

By the Committees on Appropriations; and Commerce and Tourism;
and Senator Stargel

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1 A bill to be entitled
2 An act relating to the Department of Agriculture and
3 Consumer Services; transferring, redesignating, and
4 amending s. 525.09(1), F.S.; transferring the
5 collection of the motor fuel inspection fee from the
6 Department of Agriculture and Consumer Services to the
7 Department of Revenue; amending s. 206.45, F.S.;
8 providing for the collection and distribution of the
9 inspection fee on motor fuel; amending s. 493.6101,
10 F.S.; revising the definition of the term
11 "repossession"; amending s. 493.6113, F.S.; requiring
12 licensees to submit proof of recertification training
13 to the Department of Agriculture and Consumer
14 Services; providing that failure to submit proof of
15 firearm recertification training will result in
16 license suspension and nonrenewal; amending s.
17 493.6116, F.S.; removing a provision that prohibits
18 firearm licensees from sponsoring certain interns;
19 requiring interns to conduct regulated duties within
20 the state; amending s. 493.6118, F.S.; providing
21 additional grounds for disciplinary action against
22 firearm licensees; providing criminal penalties for
23 providing fraudulent training certifications;
24 conforming a cross-reference; amending s. 493.6120,
25 F.S.; providing an exception to a penalty provision;
26 amending s. 493.6121, F.S.; conforming a cross-
27 reference; amending s. 496.405, F.S.; revising
28 procedures and requirements with respect to the
29 submission and processing of registration statements

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30 and renewal statements by charitable organizations and
31 sponsors; amending s. 496.406, F.S.; providing
32 exemption from registration requirements for certain
33 charitable organizations and sponsors; requiring
34 exempt charitable organizations and sponsors that
35 solicit donations to provide information to the
36 department; providing that the burden of proving an
37 exemption is on the entity claiming the exemption;
38 limiting applicability of the registration exemption;
39 amending s. 496.407, F.S.; providing that a charitable
40 organization or sponsor may submit certain IRS forms
41 and schedules in lieu of a financial report; amending
42 s. 496.409, F.S.; revising procedures and requirements
43 with respect to the submission and processing of
44 registration statements and renewal statements by
45 professional fundraising consultants; amending s.
46 496.410, F.S.; revising procedures and requirements
47 with respect to the submission and processing of
48 registration statements, renewal statements, and
49 reports by professional solicitors; amending s.
50 496.411, F.S.; deleting provisions that require
51 registered charitable entities, sponsors, or
52 solicitors to display the percentage retained from
53 contributions; amending s. 496.415, F.S.; providing
54 that it is unlawful to knowingly provide a misleading
55 or inaccurate document relating to a solicitation or
56 charitable promotion; providing criminal penalties;
57 amending s. 496.419, F.S.; providing that certain
58 violations constitute an immediate public threat and

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59 are grounds for suspending solicitation activities;
60 requiring that the department report only
61 substantiated criminal violations to a prosecuting
62 authority; conforming cross-references; amending s.
63 501.016, F.S.; reducing the required security amount
64 for health studios; amending s. 501.059, F.S.;

65 prohibiting a person from making certain outbound
66 telephonic sales calls; amending s. 501.603, F.S.;

67 revising the definitions of the terms "commercial
68 telephone solicitation" and "commercial telephone
69 seller"; amending s. 501.604, F.S.; specifying that
70 exemptions apply to telecommunications businesses and
71 businesses that have operated lawfully; making
72 technical and conforming changes; amending s. 501.607,
73 F.S.; deleting the provision requiring commercial
74 telephone salespersons to provide employment history
75 to the department; amending s. 501.608, F.S.;

76 requiring that commercial telephone sellers provide
77 the department with certain documents to aid in
78 determining eligibility for exemptions; requiring each
79 commercial telephone seller operating under an
80 exemption to display or make certain documents
81 available for inspection; providing that failure to
82 obtain or display certain documents is grounds for
83 action against the commercial telephone seller;

