in the coastal  
3219 account be made and implemented in a manner that does not

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3220 adversely affect the tax-exempt status of the corporation or  
3221 creditworthiness of or security for currently outstanding  
3222 financing obligations or credit facilities of the coastal  
3223 account, the personal lines account, or the commercial lines  
3224 account. The coastal account must also include quota share  
3225 primary insurance under subparagraph (c)2. The area eligible for  
3226 coverage under the coastal account also includes the area within  
3227 Port Canaveral, which is bordered on the south by the City of  
3228 Cape Canaveral, bordered on the west by the Banana River, and  
3229 bordered on the north by Federal Government property.

3230       b. The three separate accounts must be maintained as long  
3231 as financing obligations entered into by the Florida Windstorm  
3232 Underwriting Association or Residential Property and Casualty  
3233 Joint Underwriting Association are outstanding, in accordance  
3234 with the terms of the corresponding financing documents. If the  
3235 financing obligations are no longer outstanding, the corporation  
3236 may use a single account for all revenues, assets, liabilities,  
3237 losses, and expenses of the corporation. Consistent with this  
3238 subparagraph and prudent investment policies that minimize the  
3239 cost of carrying debt, the board shall exercise its best efforts  
3240 to retire existing debt or obtain the approval of necessary  
3241 parties to amend the terms of existing debt, so as to structure  
3242 the most efficient plan to consolidate the three separate  
3243 accounts into a single account.

3244       c. Creditors of the Residential Property and Casualty Joint  
3245 Underwriting Association and the accounts specified in sub-sub-  
3246 subparagraphs a.(I) and (II) may have a claim against, and  
3247 recourse to, those accounts and no claim against, or recourse  
3248 to, the account referred to in sub-sub-subparagraph a.(III).



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3249 Creditors of the Florida Windstorm Underwriting Association have  
3250 a claim against, and recourse to, the account referred to in  
3251 sub-sub-subparagraph a.(III) and no claim against, or recourse  
3252 to, the accounts referred to in sub-sub-subparagraphs a.(I) and  
3253 (II).

3254 d. Revenues, assets, liabilities, losses, and expenses not  
3255 attributable to particular accounts shall be prorated among the  
3256 accounts.

3257 e. The Legislature finds that the revenues of the  
3258 corporation are revenues that are necessary to meet the  
3259 requirements set forth in documents authorizing the issuance of  
3260 bonds under this subsection.

3261 f. No part of the income of the corporation may inure to  
3262 the benefit of any private person.

3263 3. With respect to a deficit in an account:

3264 a. After accounting for the Citizens policyholder surcharge  
3265 imposed under sub-subparagraph h., if the remaining projected  
3266 deficit incurred in a particular calendar year:

3267 (I) Is not greater than 6 percent of the aggregate  
3268 statewide direct written premium for the subject lines of  
3269 business for the prior calendar year, the entire deficit shall  
3270 be recovered through regular assessments of assessable insurers  
3271 under paragraph (q) and assessable insureds.

3272 (II) Exceeds 6 percent of the aggregate statewide direct  
3273 written premium for the subject lines of business for the prior  
3274 calendar year, the corporation shall levy regular assessments on  
3275 assessable insurers under paragraph (q) and on assessable  
3276 insureds in an amount equal to the greater of 6 percent of the  
3277 deficit or 6 percent of the aggregate statewide direct written

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3278 premium for the subject lines of business for the prior calendar  
3279 year. Any remaining deficit shall be recovered through emergency  
3280 assessments under sub-subparagraph c.

3281       b. Each assessable insurer's share of the amount being  
3282 assessed under sub-subparagraph a. must be in the proportion  
3283 that the assessable insurer's direct written premium for the  
3284 subject lines of business for the year preceding the assessment  
3285 bears to the aggregate statewide direct written premium for the  
3286 subject lines of business for that year. The assessment  
3287 percentage applicable to each assessable insured is the ratio of  
3288 the amount being assessed under sub-subparagraph a. to the  
3289 aggregate statewide direct written premium for the subject lines  
3290 of business for the prior year. Assessments levied by the  
3291 corporation on assessable insurers under sub-subparagraph a.  
3292 must be paid as required by the corporation's plan of operation  
3293 and paragraph (q). Assessments levied by the corporation on  
3294 assessable insureds under sub-subparagraph a. shall be collected  
3295 by the surplus lines agent at the time the surplus lines agent  
3296 collects the surplus lines tax required by s. 626.932, and paid  
3297 to the Florida Surplus Lines Service Office at the time the  
3298 surplus lines agent pays the surplus lines tax to that office.  
3299 Upon receipt of regular assessments from surplus lines agents,  
3300 the Florida Surplus Lines Service Office shall transfer the  
3301 assessments directly to the corporation as determined by the  
3302 corporation.

3303       c. Upon a determination by the board of governors that a  
3304 deficit in an account exceeds the amount that will be recovered  
3305 through regular assessments under sub-subparagraph a., plus the  
3306 amount that is expected to be recovered through surcharges under

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3307 sub-subparagraph h., the board, after verification by the  
3308 office, shall levy emergency assessments for as many years as  
3309 necessary to cover the deficits, to be collected by assessable  
3310 insurers and the corporation and collected from assessable  
3311 insureds upon issuance or renewal of policies for subject lines  
3312 of business, excluding National Flood Insurance policies. The  
3313 amount collected in a particular year must be a uniform  
3314 percentage of that year's direct written premium for subject  
3315 lines of business and all accounts of the corporation, excluding  
3316 National Flood Insurance Program policy premiums, as annually  
3317 determined by the board and verified by the office. The office  
3318 shall verify the arithmetic calculations involved in the board's  
3319 determination within 30 days after receipt of the information on  
3320 which the determination was based. Notwithstanding any other  
3321 provision of law, the corporation and each assessable insurer  
3322 that writes subject lines of business shall collect emergency  
3323 assessments from its policyholders without such obligation being  
3324 affected by any credit, limitation, exemption, or deferment.  
3325 Emergency assessments levied by the corporation on assessable  
3326 insureds shall be collected by the surplus lines agent at the  
3327 time the surplus lines agent collects the surplus lines tax  
3328 required by s. 626.932 and paid to the Florida Surplus Lines  
3329 Service Office at the time the surplus lines agent pays the  
3330 surplus lines tax to that office. The emergency assessments  
3331 collected shall be transferred directly to the corporation on a  
3332 periodic basis as determined by the corporation and held by the  
3333 corporation solely in the applicable account. The aggregate  
3334 amount of emergency assessments levied for an account under this  
3335 sub-subparagraph in any calendar year may be less than but not

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3336 exceed the greater of 10 percent of the amount needed to cover  
3337 the deficit, plus interest, fees, commissions, required  
3338 reserves, and other costs associated with financing the original  
3339 deficit, or 10 percent of the aggregate statewide direct written  
3340 premium for subject lines of business and all accounts of the  
3341 corporation for the prior year, plus interest, fees,  
3342 commissions, required reserves, and other costs associated with  
3343 financing the deficit.

3344 d. The corporation may pledge the proceeds of assessments,  
3345 projected recoveries from the Florida Hurricane Catastrophe  
3346 Fund, other insurance and reinsurance recoverables, policyholder  
3347 surcharges and other surcharges, and other funds available to  
3348 the corporation as the source of revenue for and to secure bonds  
3349 issued under paragraph (q), bonds or other indebtedness issued  
3350 under subparagraph (c)3., or lines of credit or other financing  
3351 mechanisms issued or created under this subsection, or to retire  
3352 any other debt incurred as a result of deficits or events giving  
3353 rise to deficits, or in any other way that the board determines  
3354 will efficiently recover such deficits. The purpose of the lines  
3355 of credit or other financing mechanisms is to provide additional  
3356 resources to assist the corporation in covering claims and  
3357 expenses attributable to a catastrophe. As used in this  
3358 subsection, the term "assessments" includes regular assessments  
3359 under sub-subparagraph a. or subparagraph (q)1. and emergency  
3360 assessments under sub-subparagraph c. ~~d.~~ Emergency assessments  
3361 collected under sub-subparagraph c. ~~d.~~ are not part of an  
3362 insurer's rates, are not premium, and are not subject to premium  
3363 tax, fees, or commissions; however, failure to pay the emergency  
3364 assessment shall be treated as failure to pay premium. The

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3365 emergency assessments under sub-subparagraph c. shall continue  
3366 as long as any bonds issued or other indebtedness incurred with  
3367 respect to a deficit for which the assessment was imposed remain  
3368 outstanding, unless adequate provision has been made for the  
3369 payment of such bonds or other indebtedness pursuant to the  
3370 documents governing such bonds or indebtedness.

3371 e. As used in this subsection for purposes of any deficit  
3372 incurred on or after January 25, 2007, the term "subject lines  
3373 of business" means insurance written by assessable insurers or  
3374 procured by assessable insureds for all property and casualty  
3375 lines of business in this state, but not including workers'  
3376 compensation or medical malpractice. As used in this sub-  
3377 subparagraph, the term "property and casualty lines of business"  
3378 includes all lines of business identified on Form 2, Exhibit of  
3379 Premiums and Losses, in the annual statement required of  
3380 authorized insurers under s. 624.424 and any rule adopted under  
3381 this section, except for those lines identified as accident and  
3382 health insurance and except for policies written under the  
3383 National Flood Insurance Program or the Federal Crop Insurance  
3384 Program. For purposes of this sub-subparagraph, the term  
3385 "workers' compensation" includes both workers' compensation  
3386 insurance and excess workers' compensation insurance.

3387 f. The Florida Surplus Lines Service Office shall determine  
3388 annually the aggregate statewide written premium in subject  
3389 lines of business procured by assessable insureds and report  
3390 that information to the corporation in a form and at a time the  
3391 corporation specifies to ensure that the corporation can meet  
3392 the requirements of this subsection and the corporation's  
3393 financing obligations.

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3394 g. The Florida Surplus Lines Service Office shall verify  
3395 the proper application by surplus lines agents of assessment  
3396 percentages for regular assessments and emergency assessments  
3397 levied under this subparagraph on assessable insureds and assist  
3398 the corporation in ensuring the accurate, timely collection and  
3399 payment of assessments by surplus lines agents as required by  
3400 the corporation.

3401 h. If a deficit is incurred in any account in 2008 or  
3402 thereafter, the board of governors shall levy a Citizens  
3403 policyholder surcharge against all policyholders of the  
3404 corporation.

3405 (I) The surcharge shall be levied as a uniform percentage  
3406 of the premium for the policy of up to 15 percent of such  
3407 premium, which funds shall be used to offset the deficit.

3408 (II) The surcharge is payable upon cancellation or  
3409 termination of the policy, upon renewal of the policy, or upon  
3410 issuance of a new policy by the corporation within the first 12  
3411 months after the date of the levy or the period of time  
3412 necessary to fully collect the surcharge amount.

3413 (III) The corporation may not levy any regular assessments  
3414 under paragraph (q) pursuant to sub-subparagraph a. or sub-  
3415 subparagraph b. with respect to a particular year's deficit  
3416 until the corporation has first levied the full amount of the  
3417 surcharge authorized by this sub-subparagraph.

3418 (IV) The surcharge is not considered premium and is not  
3419 subject to commissions, fees, or premium taxes. However, failure  
3420 to pay the surcharge shall be treated as failure to pay premium.

3421 i. If the amount of any assessments or surcharges collected  
3422 from corporation policyholders, assessable insurers or their

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3423 policyholders, or assessable insureds exceeds the amount of the  
3424 deficits, such excess amounts shall be remitted to and retained  
3425 by the corporation in a reserve to be used by the corporation,  
3426 as determined by the board of governors and approved by the  
3427 office, to pay claims or reduce any past, present, or future  
3428 plan-year deficits or to reduce outstanding debt.

3429 (c) The corporation's plan of operation:

3430 1. Must provide for adoption of residential property and  
3431 casualty insurance policy forms and commercial residential and  
3432 nonresidential property insurance forms, which must be approved  
3433 by the office before use. The corporation shall adopt the  
3434 following policy forms:

3435 a. Standard personal lines policy forms that are  
3436 comprehensive multiperil policies providing full coverage of a  
3437 residential property equivalent to the coverage provided in the  
3438 private insurance market under an HO-3, HO-4, or HO-6 policy.

3439 b. Basic personal lines policy forms that are policies  
3440 similar to an HO-8 policy or a dwelling fire policy that provide  
3441 coverage meeting the requirements of the secondary mortgage  
3442 market, but which is more limited than the coverage under a  
3443 standard policy.

3444 c. Commercial lines residential and nonresidential policy  
3445 forms that are generally similar to the basic perils of full  
3446 coverage obtainable for commercial residential structures and  
3447 commercial nonresidential structures in the admitted voluntary  
3448 market.

3449 d. Personal lines and commercial lines residential property  
3450 insurance forms that cover the peril of wind only. The forms are  
3451 applicable only to residential properties located in areas

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3452 eligible for coverage under the coastal account referred to in  
3453 sub-subparagraph (b)2.a.

3454 e. Commercial lines nonresidential property insurance forms  
3455 that cover the peril of wind only. The forms are applicable only  
3456 to nonresidential properties located in areas eligible for  
3457 coverage under the coastal account referred to in sub-  
3458 subparagraph (b)2.a.

3459 f. The corporation may adopt variations of the policy forms  
3460 listed in sub-subparagraphs a.-e. which contain more restrictive  
3461 coverage.

3462 2. Must provide that the corporation adopt a program in  
3463 which the corporation and authorized insurers enter into quota  
3464 share primary insurance agreements for hurricane coverage, as  
3465 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
3466 property insurance forms for eligible risks which cover the  
3467 peril of wind only.

3468 a. As used in this subsection, the term:

3469 (I) "Quota share primary insurance" means an arrangement in  
3470 which the primary hurricane coverage of an eligible risk is  
3471 provided in specified percentages by the corporation and an  
3472 authorized insurer. The corporation and authorized insurer are  
3473 each solely responsible for a specified percentage of hurricane  
3474 coverage of an eligible risk as set forth in a quota share  
3475 primary insurance agreement between the corporation and an  
3476 authorized insurer and the insurance contract. The  
3477 responsibility of the corporation or authorized insurer to pay  
3478 its specified percentage of hurricane losses of an eligible  
3479 risk, as set forth in the agreement, may not be altered by the  
3480 inability of the other party to pay its specified percentage of



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3481 losses. Eligible risks that are provided hurricane coverage  
3482 through a quota share primary insurance arrangement must be  
3483 provided policy forms that set forth the obligations of the  
3484 corporation and authorized insurer under the arrangement,  
3485 clearly specify the percentages of quota share primary insurance  
3486 provided by the corporation and authorized insurer, and  
3487 conspicuously and clearly state that the authorized insurer and  
3488 the corporation may not be held responsible beyond their  
3489 specified percentage of coverage of hurricane losses.

3490 (II) "Eligible risks" means personal lines residential and  
3491 commercial lines residential risks that meet the underwriting  
3492 criteria of the corporation and are located in areas that were  
3493 eligible for coverage by the Florida Windstorm Underwriting  
3494 Association on January 1, 2002.

3495 b. The corporation may enter into quota share primary  
3496 insurance agreements with authorized insurers at corporation  
3497 coverage levels of 90 percent and 50 percent.

3498 c. If the corporation determines that additional coverage  
3499 levels are necessary to maximize participation in quota share  
3500 primary insurance agreements by authorized insurers, the  
3501 corporation may establish additional coverage levels. However,  
3502 the corporation's quota share primary insurance coverage level  
3503 may not exceed 90 percent.

3504 d. Any quota share primary insurance agreement entered into  
3505 between an authorized insurer and the corporation must provide  
3506 for a uniform specified percentage of coverage of hurricane  
3507 losses, by county or territory as set forth by the corporation  
3508 board, for all eligible risks of the authorized insurer covered  
3509 under the agreement.

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3510 e. Any quota share primary insurance agreement entered into  
3511 between an authorized insurer and the corporation is subject to  
3512 review and approval by the office. However, such agreement shall  
3513 be authorized only as to insurance contracts entered into  
3514 between an authorized insurer and an insured who is already  
3515 insured by the corporation for wind coverage.

3516 f. For all eligible risks covered under quota share primary  
3517 insurance agreements, the exposure and coverage levels for both  
3518 the corporation and authorized insurers shall be reported by the  
3519 corporation to the Florida Hurricane Catastrophe Fund. For all  
3520 policies of eligible risks covered under such agreements, the  
3521 corporation and the authorized insurer must maintain complete  
3522 and accurate records for the purpose of exposure and loss  
3523 reimbursement audits as required by fund rules. The corporation  
3524 and the authorized insurer shall each maintain duplicate copies  
3525 of policy declaration pages and supporting claims documents.

3526 g. The corporation board shall establish in its plan of  
3527 operation standards for quota share agreements which ensure that  
3528 there is no discriminatory application among insurers as to the  
3529 terms of the agreements, pricing of the agreements, incentive  
3530 provisions if any, and consideration paid for servicing policies  
3531 or adjusting claims.

3532 h. The quota share primary insurance agreement between the  
3533 corporation and an authorized insurer must set forth the  
3534 specific terms under which coverage is provided, including, but  
3535 not limited to, the sale and servicing of policies issued under  
3536 the agreement by the insurance agent of the authorized insurer  
3537 producing the business, the reporting of information concerning  
3538 eligible risks, the payment of premium to the corporation, and

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3539 arrangements for the adjustment and payment of hurricane claims  
3540 incurred on eligible risks by the claims adjuster and personnel  
3541 of the authorized insurer. Entering into a quota sharing  
3542 insurance agreement between the corporation and an authorized  
3543 insurer is voluntary and at the discretion of the authorized  
3544 insurer.

3545       3.a. May provide that the corporation may employ or  
3546 otherwise contract with individuals or other entities to provide  
3547 administrative or professional services that may be appropriate  
3548 to effectuate the plan. The corporation may borrow funds by  
3549 issuing bonds or by incurring other indebtedness, and shall have  
3550 other powers reasonably necessary to effectuate the requirements  
3551 of this subsection, including, without limitation, the power to  
3552 issue bonds and incur other indebtedness in order to refinance  
3553 outstanding bonds or other indebtedness. The corporation may  
3554 seek judicial validation of its bonds or other indebtedness  
3555 under chapter 75. The corporation may issue bonds or incur other  
3556 indebtedness, or have bonds issued on its behalf by a unit of  
3557 local government pursuant to subparagraph (q)2. in the absence  
3558 of a hurricane or other weather-related event, upon a  
3559 determination by the corporation, subject to approval by the  
3560 office, that such action would enable it to efficiently meet the  
3561 financial obligations of the corporation and that such  
3562 financings are reasonably necessary to effectuate the  
3563 requirements of this subsection. The corporation may take all  
3564 actions needed to facilitate tax-free status for such bonds or  
3565 indebtedness, including formation of trusts or other affiliated  
3566 entities. The corporation may pledge assessments, projected  
3567 recoveries from the Florida Hurricane Catastrophe Fund, other

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3568 reinsurance recoverables, market equalization and other  
3569 surcharges, and other funds available to the corporation as  
3570 security for bonds or other indebtedness. In recognition of s.  
3571 10, Art. I of the State Constitution, prohibiting the impairment  
3572 of obligations of contracts, it is the intent of the Legislature  
3573 that no action be taken whose purpose is to impair any bond  
3574 indenture or financing agreement or any revenue source committed  
3575 by contract to such bond or other indebtedness.

3576       b. To ensure that the corporation is operating in an  
3577 efficient and economic manner while providing quality service to  
3578 policyholders, applicants, and agents, the board shall  
3579 commission an independent third-party consultant having  
3580 expertise in insurance company management or insurance company  
3581 management consulting to prepare a report and make  
3582 recommendations on the relative costs and benefits of  
3583 outsourcing various policy issuance and service functions to  
3584 private servicing carriers or entities performing similar  
3585 functions in the private market for a fee, rather than  
3586 performing such functions in-house. In making such  
3587 recommendations, the consultant shall consider how other  
3588 residual markets, both in this state and around the country,  
3589 outsource appropriate functions or use servicing carriers to  
3590 better match expenses with revenues that fluctuate based on a  
3591 widely varying policy count. The report must be completed by  
3592 July 1, 2012. Upon receiving the report, the board shall develop  
3593 a plan to implement the report and submit the plan for review,  
3594 modification, and approval to the Financial Services Commission.  
3595 Upon the commission's approval of the plan, the board shall  
3596 begin implementing the plan by January 1, 2013.

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3597 4. Must require that the corporation operate subject to the  
3598 supervision and approval of a board of governors consisting of  
3599 eight individuals who are residents of this state, from  
3600 different geographical areas of this state.

3601 a. The Governor, the Chief Financial Officer, the President  
3602 of the Senate, and the Speaker of the House of Representatives  
3603 shall each appoint two members of the board. At least one of the  
3604 two members appointed by each appointing officer must have  
3605 demonstrated expertise in insurance and is deemed to be within  
3606 the scope of the exemption provided in s. 112.313(7)(b). The  
3607 Chief Financial Officer shall designate one of the appointees as  
3608 chair. All board members serve at the pleasure of the appointing  
3609 officer. All members of the board are subject to removal at will  
3610 by the officers who appointed them. All board members, including  
3611 the chair, must be appointed to serve for 3-year terms beginning  
3612 annually on a date designated by the plan. However, for the  
3613 first term beginning on or after July 1, 2009, each appointing  
3614 officer shall appoint one member of the board for a 2-year term  
3615 and one member for a 3-year term. A board vacancy shall be  
3616 filled for the unexpired term by the appointing officer. The  
3617 Chief Financial Officer shall appoint a technical advisory group  
3618 to provide information and advice to the board in connection  
3619 with the board's duties under this subsection. The executive  
3620 director and senior managers of the corporation shall be engaged  
3621 by the board and serve at the pleasure of the board. Any  
3622 executive director appointed on or after July 1, 2006, is  
3623 subject to confirmation by the Senate. The executive director is  
3624 responsible for employing other staff as the corporation may  
3625 require, subject to review and concurrence by the board.

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3626           b. The board shall create a Market Accountability Advisory  
3627 Committee to assist the corporation in developing awareness of  
3628 its rates and its customer and agent service levels in  
3629 relationship to the voluntary market insurers writing similar  
3630 coverage.