84 amending s. 501.611, F.S.; requiring a commercial
85 telephone seller to maintain an active security bond
86 throughout the period of licensure; amending s.
87 501.615, F.S.; revising the criteria for certain

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88 exempt telephonic sales; requiring a commercial
89 telephone seller engaged in activities regulated by
90 ch. 721 to comply with certain disclosure obligations;
91 amending s. 501.617, F.S.; authorizing the department
92 to conduct regulatory inspections of commercial
93 telephone sellers; amending s. 507.03, F.S.; requiring
94 moving brokers to provide the department with contact
95 information for movers with whom they have contracted
96 for services or are affiliated; amending s. 507.07,
97 F.S.; prohibiting movers and moving brokers from
98 entering into certain service contracts with certain
99 unregistered persons; amending s. 525.01, F.S.;
100 revising the definition of the term "alternative
101 fuels" for purposes of inspection requirements;
102 repealing s. 525.09(2)-(4), F.S., relating to the
103 payment and applicability of an inspection fee for
104 testing and analyzing petroleum fuels; amending s.
105 525.10, F.S.; eliminating the requirement that
106 collected fees be paid into the treasury and
107 distributed into a specified trust fund; conforming
108 provisions; amending s. 525.16, F.S.; requiring
109 entities that sell or distribute certain fuels to meet
110 fuel standards adopted by the department; providing a
111 release of liability for certain entities who supply
112 and blend fuels that meet department standards;
113 amending s. 526.141, F.S.; providing that certain
114 entities are not liable for damages resulting from the
115 incompatible use of motor fuels under certain
116 circumstances; amending s. 527.01, F.S.; providing a

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117 definition for the term "license year" as it relates
118 to the sale of petroleum gas; amending s. 527.0201,
119 F.S.; revising examination requirements for applicants
120 seeking certain licenses; revising continuing
121 education requirements for specified qualifiers;
122 amending s. 527.03, F.S.; revising the renewal
123 procedure for certain licenses; amending s. 531.415,
124 F.S.; conforming a cross-reference; amending s.
125 531.61, F.S.; exempting certain commercial weights and
126 measures devices from permit requirements; conforming
127 a cross-reference; amending chapter 2009-66, Laws of
128 Florida; extending the expiration date of certain
129 statutes related to commercial weights and measures;
130 amending s. 539.001, F.S.; revising fingerprinting
131 requirements for a pawnbroker license application;
132 amending s. 559.802, F.S.; requiring franchisors to
133 provide notice of the franchise sale on a department
134 promulgated form; amending s. 559.803, F.S.; deleting
135 provisions allowing and requiring sellers of business
136 opportunities to file federal disclosure statements
137 with the department; repealing s. 559.805, F.S.,
138 relating to mandatory filings and disclosure of
139 advertisement identification numbers by sellers of
140 business opportunities; repealing s. 559.807(2), F.S.,
141 relating to bonds or securities for business
142 opportunity sellers; amending s. 559.813, F.S.;
143 deleting a provision authorizing the department to
144 impose specified penalties for certain violations
145 relating to selling business opportunities; abrogating

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146 the enforcement and rulemaking authority of the
147 Department of Agriculture and Consumer Services;
148 amending s. 559.815, F.S.; conforming a cross-
149 reference; amending s. 559.9221, F.S.; revising the
150 membership of the Motor Vehicle Repair Advisory
151 Council; amending s. 616.242, F.S.; revising amusement
152 ride insurance coverage requirements; amending s.
153 721.20, F.S.; requiring specified persons who sell
154 timeshare plans to be licensed as commercial telephone
155 sellers or salespersons under ch. 501, F.S.; providing
156 for severability; providing an effective date.