3631           (I) The members of the advisory committee consist of the  
3632 following 11 persons, one of whom must be elected chair by the  
3633 members of the committee: four representatives, one appointed by  
3634 the Florida Association of Insurance Agents, one by the Florida  
3635 Association of Insurance and Financial Advisors, one by the  
3636 Professional Insurance Agents of Florida, and one by the Latin  
3637 American Association of Insurance Agencies; three  
3638 representatives appointed by the insurers with the three highest  
3639 voluntary market share of residential property insurance  
3640 business in the state; one representative from the Office of  
3641 Insurance Regulation; one consumer appointed by the board who is  
3642 insured by the corporation at the time of appointment to the  
3643 committee; one representative appointed by the Florida  
3644 Association of Realtors; and one representative appointed by the  
3645 Florida Bankers Association. All members shall be appointed to  
3646 3-year terms and may serve for consecutive terms.

3647           (II) The committee shall report to the corporation at each  
3648 board meeting on insurance market issues which may include rates  
3649 and rate competition with the voluntary market; service,  
3650 including policy issuance, claims processing, and general  
3651 responsiveness to policyholders, applicants, and agents; and  
3652 matters relating to depopulation.

3653           5. Must provide a procedure for determining the eligibility  
3654 of a risk for coverage, as follows:

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3655 a. Subject to s. 627.3517, with respect to personal lines  
3656 residential risks, if the risk is offered coverage from an  
3657 authorized insurer at the insurer's approved rate under a  
3658 standard policy including wind coverage or, if consistent with  
3659 the insurer's underwriting rules as filed with the office, a  
3660 basic policy including wind coverage, for a new application to  
3661 the corporation for coverage, the risk is not eligible for any  
3662 policy issued by the corporation unless the premium for coverage  
3663 from the authorized insurer is more than 15 percent greater than  
3664 the premium for comparable coverage from the corporation. If the  
3665 risk is not able to obtain such offer, the risk is eligible for  
3666 a standard policy including wind coverage or a basic policy  
3667 including wind coverage issued by the corporation; however, if  
3668 the risk could not be insured under a standard policy including  
3669 wind coverage regardless of market conditions, the risk is  
3670 eligible for a basic policy including wind coverage unless  
3671 rejected under subparagraph 8. However, a policyholder of the  
3672 corporation or a policyholder removed from the corporation  
3673 through an assumption agreement until the end of the assumption  
3674 period remains eligible for coverage from the corporation  
3675 regardless of any offer of coverage from an authorized insurer  
3676 or surplus lines insurer. The corporation shall determine the  
3677 type of policy to be provided on the basis of objective  
3678 standards specified in the underwriting manual and based on  
3679 generally accepted underwriting practices.

3680 (I) If the risk accepts an offer of coverage through the  
3681 market assistance plan or through a mechanism established by the  
3682 corporation before a policy is issued to the risk by the  
3683 corporation or during the first 30 days of coverage by the

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3684 corporation, and the producing agent who submitted the  
3685 application to the plan or to the corporation is not currently  
3686 appointed by the insurer, the insurer shall:

3687 (A) Pay to the producing agent of record of the policy for  
3688 the first year, an amount that is the greater of the insurer's  
3689 usual and customary commission for the type of policy written or  
3690 a fee equal to the usual and customary commission of the  
3691 corporation; or

3692 (B) Offer to allow the producing agent of record of the  
3693 policy to continue servicing the policy for at least 1 year and  
3694 offer to pay the agent the greater of the insurer's or the  
3695 corporation's usual and customary commission for the type of  
3696 policy written.

3697  
3698 If the producing agent is unwilling or unable to accept  
3699 appointment, the new insurer shall pay the agent in accordance  
3700 with sub-sub-sub-subparagraph (A).

3701 (II) If the corporation enters into a contractual agreement  
3702 for a take-out plan, the producing agent of record of the  
3703 corporation policy is entitled to retain any unearned commission  
3704 on the policy, and the insurer shall:

3705 (A) Pay to the producing agent of record, for the first  
3706 year, an amount that is the greater of the insurer's usual and  
3707 customary commission for the type of policy written or a fee  
3708 equal to the usual and customary commission of the corporation;  
3709 or

3710 (B) Offer to allow the producing agent of record to  
3711 continue servicing the policy for at least 1 year and offer to  
3712 pay the agent the greater of the insurer's or the corporation's



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3713 usual and customary commission for the type of policy written.

3714  
3715 If the producing agent is unwilling or unable to accept  
3716 appointment, the new insurer shall pay the agent in accordance  
3717 with sub-sub-sub-subparagraph (A).

3718       b. With respect to commercial lines residential risks, for  
3719 a new application to the corporation for coverage, if the risk  
3720 is offered coverage under a policy including wind coverage from  
3721 an authorized insurer at its approved rate, the risk is not  
3722 eligible for a policy issued by the corporation unless the  
3723 premium for coverage from the authorized insurer is more than 15  
3724 percent greater than the premium for comparable coverage from  
3725 the corporation. If the risk is not able to obtain any such  
3726 offer, the risk is eligible for a policy including wind coverage  
3727 issued by the corporation. However, a policyholder of the  
3728 corporation or a policyholder removed from the corporation  
3729 through an assumption agreement until the end of the assumption  
3730 period remains eligible for coverage from the corporation  
3731 regardless of an offer of coverage from an authorized insurer or  
3732 surplus lines insurer.

3733       (I) If the risk accepts an offer of coverage through the  
3734 market assistance plan or through a mechanism established by the  
3735 corporation before a policy is issued to the risk by the  
3736 corporation or during the first 30 days of coverage by the  
3737 corporation, and the producing agent who submitted the  
3738 application to the plan or the corporation is not currently  
3739 appointed by the insurer, the insurer shall:

3740       (A) Pay to the producing agent of record of the policy, for  
3741 the first year, an amount that is the greater of the insurer's

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3742 usual and customary commission for the type of policy written or  
3743 a fee equal to the usual and customary commission of the  
3744 corporation; or

3745 (B) Offer to allow the producing agent of record of the  
3746 policy to continue servicing the policy for at least 1 year and  
3747 offer to pay the agent the greater of the insurer's or the  
3748 corporation's usual and customary commission for the type of  
3749 policy written.

3750  
3751 If the producing agent is unwilling or unable to accept  
3752 appointment, the new insurer shall pay the agent in accordance  
3753 with sub-sub-sub-subparagraph (A).

3754 (II) If the corporation enters into a contractual agreement  
3755 for a take-out plan, the producing agent of record of the  
3756 corporation policy is entitled to retain any unearned commission  
3757 on the policy, and the insurer shall:

3758 (A) Pay to the producing agent of record ~~policy~~, for the  
3759 first year, an amount that is the greater of the insurer's usual  
3760 and customary commission for the type of policy written or a fee  
3761 equal to the usual and customary commission of the corporation;  
3762 or

3763 (B) Offer to allow the producing agent of record to  
3764 continue servicing the policy for at least 1 year and offer to  
3765 pay the agent the greater of the insurer's or the corporation's  
3766 usual and customary commission for the type of policy written.

3767  
3768 If the producing agent is unwilling or unable to accept  
3769 appointment, the new insurer shall pay the agent in accordance  
3770 with sub-sub-sub-subparagraph (A).

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3771 c. For purposes of determining comparable coverage under  
3772 sub-subparagraphs a. and b., the comparison must be based on  
3773 those forms and coverages that are reasonably comparable. The  
3774 corporation may rely on a determination of comparable coverage  
3775 and premium made by the producing agent who submits the  
3776 application to the corporation, made in the agent's capacity as  
3777 the corporation's agent. A comparison may be made solely of the  
3778 premium with respect to the main building or structure only on  
3779 the following basis: the same coverage A or other building  
3780 limits; the same percentage hurricane deductible that applies on  
3781 an annual basis or that applies to each hurricane for commercial  
3782 residential property; the same percentage of ordinance and law  
3783 coverage, if the same limit is offered by both the corporation  
3784 and the authorized insurer; the same mitigation credits, to the  
3785 extent the same types of credits are offered both by the  
3786 corporation and the authorized insurer; the same method for loss  
3787 payment, such as replacement cost or actual cash value, if the  
3788 same method is offered both by the corporation and the  
3789 authorized insurer in accordance with underwriting rules; and  
3790 any other form or coverage that is reasonably comparable as  
3791 determined by the board. If an application is submitted to the  
3792 corporation for wind-only coverage in the coastal account, the  
3793 premium for the corporation's wind-only policy plus the premium  
3794 for the ex-wind policy that is offered by an authorized insurer  
3795 to the applicant must be compared to the premium for multiperil  
3796 coverage offered by an authorized insurer, subject to the  
3797 standards for comparison specified in this subparagraph. If the  
3798 corporation or the applicant requests from the authorized  
3799 insurer a breakdown of the premium of the offer by types of

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3800 coverage so that a comparison may be made by the corporation or  
3801 its agent and the authorized insurer refuses or is unable to  
3802 provide such information, the corporation may treat the offer as  
3803 not being an offer of coverage from an authorized insurer at the  
3804 insurer's approved rate.

3805         6. Must include rules for classifications of risks and  
3806 rates.

3807         7. Must provide that if premium and investment income for  
3808 an account attributable to a particular calendar year are in  
3809 excess of projected losses and expenses for the account  
3810 attributable to that year, such excess shall be held in surplus  
3811 in the account. Such surplus must be available to defray  
3812 deficits in that account as to future years and used for that  
3813 purpose before assessing assessable insurers and assessable  
3814 insureds as to any calendar year.

3815         8. Must provide objective criteria and procedures to be  
3816 uniformly applied to all applicants in determining whether an  
3817 individual risk is so hazardous as to be uninsurable. In making  
3818 this determination and in establishing the criteria and  
3819 procedures, the following must be considered:

3820             a. Whether the likelihood of a loss for the individual risk  
3821 is substantially higher than for other risks of the same class;  
3822 and

3823             b. Whether the uncertainty associated with the individual  
3824 risk is such that an appropriate premium cannot be determined.

3825  
3826 The acceptance or rejection of a risk by the corporation shall  
3827 be construed as the private placement of insurance, and the  
3828 provisions of chapter 120 do not apply.

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3829           9. Must provide that the corporation make its best efforts  
3830 to procure catastrophe reinsurance at reasonable rates, to cover  
3831 its projected 100-year probable maximum loss as determined by  
3832 the board of governors.

3833           10. The policies issued by the corporation must provide  
3834 that if the corporation or the market assistance plan obtains an  
3835 offer from an authorized insurer to cover the risk at its  
3836 approved rates, the risk is no longer eligible for renewal  
3837 through the corporation, except as otherwise provided in this  
3838 subsection.

3839           11. Corporation policies and applications must include a  
3840 notice that the corporation policy could, under this section, be  
3841 replaced with a policy issued by an authorized insurer which  
3842 does not provide coverage identical to the coverage provided by  
3843 the corporation. The notice must also specify that acceptance of  
3844 corporation coverage creates a conclusive presumption that the  
3845 applicant or policyholder is aware of this potential.

3846           12. May establish, subject to approval by the office,  
3847 different eligibility requirements and operational procedures  
3848 for any line or type of coverage for any specified county or  
3849 area if the board determines that such changes are justified due  
3850 to the voluntary market being sufficiently stable and  
3851 competitive in such area or for such line or type of coverage  
3852 and that consumers who, in good faith, are unable to obtain  
3853 insurance through the voluntary market through ordinary methods  
3854 continue to have access to coverage from the corporation. If  
3855 coverage is sought in connection with a real property transfer,  
3856 the requirements and procedures may not provide an effective  
3857 date of coverage later than the date of the closing of the

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3858 transfer as established by the transferor, the transferee, and,  
3859 if applicable, the lender.

3860 13. Must provide that, with respect to the coastal account,  
3861 any assessable insurer with a surplus as to policyholders of \$25  
3862 million or less writing 25 percent or more of its total  
3863 countrywide property insurance premiums in this state may  
3864 petition the office, within the first 90 days of each calendar  
3865 year, to qualify as a limited apportionment company. A regular  
3866 assessment levied by the corporation on a limited apportionment  
3867 company for a deficit incurred by the corporation for the  
3868 coastal account may be paid to the corporation on a monthly  
3869 basis as the assessments are collected by the limited  
3870 apportionment company from its insureds pursuant to s. 627.3512,  
3871 but the regular assessment must be paid in full within 12 months  
3872 after being levied by the corporation. A limited apportionment  
3873 company shall collect from its policyholders any emergency  
3874 assessment imposed under sub-subparagraph (b)3.c. ~~(b)3.d.~~ The  
3875 plan must provide that, if the office determines that any  
3876 regular assessment will result in an impairment of the surplus  
3877 of a limited apportionment company, the office may direct that  
3878 all or part of such assessment be deferred as provided in  
3879 subparagraph (q)4. However, an emergency assessment to be  
3880 collected from policyholders under sub-subparagraph (b)3.c.  
3881 ~~(b)3.d.~~ may not be limited or deferred.

3882 14. Must provide that the corporation appoint as its  
3883 licensed agents only those agents who also hold an appointment  
3884 as defined in s. 626.015(3) with an insurer who at the time of  
3885 the agent's initial appointment by the corporation is authorized  
3886 to write and is actually writing personal lines residential

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3887 property coverage, commercial residential property coverage, or  
3888 commercial nonresidential property coverage within the state.

3889 15. Must provide a premium payment plan option to its  
3890 policyholders which, at a minimum, allows for quarterly and  
3891 semiannual payment of premiums. A monthly payment plan may, but  
3892 is not required to, be offered.

3893 16. Must limit coverage on mobile homes or manufactured  
3894 homes built before 1994 to actual cash value of the dwelling  
3895 rather than replacement costs of the dwelling.

3896 17. May provide such limits of coverage as the board  
3897 determines, consistent with the requirements of this subsection.

3898 18. May require commercial property to meet specified  
3899 hurricane mitigation construction features as a condition of  
3900 eligibility for coverage.

3901 19. Must provide that new or renewal policies issued by the  
3902 corporation on or after January 1, 2012, which cover sinkhole  
3903 loss do not include coverage for any loss to appurtenant  
3904 structures, driveways, sidewalks, decks, or patios that are  
3905 directly or indirectly caused by sinkhole activity. The  
3906 corporation shall exclude such coverage using a notice of  
3907 coverage change, which may be included with the policy renewal,  
3908 and not by issuance of a notice of nonrenewal of the excluded  
3909 coverage upon renewal of the current policy.

3910 20. As of January 1, 2012, must require that the agent  
3911 obtain from an applicant for coverage from the corporation an  
3912 acknowledgement signed by the applicant, which includes, at a  
3913 minimum, the following statement:

3914  
3915 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE

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## 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



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3945 operations as to a particular year pending the receipt of annual  
3946 assessments. Upon verification, the office shall approve such  
3947 certification, and the corporation shall levy such annual or  
3948 interim assessments. Such assessments shall be prorated as  
3949 provided in paragraph (b). The corporation shall take all  
3950 reasonable and prudent steps necessary to collect the amount of  
3951 assessment due from each assessable insurer, including, if  
3952 prudent, filing suit to collect such assessment. If the  
3953 corporation is unable to collect an assessment from any  
3954 assessable insurer, the uncollected assessments shall be levied  
3955 as an additional assessment against the assessable insurers and  
3956 any assessable insurer required to pay an additional assessment  
3957 as a result of such failure to pay shall have a cause of action  
3958 against such nonpaying assessable insurer. Assessments shall be  
3959 included as an appropriate factor in the making of rates. The  
3960 failure of a surplus lines agent to collect and remit any  
3961 regular or emergency assessment levied by the corporation is  
3962 considered to be a violation of s. 626.936 and subjects the  
3963 surplus lines agent to the penalties provided in that section.

3964 2. The governing body of any unit of local government, any  
3965 residents of which are insured by the corporation, may issue  
3966 bonds as defined in s. 125.013 or s. 166.101 from time to time  
3967 to fund an assistance program, in conjunction with the  
3968 corporation, for the purpose of defraying deficits of the  
3969 corporation. In order to avoid needless and indiscriminate  
3970 proliferation, duplication, and fragmentation of such assistance  
3971 programs, any unit of local government, any residents of which  
3972 are insured by the corporation, may provide for the payment of  
3973 losses, regardless of whether or not the losses occurred within

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3974 or outside of the territorial jurisdiction of the local  
3975 government. Revenue bonds under this subparagraph may not be  
3976 issued until validated pursuant to chapter 75, unless a state of  
3977 emergency is declared by executive order or proclamation of the  
3978 Governor pursuant to s. 252.36 making such findings as are  
3979 necessary to determine that it is in the best interests of, and  
3980 necessary for, the protection of the public health, safety, and  
3981 general welfare of residents of this state and declaring it an  
3982 essential public purpose to permit certain municipalities or  
3983 counties to issue such bonds as will permit relief to claimants  
3984 and policyholders of the corporation. Any such unit of local  
3985 government may enter into such contracts with the corporation  
3986 and with any other entity created pursuant to this subsection as  
3987 are necessary to carry out this paragraph. Any bonds issued  
3988 under this subparagraph shall be payable from and secured by  
3989 moneys received by the corporation from emergency assessments  
3990 under sub-subparagraph (b)3.c. ~~(b)3.d.~~, and assigned and pledged  
3991 to or on behalf of the unit of local government for the benefit  
3992 of the holders of such bonds. The funds, credit, property, and  
3993 taxing power of the state or of the unit of local government  
3994 shall not be pledged for the payment of such bonds.

3995 3.a. The corporation shall adopt one or more programs  
3996 subject to approval by the office for the reduction of both new  
3997 and renewal writings in the corporation. Beginning January 1,  
3998 2008, any program the corporation adopts for the payment of  
3999 bonuses to an insurer for each risk the insurer removes from the  
4000 corporation shall comply with s. 627.3511(2) and may not exceed  
4001 the amount referenced in s. 627.3511(2) for each risk removed.  
4002 The corporation may consider any prudent and not unfairly

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4003 discriminatory approach to reducing corporation writings, and  
4004 may adopt a credit against assessment liability or other  
4005 liability that provides an incentive for insurers to take risks  
4006 out of the corporation and to keep risks out of the corporation  
4007 by maintaining or increasing voluntary writings in counties or  
4008 areas in which corporation risks are highly concentrated and a  
4009 program to provide a formula under which an insurer voluntarily  
4010 taking risks out of the corporation by maintaining or increasing  
4011 voluntary writings will be relieved wholly or partially from  
4012 assessments under sub-subparagraph (b)3.a. ~~sub-subparagraphs~~  
4013 ~~(b)3.a. and b.~~ However, any "take-out bonus" or payment to an  
4014 insurer must be conditioned on the property being insured for at  
4015 least 5 years by the insurer, unless canceled or nonrenewed by  
4016 the policyholder. If the policy is canceled or nonrenewed by the  
4017 policyholder before the end of the 5-year period, the amount of  
4018 the take-out bonus must be prorated for the time period the  
4019 policy was insured. When the corporation enters into a  
4020 contractual agreement for a take-out plan, the producing agent  
4021 of record of the corporation policy is entitled to retain any  
4022 unearned commission on such policy, and the insurer shall  
4023 either:

4024 (I) Pay to the producing agent of record of the policy, for  
4025 the first year, an amount which is the greater of the insurer's  
4026 usual and customary commission for the type of policy written or  
4027 a policy fee equal to the usual and customary commission of the  
4028 corporation; or

4029 (II) Offer to allow the producing agent of record of the  
4030 policy to continue servicing the policy for a period of not less  
4031 than 1 year and offer to pay the agent the insurer's usual and

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4032 customary commission for the type of policy written. If the  
4033 producing agent is unwilling or unable to accept appointment by  
4034 the new insurer, the new insurer shall pay the agent in  
4035 accordance with sub-sub-subparagraph (I).

4036 b. Any credit or exemption from regular assessments adopted  
4037 under this subparagraph shall last no longer than the 3 years  
4038 following the cancellation or expiration of the policy by the  
4039 corporation. With the approval of the office, the board may  
4040 extend such credits for an additional year if the insurer  
4041 guarantees an additional year of renewability for all policies  
4042 removed from the corporation, or for 2 additional years if the  
4043 insurer guarantees 2 additional years of renewability for all  
4044 policies so removed.

4045 c. There shall be no credit, limitation, exemption, or  
4046 deferment from emergency assessments to be collected from  
4047 policyholders pursuant to sub-subparagraph (b)3.c. ~~(b)3.d.~~

4048 4. The plan shall provide for the deferment, in whole or in  
4049 part, of the assessment of an assessable insurer, other than an  
4050 emergency assessment collected from policyholders pursuant to  
4051 sub-subparagraph (b)3.c. ~~(b)3.d.~~, if the office finds that  
4052 payment of the assessment would endanger or impair the solvency  
4053 of the insurer. In the event an assessment against an assessable  
4054 insurer is deferred in whole or in part, the amount by which  
4055 such assessment is deferred may be assessed against the other  
4056 assessable insurers in a manner consistent with the basis for  
4057 assessments set forth in paragraph (b).

4058 5. Effective July 1, 2007, in order to evaluate the costs  
4059 and benefits of approved take-out plans, if the corporation pays  
4060 a bonus or other payment to an insurer for an approved take-out

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4061 plan, it shall maintain a record of the address or such other  
4062 identifying information on the property or risk removed in order  
4063 to track if and when the property or risk is later insured by  
4064 the corporation.

4065 6. Any policy taken out, assumed, or removed from the  
4066 corporation is, as of the effective date of the take-out,  
4067 assumption, or removal, direct insurance issued by the insurer  
4068 and not by the corporation, even if the corporation continues to  
4069 service the policies. This subparagraph applies to policies of  
4070 the corporation and not policies taken out, assumed, or removed  
4071 from any other entity.

4072 (v)1. Effective July 1, 2002, policies of the Residential  
4073 Property and Casualty Joint Underwriting Association become  
4074 policies of the corporation. All obligations, rights, assets and  
4075 liabilities of the association, including bonds, note and debt  
4076 obligations, and the financing documents pertaining to them  
4077 become those of the corporation as of July 1, 2002. The  
4078 corporation is not required to issue endorsements or  
4079 certificates of assumption to insureds during the remaining term  
4080 of in-force transferred policies.

4081 2. Effective July 1, 2002, policies of the Florida  
4082 Windstorm Underwriting Association are transferred to the  
4083 corporation and become policies of the corporation. All  
4084 obligations, rights, assets, and liabilities of the association,  
4085 including bonds, note and debt obligations, and the financing  
4086 documents pertaining to them are transferred to and assumed by  
4087 the corporation on July 1, 2002. The corporation is not required  
4088 to issue endorsements or certificates of assumption to insureds  
4089 during the remaining term of in-force transferred policies.

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4090           3. The Florida Windstorm Underwriting Association and the  
4091 Residential Property and Casualty Joint Underwriting Association  
4092 shall take all actions necessary to further evidence the  
4093 transfers and provide the documents and instruments of further  
4094 assurance as may reasonably be requested by the corporation for  
4095 that purpose. The corporation shall execute assumptions and  
4096 instruments as the trustees or other parties to the financing  
4097 documents of the Florida Windstorm Underwriting Association or  
4098 the Residential Property and Casualty Joint Underwriting  
4099 Association may reasonably request to further evidence the  
4100 transfers and assumptions, which transfers and assumptions,  
4101 however, are effective on the date provided under this paragraph  
4102 whether or not, and regardless of the date on which, the  
4103 assumptions or instruments are executed by the corporation.  
4104 Subject to the relevant financing documents pertaining to their  
4105 outstanding bonds, notes, indebtedness, or other financing  
4106 obligations, the moneys, investments, receivables, choses in  
4107 action, and other intangibles of the Florida Windstorm  
4108 Underwriting Association shall be credited to the coastal  
4109 account of the corporation, and those of the personal lines  
4110 residential coverage account and the commercial lines  
4111 residential coverage account of the Residential Property and  
4112 Casualty Joint Underwriting Association shall be credited to the  
4113 personal lines account and the commercial lines account,  
4114 respectively, of the corporation.

4115           4. Effective July 1, 2002, a new applicant for property  
4116 insurance coverage who would otherwise have been eligible for  
4117 coverage in the Florida Windstorm Underwriting Association is  
4118 eligible for coverage from the corporation as provided in this

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4119 subsection.

4120           5. The transfer of all policies, obligations, rights,  
4121 assets, and liabilities from the Florida Windstorm Underwriting  
4122 Association to the corporation and the renaming of the  
4123 Residential Property and Casualty Joint Underwriting Association  
4124 as the corporation does not affect the coverage with respect to  
4125 covered policies as defined in s. 215.555(2)(c) provided to  
4126 these entities by the Florida Hurricane Catastrophe Fund. The  
4127 coverage provided by the fund to the Florida Windstorm  
4128 Underwriting Association based on its exposures as of June 30,  
4129 2002, and each June 30 thereafter shall be redesignated as  
4130 coverage for the coastal account of the corporation.  
4131 Notwithstanding any other provision of law, the coverage  
4132 provided by the fund to the Residential Property and Casualty  
4133 Joint Underwriting Association based on its exposures as of June  
4134 30, 2002, and each June 30 thereafter shall be transferred to  
4135 the personal lines account and the commercial lines account of  
4136 the corporation. Notwithstanding any other provision of law, the  
4137 coastal account shall be treated, for all Florida Hurricane  
4138 Catastrophe Fund purposes, as if it were a separate  
4139 participating insurer with its own exposures, reimbursement  
4140 premium, and loss reimbursement. Likewise, the personal lines  
4141 and commercial lines accounts shall be viewed together, for all  
4142 fund purposes, as if the two accounts were one and represent a  
4143 single, separate participating insurer with its own exposures,  
4144 reimbursement premium, and loss reimbursement. The coverage  
4145 provided by the fund to the corporation shall constitute and  
4146 operate as a full transfer of coverage from the Florida  
4147 Windstorm Underwriting Association and Residential Property and

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4148 Casualty Joint Underwriting Association to the corporation.  
4149 Reviser's note.—Paragraphs (2) (b) and (6) (q) are amended to  
4150 conform to the redesignation of s. 627.351(6) (b)3.b. as a  
4151 portion of sub-subparagraph (6) (b)3.a. by s. 15, ch. 2011-  
4152 39, Laws of Florida. Paragraphs (6) (b), (c), and (q) are  
4153 amended to conform to the redesignation of s.  
4154 627.351(6) (b)3.d. as sub-subparagraph (6) (b)3.c. by s. 15,  
4155 ch. 2011-39. Paragraph (6) (c) is amended to confirm  
4156 editorial deletion of the word "policy" to improve clarity.  
4157 Paragraph (6) (v) is amended to confirm editorial insertion  
4158 of the word "Association" to conform to the complete name  
4159 of the association.

4160 Section 78. Paragraphs (a), (b), and (c) of subsection (3)  
4161 and paragraphs (d), (e), and (f) of subsection (6) of section  
4162 627.3511, Florida Statutes, are amended to read:

4163 627.3511 Depopulation of Citizens Property Insurance  
4164 Corporation.—

4165 (3) EXEMPTION FROM DEFICIT ASSESSMENTS.—

4166 (a) The calculation of an insurer's assessment liability  
4167 under s. 627.351(6) (b)3.a. ~~or b.~~ shall, for an insurer that in  
4168 any calendar year removes 50,000 or more risks from the Citizens  
4169 Property Insurance Corporation, either by issuance of a policy  
4170 upon expiration or cancellation of the corporation policy or by  
4171 assumption of the corporation's obligations with respect to in-  
4172 force policies, exclude such removed policies for the succeeding  
4173 3 years, as follows:

4174 1. In the first year following removal of the risks, the  
4175 risks are excluded from the calculation to the extent of 100  
4176 percent.



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4177           2. In the second year following removal of the risks, the  
4178 risks are excluded from the calculation to the extent of 75  
4179 percent.

4180           3. In the third year following removal of the risks, the  
4181 risks are excluded from the calculation to the extent of 50  
4182 percent.

4183  
4184 If the removal of risks is accomplished through assumption of  
4185 obligations with respect to in-force policies, the corporation  
4186 shall pay to the assuming insurer all unearned premium with  
4187 respect to such policies less any policy acquisition costs  
4188 agreed to by the corporation and assuming insurer. The term  
4189 "policy acquisition costs" is defined as costs of issuance of  
4190 the policy by the corporation which includes agent commissions,  
4191 servicing company fees, and premium tax. This paragraph does not  
4192 apply to an insurer that, at any time within 5 years before  
4193 removing the risks, had a market share in excess of 0.1 percent  
4194 of the statewide aggregate gross direct written premium for any  
4195 line of property insurance, or to an affiliate of such an  
4196 insurer. This paragraph does not apply unless either at least 40  
4197 percent of the risks removed from the corporation are located in  
4198 Miami-Dade, Broward, and Palm Beach Counties, or at least 30  
4199 percent of the risks removed from the corporation are located in  
4200 such counties and an additional 50 percent of the risks removed  
4201 from the corporation are located in other coastal counties.

4202           (b) An insurer that first wrote personal lines residential  
4203 property coverage in this state on or after July 1, 1994, is  
4204 exempt from regular deficit assessments imposed pursuant to s.  
4205 627.351(6)(b)3.a. ~~and b.~~, but not emergency assessments

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4206 collected from policyholders pursuant to s. 627.351(6)(b)3.c.  
4207 ~~627.351(6)(b)3.d.~~, of the Citizens Property Insurance  
4208 Corporation until the earlier of the following:

4209 1. The end of the calendar year in which it first wrote 0.5  
4210 percent or more of the statewide aggregate direct written  
4211 premium for any line of residential property coverage; or

4212 2. December 31, 1997, or December 31 of the third year in  
4213 which it wrote such coverage in this state, whichever is later.

4214 (c) Other than an insurer that is exempt under paragraph  
4215 (b), an insurer that in any calendar year increases its total  
4216 structure exposure subject to wind coverage by 25 percent or  
4217 more over its exposure for the preceding calendar year is, with  
4218 respect to that year, exempt from deficit assessments imposed  
4219 pursuant to s. 627.351(6)(b)3.a. ~~and b.~~, but not emergency  
4220 assessments collected from policyholders pursuant to s.  
4221 627.351(6)(b)3.c. ~~627.351(6)(b)3.d.~~, of the Citizens Property  
4222 Insurance Corporation attributable to such increase in exposure.

4223 (6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.—

4224 (d) The calculation of an insurer's regular assessment  
4225 liability under s. 627.351(6)(b)3.a. ~~and b.~~, but not emergency  
4226 assessments collected from policyholders pursuant to s.  
4227 627.351(6)(b)3.c. ~~627.351(6)(b)3.d.~~, shall, with respect to  
4228 commercial residential policies removed from the corporation  
4229 under an approved take-out plan, exclude such removed policies  
4230 for the succeeding 3 years, as follows:

4231 1. In the first year following removal of the policies, the  
4232 policies are excluded from the calculation to the extent of 100  
4233 percent.

4234 2. In the second year following removal of the policies,

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4235 the policies are excluded from the calculation to the extent of  
4236 75 percent.

4237 3. In the third year following removal of the policies, the  
4238 policies are excluded from the calculation to the extent of 50  
4239 percent.

4240 (e) An insurer that first wrote commercial residential  
4241 property coverage in this state on or after June 1, 1996, is  
4242 exempt from regular assessments under s. 627.351(6)(b)3.a. ~~and~~  
4243 ~~b.~~, but not emergency assessments collected from policyholders  
4244 pursuant to s. 627.351(6)(b)3.c. ~~627.351(6)(b)3.d.~~, with respect  
4245 to commercial residential policies until the earlier of:

4246 1. The end of the calendar year in which such insurer first  
4247 wrote 0.5 percent or more of the statewide aggregate direct  
4248 written premium for commercial residential property coverage; or

4249 2. December 31 of the third year in which such insurer  
4250 wrote commercial residential property coverage in this state.

4251 (f) An insurer that is not otherwise exempt from regular  
4252 assessments under s. 627.351(6)(b)3.a. ~~and b.~~ with respect to  
4253 commercial residential policies is, for any calendar year in  
4254 which such insurer increased its total commercial residential  
4255 hurricane exposure by 25 percent or more over its exposure for  
4256 the preceding calendar year, exempt from regular assessments  
4257 under s. 627.351(6)(b)3.a. ~~and b.~~, but not emergency assessments  
4258 collected from policyholders pursuant to s. 627.351(6)(b)3.c.  
4259 ~~627.351(6)(b)3.d.~~, attributable to such increased exposure.

4260 Reviser's note.—Amended to conform to the redesignation of s.

4261 627.351(6)(b)3.b. as a portion of sub-subparagraph

4262 (6)(b)3.a. by s. 15, ch. 2011-39, Laws of Florida, and the  
4263 redesignation of s. 627.351(6)(b)3.d. as sub-subparagraph

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4264 (6)(b)3.c. by s. 15, ch. 2011-39.

4265 Section 79. Paragraph (c) of subsection (1) of section  
4266 658.48, Florida Statutes, is amended to read:

4267 658.48 Loans.—A state bank may make loans and extensions of  
4268 credit, with or without security, subject to the following  
4269 limitations and provisions:

4270 (1) LOANS; GENERAL LIMITATIONS.—

4271 (c) The loan limitations stated in this section shall not  
4272 be enlarged by the provisions of any other section of this  
4273 chapter, except as provided in subsection (5) ~~(6)~~.

4274 Reviser's note.—Amended to conform to the redesignation of  
4275 subsection (6) as subsection (5) by s. 28, ch. 2011-194,  
4276 Laws of Florida.

4277 Section 80. Subsection (12) of section 667.003, Florida  
4278 Statutes, is amended to read:

4279 667.003 Applicability of chapter 658.—Any state savings  
4280 bank is subject to all the provisions, and entitled to all the  
4281 privileges, of the financial institutions codes except where it  
4282 appears, from the context or otherwise, that such provisions  
4283 clearly apply only to banks or trust companies organized under  
4284 the laws of this state or the United States. Without limiting  
4285 the foregoing general provisions, it is the intent of the  
4286 Legislature that the following provisions apply to a savings  
4287 bank to the same extent as if the savings bank were a "bank"  
4288 operating under such provisions:

4289 ~~(12) Section 658.295, relating to interstate banking.~~

4290 Reviser's note.—Amended to conform to the repeal of s. 658.295  
4291 by s. 23, ch. 2011-194, Laws of Florida.

4292 Section 81. Subsection (1) of section 681.108, Florida

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4293 Statutes, is amended to read:

4294 681.108 Dispute-settlement procedures.—

4295 (1) If a manufacturer has established a procedure that the  
4296 department has certified as substantially complying with the  
4297 provisions of 16 C.F.R. part 703, in effect October 1, 1983, and  
4298 with the provisions of this chapter and the rules adopted under  
4299 this chapter, and has informed the consumer how and where to  
4300 file a claim with such procedure pursuant to s. 681.103(3), the  
4301 provisions of s. 681.104(2) apply to the consumer only if the  
4302 consumer has first resorted to such procedure. The  
4303 decisionmakers for a certified procedure shall, in rendering  
4304 decisions, take into account all legal and equitable factors  
4305 germane to a fair and just decision, including, but not limited  
4306 to, the warranty; the rights and remedies conferred under 16  
4307 C.F.R. part 703, in effect October 1, 1983; the provisions of  
4308 this chapter; and any other equitable considerations appropriate  
4309 under the circumstances. Decisionmakers and staff for ~~of~~ a  
4310 procedure shall be trained in the provisions of this chapter and  
4311 in 16 C.F.R. part 703, in effect October 1, 1983. In an action  
4312 brought by a consumer concerning an alleged nonconformity, the  
4313 decision that results from a certified procedure is admissible  
4314 in evidence.

4315 Reviser's note.—Amended to confirm editorial substitution of the  
4316 word "for" for the word "of."

4317 Section 82. Subsection (4) of section 753.03, Florida  
4318 Statutes, is amended to read:

4319 753.03 Standards for supervised visitation and supervised  
4320 exchange programs.—

4321 ~~(4) The clearinghouse shall submit a preliminary report~~

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4322 ~~containing its recommendations for the uniform standards by~~  
 4323 ~~December 31, 2007, and a final report of all recommendations,~~  
 4324 ~~including those related to the certification and monitoring~~  
 4325 ~~developed to date, by December 31, 2008, to the President of the~~  
 4326 ~~Senate, the Speaker of the House of Representatives, and the~~  
 4327 ~~Chief Justice of the Supreme Court.~~

4328 Reviser's note.—Amended to delete a provision that has served  
 4329 its purpose.

4330 Section 83. Subsection (3) of section 766.1065, Florida  
 4331 Statutes, is amended to read:

4332 766.1065 Authorization for release of protected health  
 4333 information.—

4334 (3) The authorization required by this section shall be in  
 4335 the following form and shall be construed in accordance with the  
 4336 "Standards for Privacy of Individually Identifiable Health  
 4337 Information" in 45 C.F.R. parts 160 and 164:

4338

4339 AUTHORIZATION FOR RELEASE OF  
 4340 PROTECTED HEALTH INFORMATION

4341

4342 A. I, (...Name of patient or authorized  
 4343 representative...) [hereinafter "Patient"], authorize  
 4344 that (...Name of health care provider to whom the  
 4345 presuit notice is directed...) and his/her/its  
 4346 insurer(s), self-insurer(s), and attorney(s) may  
 4347 obtain and disclose (within the parameters set out  
 4348 below) the protected health information described  
 4349 below for the following specific purposes:

4350 1. Facilitating the investigation and evaluation

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4351 of the medical negligence claim described in the  
4352 accompanying presuit notice; or

4353 2. Defending against any litigation arising out  
4354 of the medical negligence claim made on the basis of  
4355 the accompanying presuit notice.

4356 B. The health information obtained, used, or  
4357 disclosed extends to, and includes, the verbal as well  
4358 as the written and is described as follows:

4359 1. The health information in the custody of the  
4360 following health care providers who have examined,  
4361 evaluated, or treated the Patient in connection with  
4362 injuries complained of after the alleged act of  
4363 negligence: (List the name and current address of all  
4364 health care providers). This authorization extends to  
4365 any additional health care providers that may in the  
4366 future evaluate, examine, or treat the Patient for the  
4367 injuries complained of.

4368 2. The health information in the custody of the  
4369 following health care providers who have examined,  
4370 evaluated, or treated the Patient during a period  
4371 commencing 2 years before the incident that is the  
4372 basis of the accompanying presuit notice.

4373  
4374 (List the name and current address of such health care  
4375 providers, if applicable.)

4376  
4377 C. This authorization does not apply to the  
4378 following list of health care providers possessing  
4379 health care information about the Patient because the

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4380 Patient certifies that such health care information is  
4381 not potentially relevant to the claim of personal  
4382 injury or wrongful death that is the basis of the  
4383 accompanying presuit notice.

4384  
4385 (List the name of each health care provider to whom  
4386 this authorization does not apply and the inclusive  
4387 dates of examination, evaluation, or treatment to be  
4388 withheld from disclosure. If none, specify "none.")

4389  
4390 D. The persons or class of persons to whom the  
4391 Patient authorizes such health information to be  
4392 disclosed or by whom such health information is to be  
4393 used:

4394 1. Any health care provider providing care or  
4395 treatment for the Patient.

4396 2. Any liability insurer or self-insurer  
4397 providing liability insurance coverage, self-  
4398 insurance, or defense to any health care provider to  
4399 whom presuit notice is given regarding the care and  
4400 treatment of the Patient.

4401 3. Any consulting or testifying expert employed  
4402 by or on behalf of (name of health care provider to  
4403 whom presuit notice was given) and his/her/its  
4404 insurer(s), self-insurer(s), or attorney(s) regarding  
4405 ~~to~~ the matter of the presuit notice accompanying this  
4406 authorization.

4407 4. Any attorney (including secretarial, clerical,  
4408 or paralegal staff) employed by or on behalf of (name



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4409 of health care provider to whom presuit notice was  
4410 given) regarding the matter of the presuit notice  
4411 accompanying this authorization.

4412 5. Any trier of the law or facts relating to any  
4413 suit filed seeking damages arising out of the medical  
4414 care or treatment of the Patient.

4415 E. This authorization expires upon resolution of  
4416 the claim or at the conclusion of any litigation  
4417 instituted in connection with the matter of the  
4418 presuit notice accompanying this authorization,  
4419 whichever occurs first.

4420 F. The Patient understands that, without  
4421 exception, the Patient has the right to revoke this  
4422 authorization in writing. The Patient further  
4423 understands that the consequence of any such  
4424 revocation is that the presuit notice under s.  
4425 766.106(2), Florida Statutes, is deemed retroactively  
4426 void from the date of issuance, and any tolling effect  
4427 that the presuit notice may have had on any applicable  
4428 statute-of-limitations period is retroactively  
4429 rendered void.

4430 G. The Patient understands that signing this  
4431 authorization is not a condition for continued  
4432 treatment, payment, enrollment, or eligibility for  
4433 health plan benefits.

4434 H. The Patient understands that information used  
4435 or disclosed under this authorization may be subject  
4436 to additional disclosure by the recipient and may not  
4437 be protected by federal HIPAA privacy regulations.

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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

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4467 nudity, as defined in s. 847.001(9), and is harmful to minors,  
4468 as defined in s. 847.001(6). A minor does not violate ~~paragraph~~  
4469 this paragraph if all of the following apply:

4470 1. The minor did not solicit the photograph or video.

4471 2. The minor took reasonable steps to report the photograph  
4472 or video to the minor's legal guardian or to a school or law  
4473 enforcement official.

4474 3. The minor did not transmit or distribute the photograph  
4475 or video to a third party.

4476 Reviser's note.—Amended to confirm editorial deletion of the  
4477 word "paragraph" preceding the word "this."

4478 Section 86. Paragraph (d) of subsection (11) of section  
4479 893.055, Florida Statutes, is amended to read:

4480 893.055 Prescription drug monitoring program.—

4481 (11) The department may establish a direct-support  
4482 organization that has a board consisting of at least five  
4483 members to provide assistance, funding, and promotional support  
4484 for the activities authorized for the prescription drug  
4485 monitoring program.

4486 (d) The direct-support organization shall operate under  
4487 written contract with the department. The contract must, at a  
4488 minimum, provide for:

4489 1. Approval of the articles of incorporation and bylaws of  
4490 the direct-support organization by the department.

4491 2. Submission of an annual budget for the approval of the  
4492 department.

4493 3. Certification by the department ~~in consultation with the~~  
4494 ~~department~~ that the direct-support organization is complying  
4495 with the terms of the contract in a manner consistent with and

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4496 in furtherance of the goals and purposes of the prescription  
4497 drug monitoring program and in the best interests of the state.  
4498 Such certification must be made annually and reported in the  
4499 official minutes of a meeting of the direct-support  
4500 organization.

4501 4. The reversion, without penalty, to the state of all  
4502 moneys and property held in trust by the direct-support  
4503 organization for the benefit of the prescription drug monitoring  
4504 program if the direct-support organization ceases to exist or if  
4505 the contract is terminated.

4506 5. The fiscal year of the direct-support organization,  
4507 which must begin July 1 of each year and end June 30 of the  
4508 following year.

4509 6. The disclosure of the material provisions of the  
4510 contract to donors of gifts, contributions, or bequests,  
4511 including such disclosure on all promotional and fundraising  
4512 publications, and an explanation to such donors of the  
4513 distinction between the department and the direct-support  
4514 organization.

4515 7. The direct-support organization's collecting, expending,  
4516 and providing of funds to the department for the development,  
4517 implementation, and operation of the prescription drug  
4518 monitoring program as described in this section and s. 2,  
4519 chapter 2009-198, Laws of Florida, as long as the task force is  
4520 authorized. The direct-support organization may collect and  
4521 expend funds to be used for the functions of the direct-support  
4522 organization's board of directors, as necessary and approved by  
4523 the department. In addition, the direct-support organization may  
4524 collect and provide funding to the department in furtherance of

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4525 the prescription drug monitoring program by:

4526 a. Establishing and administering the prescription drug  
4527 monitoring program's electronic database, including hardware and  
4528 software.

4529 b. Conducting studies on the efficiency and effectiveness  
4530 of the program to include feasibility studies as described in  
4531 subsection (13).

4532 c. Providing funds for future enhancements of the program  
4533 within the intent of this section.

4534 d. Providing user training of the prescription drug  
4535 monitoring program, including distribution of materials to  
4536 promote public awareness and education and conducting workshops  
4537 or other meetings, for health care practitioners, pharmacists,  
4538 and others as appropriate.

4539 e. Providing funds for travel expenses.

4540 f. Providing funds for administrative costs, including  
4541 personnel, audits, facilities, and equipment.

4542 g. Fulfilling all other requirements necessary to implement  
4543 and operate the program as outlined in this section.

4544 Reviser's note.—Amended to remove redundant language and improve  
4545 clarity.

4546 Section 87. Subsections (6) and (7) of section 893.138,  
4547 Florida Statutes, are amended to read:

4548 893.138 Local administrative action to abate drug-related,  
4549 prostitution-related, or stolen-property-related public  
4550 nuisances and criminal gang activity.—

4551 (6) An order entered under subsection (5) ~~(4)~~ shall expire  
4552 after 1 year or at such earlier time as is stated in the order.

4553 (7) An order entered under subsection (5) ~~(4)~~ may be

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4554 enforced pursuant to the procedures contained in s. 120.69. This  
4555 subsection does not subject a municipality that creates a board  
4556 under this section, or the board so created, to any other  
4557 provision of chapter 120.

4558 Reviser's note.—Amended to conform to the redesignation of  
4559 subsection (4) as subsection (5) by s. 27, ch. 2011-141,  
4560 Laws of Florida.

4561 Section 88. Subsection (3) and paragraph (d) of subsection  
4562 (4) of section 943.25, Florida Statutes, are amended to read:

4563 943.25 Criminal justice trust funds; source of funds; use  
4564 of funds.—

4565 (3) The commission shall, by rule, establish, implement,  
4566 supervise, and evaluate the expenditures of the Criminal Justice  
4567 Standards and Training Trust Fund for approved advanced and  
4568 specialized training program courses. Criminal justice training  
4569 school enhancements may be authorized by the commission subject  
4570 to the provisions of subsection (6) ~~(7)~~. The commission may  
4571 approve the training of appropriate support personnel when it  
4572 can be demonstrated that these personnel directly support the  
4573 criminal justice function.

4574 (4) The commission shall authorize the establishment of  
4575 regional training councils to advise and assist the commission  
4576 in developing and maintaining a plan assessing regional criminal  
4577 justice training needs and to act as an extension of the  
4578 commission in the planning, programming, and budgeting for  
4579 expenditures of the moneys in the Criminal Justice Standards and  
4580 Training Trust Fund.

4581 (d) A public criminal justice training school must be  
4582 designated by the commission to receive and distribute the

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4583 disbursements authorized under subsection (8) ~~(9)~~.

4584 Reviser's note.—Amended to conform to the renumbering of  
4585 subunits within the section as a result of the repeal of  
4586 subsection (3) by s. 8, ch. 2011-52, Laws of Florida.

4587 Section 89. Subsection (48) of section 984.03, Florida  
4588 Statutes, is amended to read:

4589 984.03 Definitions.—When used in this chapter, the term:  
4590 ~~(48) "Serious or habitual juvenile offender program" means~~  
4591 ~~the program established in s. 985.47.~~

4592 Reviser's note.—Amended to conform to the repeal of s. 985.47 by  
4593 s. 4, ch. 2011-70, Laws of Florida.

4594 Section 90. Paragraphs (a), (b), (c), (d), (e), and (g) of  
4595 subsection (5) of section 985.0301, Florida Statutes, are  
4596 amended to read:

4597 985.0301 Jurisdiction.—

4598 (5) (a) Notwithstanding ss. 743.07, 985.43, 985.433,  
4599 985.435, 985.439, and 985.441, and except as provided in ss.  
4600 985.461, and 985.465, ~~and 985.47~~ and paragraph (f), when the  
4601 jurisdiction of any child who is alleged to have committed a  
4602 delinquent act or violation of law is obtained, the court shall  
4603 retain jurisdiction, unless relinquished by its order, until the  
4604 child reaches 19 years of age, with the same power over the  
4605 child which the court had before the child became an adult. For  
4606 the purposes of s. 985.461, the court may retain jurisdiction  
4607 for an additional 365 days following the child's 19th birthday  
4608 if the child is participating in transition-to-adulthood  
4609 services. The additional services do not extend involuntary  
4610 court-sanctioned residential commitment and therefore require  
4611 voluntary participation by the affected youth.

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4612 (b) Notwithstanding ss. 743.07 and 985.455(3), ~~and except~~  
4613 ~~as provided in s. 985.47,~~ the term of any order placing a child  
4614 in a probation program must be until the child's 19th birthday  
4615 unless he or she is released by the court on the motion of an  
4616 interested party or on his or her own motion.

4617 (c) Notwithstanding ss. 743.07 and 985.455(3), ~~and except~~  
4618 ~~as provided in s. 985.47,~~ the term of the commitment must be  
4619 until the child is discharged by the department or until he or  
4620 she reaches the age of 21 years. Notwithstanding ss. 743.07,  
4621 985.435, 985.437, 985.439, 985.441, 985.455, and 985.513, and  
4622 except as provided in this section ~~and s. 985.47,~~ a child may  
4623 not be held under a commitment from a court under s. 985.439, s.  
4624 985.441(1)(a) or (b), or s. 985.455 after becoming 21 years of  
4625 age.

4626 (d) The court may retain jurisdiction over a child  
4627 committed to the department for placement in a juvenile prison  
4628 or in a high-risk or maximum-risk residential commitment program  
4629 to allow the child to participate in a juvenile conditional  
4630 release program pursuant to s. 985.46. The jurisdiction of the  
4631 court may not be retained after ~~beyond~~ the child's 22nd  
4632 birthday. However, if the child is not successful in the  
4633 conditional release program, the department may use the transfer  
4634 procedure under s. 985.441(4).

4635 (e) The court may retain jurisdiction over a child  
4636 committed to the department for placement in an intensive  
4637 residential treatment program for 10-year-old to 13-year-old  
4638 offenders, in the residential commitment program in a juvenile  
4639 prison, in a residential sex offender program, or in a program  
4640 for serious or habitual juvenile offenders ~~as provided in s.~~



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4641 ~~985.47~~ or ~~s. 985.483~~ until the child reaches the age of 21. If  
4642 the court exercises this jurisdiction retention, it shall do so  
4643 solely for the purpose of the child completing the intensive  
4644 residential treatment program for 10-year-old to 13-year-old  
4645 offenders, in the residential commitment program in a juvenile  
4646 prison, in a residential sex offender program, or the program  
4647 for serious or habitual juvenile offenders. Such jurisdiction  
4648 retention does not apply for other programs, other purposes, or  
4649 new offenses.

4650 (g)1. Notwithstanding ss. 743.07 and 985.455(3), a serious  
4651 or habitual juvenile offender shall not be held under commitment  
4652 from a court under s. 985.441(1)(c), ~~s. 985.47~~, or s. 985.565  
4653 after becoming 21 years of age. This subparagraph shall apply  
4654 only for the purpose of completing the serious or habitual  
4655 juvenile offender program under this chapter and shall be used  
4656 solely for the purpose of treatment.

4657 2. The court may retain jurisdiction over a child who has  
4658 been placed in a program or facility for serious or habitual  
4659 juvenile offenders until the child reaches the age of 21,  
4660 specifically for the purpose of the child completing the  
4661 program.

4662 Reviser's note.—Amended to conform to the repeal of s. 985.47 by  
4663 s. 4, ch. 2011-70, Laws of Florida, and the repeal of s.  
4664 985.483 by s. 5, ch. 2011-70. Paragraph (5)(d) is amended  
4665 to confirm editorial deletion of the word "beyond"  
4666 following the word "after."

4667 Section 91. Paragraph (a) of subsection (3) of section  
4668 985.14, Florida Statutes, is amended to read:

4669 985.14 Intake and case management system.—

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4670 (3) The intake and case management system shall facilitate  
4671 consistency in the recommended placement of each child, and in  
4672 the assessment, classification, and placement process, with the  
4673 following purposes:

4674 (a) An individualized, multidisciplinary assessment process  
4675 that identifies the priority needs of each individual child for  
4676 rehabilitation and treatment and identifies any needs of the  
4677 child's parents or guardians for services that would enhance  
4678 their ability to provide adequate support, guidance, and  
4679 supervision for the child. This process shall begin with the  
4680 detention risk assessment instrument and decision, shall include  
4681 the intake preliminary screening and comprehensive assessment  
4682 for substance abuse treatment services, mental health services,  
4683 retardation services, literacy services, and other educational  
4684 and treatment services as components, additional assessment of  
4685 the child's treatment needs, and classification regarding the  
4686 child's risks to the community and, for a serious or habitual  
4687 delinquent child, shall include the assessment for placement in  
4688 a serious or habitual delinquent children program ~~under s.~~

4689 ~~985.47~~. The completed multidisciplinary assessment process shall  
4690 result in the predisposition report.

4691 Reviser's note.—Amended to conform to the repeal of s. 985.47 by  
4692 s. 4, ch. 2011-70, Laws of Florida.

4693 Section 92. Paragraph (c) of subsection (1) of section  
4694 985.441, Florida Statutes, is amended to read:

4695 985.441 Commitment.—

4696 (1) The court that has jurisdiction of an adjudicated  
4697 delinquent child may, by an order stating the facts upon which a  
4698 determination of a sanction and rehabilitative program was made

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4699 at the disposition hearing:

4700 (c) Commit the child to the department for placement in a  
4701 program or facility for serious or habitual juvenile offenders  
4702 ~~in accordance with s. 985.47.~~

4703 1. Following a delinquency adjudicatory hearing under s.  
4704 985.35 and a delinquency disposition hearing under s. 985.433  
4705 that results in a commitment determination, the court shall, on  
4706 its own or upon request by the state or the department,  
4707 determine whether the protection of the public requires that the  
4708 child be placed in a program for serious or habitual juvenile  
4709 offenders and whether the particular needs of the child would be  
4710 best served by a program for serious or habitual juvenile  
4711 offenders ~~as provided in s. 985.47.~~ The determination shall be  
4712 made under s. ss. 985.47(1) and 985.433(7).

4713 2. Any commitment of a child to a program or facility for  
4714 serious or habitual juvenile offenders must be for an  
4715 indeterminate period of time, but the time may not exceed the  
4716 maximum term of imprisonment that an adult may serve for the  
4717 same offense.

4718 Reviser's note.—Amended to conform to the repeal of s. 985.47 by  
4719 s. 4, ch. 2011-70, Laws of Florida.

4720 Section 93. Subsection (1) of section 1002.33, Florida  
4721 Statutes, is amended to read:

4722 1002.33 Charter schools.—

4723 (1) AUTHORIZATION.—Charter schools shall be part of the  
4724 state's program of public education. All charter schools in  
4725 Florida are public schools. A charter school may be formed by  
4726 creating a new school or converting an existing public school to  
4727 charter status. A charter school may operate a virtual charter

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4728 school pursuant to s. 1002.45(1)(d) to provide full-time online  
4729 instruction to eligible students, pursuant to s. 1002.455, in  
4730 kindergarten through grade 12. A charter school must amend its  
4731 charter or submit a new application pursuant to subsection (6)  
4732 to become a virtual charter school. A virtual charter school is  
4733 subject to the requirements of this section; however, a virtual  
4734 charter school is exempt from subsections (18) and (19),  
4735 subparagraphs (20)(a)2., 4., 5., and 7. ~~(20)(a)2.-5.~~, paragraph  
4736 (20)(c), and s. 1003.03. A public school may not use the term  
4737 charter in its name unless it has been approved under this  
4738 section.

4739 Reviser's note.—Amended to conform to the redesignation of  
4740 subparagraphs (20)(a)2.-5. as subparagraphs (20)(a)2., 4.,  
4741 5., and 7. by s. 8, ch. 2011-55, Laws of Florida.

4742 Section 94. Paragraph (b) of subsection (2) of section  
4743 1003.498, Florida Statutes, is amended to read:

4744 1003.498 School district virtual course offerings.—

4745 (2) School districts may offer virtual courses for students  
4746 enrolled in the school district. These courses must be  
4747 identified in the course code directory. Students who meet the  
4748 eligibility requirements of s. 1002.455 may participate in these  
4749 virtual course offerings.

4750 (b) Any eligible student who is enrolled in a school  
4751 district may register and enroll in an online course offered by  
4752 any other school district in the state, except as limited by the  
4753 following:

4754 1. A student may not enroll in a course offered through a  
4755 virtual instruction program provided pursuant to s. 1002.45.

4756 2. A student may not enroll in a virtual course offered by

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4757 another school district if:

4758 a. The course is offered online by the school district in  
4759 which the student resides; or

4760 b. The course is offered in the school in which the student  
4761 is enrolled. However, a student may enroll in an online course  
4762 offered by another school district if the school in which the  
4763 student is enrolled offers the course but the student is unable  
4764 to schedule the course in his or her school.

4765 3. The school district in which the student completes the  
4766 course shall report the student's completion of that course for  
4767 funding pursuant to s. 1011.61(1)(c)1.b.(VI)  
4768 ~~1011.61(1)(c)b.(VI)~~, and the home school district shall not  
4769 report the student for funding for that course.

4770

4771 For purposes of this paragraph, the combined total of all school  
4772 district reported FTE may not be reported as more than 1.0 full-  
4773 time equivalent student in any given school year. The Department  
4774 of Education shall establish procedures to enable interdistrict  
4775 coordination for the delivery and funding of this online option.

4776 Reviser's note.—Amended to confirm editorial substitution of the  
4777 reference to s. 1011.61(1)(c)1.b.(VI) for a reference to s.  
4778 1011.61(1)(c)b.(VI) to conform to the complete citation for  
4779 the provision created by s. 9, ch. 2011-137, relating to  
4780 FTE calculation for funding for completion of an online  
4781 course in a district other than the student's home  
4782 district.

4783 Section 95. Paragraph (d) of subsection (5) of section  
4784 1004.41, Florida Statutes, is amended to read:

4785 1004.41 University of Florida; J. Hillis Miller Health

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4786 Center.—

4787 (5)

4788 (d) For purposes of sovereign immunity pursuant to s.  
4789 768.28(2), Shands Jacksonville Medical Center, Inc., Shands  
4790 Jacksonville HealthCare, Inc., and any not-for-profit subsidiary  
4791 which directly delivers health care services and whose governing  
4792 board is chaired by the President of the University of Florida  
4793 or his or her designee and is controlled by the University of  
4794 Florida Board of Trustees, which may act through the president  
4795 of the university or his or her designee and whose primary  
4796 purpose is the support of the University of Florida Board of  
4797 Trustees' health affairs mission, shall be conclusively deemed  
4798 corporations primarily acting as instrumentalities of the state.  
4799 Reviser's note.—Amended to confirm editorial insertion of the  
4800 word "her."

4801 Section 96. Subsection (5) of section 1007.28, Florida  
4802 Statutes, is amended to read:

4803 1007.28 Computer-assisted student advising system.—The  
4804 Department of Education, in conjunction with the Board of  
4805 Governors, shall establish and maintain a single, statewide  
4806 computer-assisted student advising system, which must be an  
4807 integral part of the process of advising, registering, and  
4808 certifying students for graduation and must be accessible to all  
4809 Florida students. The state universities and Florida College  
4810 System institutions shall interface institutional systems with  
4811 the computer-assisted advising system required by this section.  
4812 The State Board of Education and the Board of Governors shall  
4813 specify in the statewide articulation agreement required by s.  
4814 1007.23(1) the roles and responsibilities of the department, the

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4815 state universities, and the Florida College System institutions  
4816 in the design, implementation, promotion, development, and  
4817 analysis of the system. The system shall consist of a degree  
4818 audit and an articulation component that includes the following  
4819 characteristics:

4820 (5) The system must provide the admissions application for  
4821 transient students who are undergraduate students currently  
4822 enrolled and pursuing a degree at a public postsecondary  
4823 educational institution and who want to enroll in a course  
4824 listed in the Florida Higher Education Distance Learning ~~Leaning~~  
4825 Catalog which is offered by a public postsecondary educational  
4826 institution that is not the student's degree-granting  
4827 institution. This system must include the electronic transfer  
4828 and receipt of information and records for the following  
4829 functions:

4830 (a) Admissions and readmissions;

4831 (b) Financial aid; and

4832 (c) Transfer of credit awarded by the institution offering  
4833 the distance learning course to the transient student's degree-  
4834 granting institution.

4835 Reviser's note.—Amended to confirm editorial substitution of the  
4836 word "Learning" for the word "Leaning" to conform to the  
4837 correct name of the catalog.

4838 Section 97. Section 1010.82, Florida Statutes, is amended  
4839 to read:

4840 1010.82 Textbook Bid Trust Fund.—Chapter 99-36, Laws of  
4841 Florida, re-created the Textbook Bid Trust Fund to record the  
4842 revenue and disbursements of textbook bid performance deposits  
4843 submitted to the Department of Education as required in s.

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4844 1006.33 ~~1006.32~~.

4845 Reviser's note.—Amended to correct an apparent error and  
 4846 facilitate correct interpretation. Section 233.15, 2001  
 4847 Florida Statutes, which related to the deposit of funds  
 4848 required to be paid by each publisher or manufacturer of  
 4849 instructional materials upon submission of a bid or  
 4850 proposal to the Department of Education into the Textbook  
 4851 Bid Trust Fund, was repealed by s. 1058, ch. 2002-387, Laws  
 4852 of Florida. That language was recreated as s. 1006.33(3) by  
 4853 s. 308, ch. 2002-387. Similar language was not recreated in  
 4854 s. 1006.32, which relates to prohibited acts with regard to  
 4855 instructional materials.

4856 Section 98. Paragraph (b) of subsection (3) of section  
 4857 1011.71, Florida Statutes, is amended to read:

4858 1011.71 District school tax.—

4859 (3)

4860 (b) Local funds generated by the additional 0.25 mills  
 4861 authorized in paragraph (b) and state funds provided pursuant to  
 4862 s. 1011.62(5) may not be included in the calculation of the  
 4863 Florida Education Finance Program in 2011-2012 or any subsequent  
 4864 year and may not be incorporated in the calculation of any hold-  
 4865 harmless or other component of the Florida Education Finance  
 4866 Program in any year, except as provided in paragraph (c) ~~(d)~~.

4867 Reviser's note.—Amended to conform to the redesignation of  
 4868 paragraph (d) as paragraph (c) as a result of the repeal of  
 4869 former paragraph (b) by s. 36, ch. 2011-55, Laws of  
 4870 Florida.

4871 Section 99. Subsection (3) of section 1011.81, Florida  
 4872 Statutes, is amended to read:



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4873 1011.81 Florida College System Program Fund.—

4874 (3) State funds provided for the Florida College System  
4875 ~~Community College~~ Program Fund may not be expended for the  
4876 education of state or federal inmates.

4877 Reviser's note.—Amended to confirm editorial substitution of the  
4878 words "Florida College System" for the words "Community  
4879 College" to conform to the renaming of the fund by s. 176,  
4880 ch. 2011-5, Laws of Florida.

4881 Section 100. Paragraph (c) of subsection (4) and subsection  
4882 (5) of section 1013.33, Florida Statutes, are amended to read:  
4883 1013.33 Coordination of planning with local governing  
4884 bodies.—

4885 (4)

4886 (c) If the state land planning agency enters a final order  
4887 that finds that the interlocal agreement is inconsistent with  
4888 the requirements of subsection (3) or this subsection, the state  
4889 land planning agency shall forward it to the Administration  
4890 Commission, which may impose sanctions against the local  
4891 government pursuant to s. 163.3184(8) ~~163.3184(11)~~ and may  
4892 impose sanctions against the district school board by directing  
4893 the Department of Education to withhold an equivalent amount of  
4894 funds for school construction available pursuant to ss. 1013.65,  
4895 1013.68, 1013.70, and 1013.72.

4896 (5) If an executed interlocal agreement is not timely  
4897 submitted to the state land planning agency for review, the  
4898 state land planning agency shall, within 15 working days after  
4899 the deadline for submittal, issue to the local government and  
4900 the district school board a notice to show cause why sanctions  
4901 should not be imposed for failure to submit an executed

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4902 interlocal agreement by the deadline established by the agency.  
4903 The agency shall forward the notice and the responses to the  
4904 Administration Commission, which may enter a final order citing  
4905 the failure to comply and imposing sanctions against the local  
4906 government and district school board by directing the  
4907 appropriate agencies to withhold at least 5 percent of state  
4908 funds pursuant to s. 163.3184(8) ~~163.3184(11)~~ and by directing  
4909 the Department of Education to withhold from the district school  
4910 board at least 5 percent of funds for school construction  
4911 available pursuant to ss. 1013.65, 1013.68, 1013.70, and  
4912 1013.72.

4913 Reviser's note.—Amended to conform to the redesignation of s.  
4914 163.3184(11) as s. 163.3184(8) by s. 17, ch. 2011-139, Laws  
4915 of Florida.

4916 Section 101. Subsection (6) of section 1013.36, Florida  
4917 Statutes, is amended to read:

4918 1013.36 Site planning and selection.—

4919 (6) If the school board and local government have entered  
4920 into an interlocal agreement pursuant to s. 1013.33(2) and  
4921 ~~either s. 163.3177(6)(h)4. or~~ s. 163.31777 or have developed a  
4922 process to ensure consistency between the local government  
4923 comprehensive plan and the school district educational  
4924 facilities plan, site planning and selection must be consistent  
4925 with the interlocal agreements and the plans.

4926 Reviser's note.—Amended to conform to the repeal of s.

4927 163.3177(6)(h)4. by s. 12, ch. 2011-139, Laws of Florida.

4928 Section 102. Paragraph (a) of subsection (1) of section  
4929 1013.51, Florida Statutes, is amended to read:

4930 1013.51 Expenditures authorized for certain

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4931 infrastructure.—

4932 (1) (a) Subject to exemption from the assessment of fees  
4933 pursuant to s. 1013.371(1) ~~1013.37(1)~~, education boards, boards  
4934 of county commissioners, municipal boards, and other agencies  
4935 and boards of the state may expend funds, separately or  
4936 collectively, by contract or agreement, for the placement,  
4937 paving, or maintaining of any road, byway, or sidewalk if the  
4938 road, byway, or sidewalk is contiguous to or runs through the  
4939 property of any educational plant or for the maintenance or  
4940 improvement of the property of any educational plant or of any  
4941 facility on such property. Expenditures may also be made for  
4942 sanitary sewer, water, stormwater, and utility improvements  
4943 upon, or contiguous to, and for the installation, operation, and  
4944 maintenance of traffic control and safety devices upon, or  
4945 contiguous to, any existing or proposed educational plant.

4946 Reviser's note.—Amended to correct an apparent error and  
4947 facilitate correct interpretation. There is no reference to  
4948 fees in s. 1013.37(1); it relates to the adoption and  
4949 standards of a uniform statewide building code for the  
4950 planning and construction of public educational facilities.  
4951 Section 1013.371(1) provides that public and ancillary  
4952 plans constructed by a board are exempt from the assessment  
4953 of certain fees.

4954 Section 103. This act shall take effect on the 60th day  
4955 after adjournment sine die of the session of the Legislature in  
4956 which enacted.