157

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

159

160 Section 1. Subsection (1) of section 525.09, Florida
161 Statutes, is transferred, redesignated as paragraph (h) of
162 subsection (1) of section 206.41, Florida Statutes, and amended,
163 to read:

164 206.41 State taxes imposed on motor fuel.—

165 (1) The following taxes are imposed on motor fuel under the
166 circumstances described in subsection (6):

167 (h) ~~(1)~~ An additional 0.125 cent per net gallon is levied on
168 all motor fuel for sale or use in this state for the purpose of
169 defraying the expenses incident to inspecting, testing, and
170 analyzing motor fuel ~~petroleum fuels~~ in this state, ~~there shall~~
171 be paid to the department a charge of one-eighth cent per gallon
172 on all gasoline, kerosene (except when used as aviation turbine
173 fuel), and #1 fuel oil for sale or use in this state. This
174 inspection fee shall be imposed in the same manner as the motor

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175 ~~fuel tax pursuant to s. 206.41. Payment shall be made on or~~
176 ~~before the 25th day of each month.~~

177 Section 2. Subsection (4) is added to section 206.45,
178 Florida Statutes, to read:

179 206.45 Payment of tax into State Treasury.—

180 (4) The department shall pay all moneys collected pursuant
181 to s. 206.41(1)(h) into the State Treasury for monthly
182 distribution into the General Inspection Trust Fund.

183 Section 3. Subsection (22) of section 493.6101, Florida
184 Statutes, is amended to read:

185 493.6101 Definitions.—

186 (22) "Repossession" means the recovery of a motor vehicle
187 as defined under s. 320.01(1), a mobile home as defined in s.
188 320.01(2), a motorboat as defined under s. 327.02, an aircraft
189 as defined in s. 330.27(1), a personal watercraft as defined in
190 s. 327.02, an all-terrain vehicle as defined in s. 316.2074,
191 farm equipment as defined under s. 686.402, or industrial
192 equipment, by an individual who is authorized by the legal
193 owner, lienholder, or lessor to recover, or to collect money
194 payment in lieu of recovery of, such property that was ~~which has~~
195 ~~been~~ sold or leased under a security agreement that contains a
196 repossession clause. As used in this subsection, the term
197 "industrial equipment" includes, but is not limited to,
198 tractors, road rollers, cranes, forklifts, backhoes, and
199 bulldozers. The term "industrial equipment" also includes other
200 vehicles that are propelled by power other than muscular power
201 and that are used in the manufacture of goods or used in the
202 provision of services. A repossession is complete when a
203 licensed recovery agent is in control, custody, and possession

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204 of such repossessed property. Property that is being repossessed
205 is considered to be in the control, custody, and possession of a
206 licensed recovery agent if the vehicle or other equipment being
207 repossessed has been secured in preparation for transport from
208 the site of the recovery by means of having been attached to, or
209 placed on, the towing or other transport vehicle, or if the
210 vehicle or equipment being repossessed is being operated or
211 about to be operated by a licensed recovery agent.

212 Section 4. Paragraph (b) of subsection (3) of section
213 493.6113, Florida Statutes, is amended to read:

214 493.6113 Renewal application for licensure.—

215 (3) Each licensee is responsible for renewing his or her
216 license on or before its expiration by filing with the
217 department an application for renewal accompanied by payment of
218 the prescribed license fee.

219 (b) Each Class "G" licensee shall additionally submit proof
220 that he or she has received during each year of the license
221 period a minimum of 4 hours of firearms recertification training
222 taught by a Class "K" licensee and has complied with such other
223 health and training requirements which the department may adopt
224 by rule. Proof of completion of recertification training must be
225 submitted to the department upon completion of that training. If
226 the documentation of completion of recertification training is
227 not submitted by the end of the first year of the license
228 period, the individual's license shall be automatically
229 suspended until proof of such training is submitted to the
230 department. If the documentation of completion of
231 recertification training is not submitted by the end of the
232 second year of the license period, the license may not be

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233 renewed unless ~~If proof of a minimum of 4 hours of annual~~
234 ~~firearms recertification training cannot be provided,~~ the
235 renewal applicant completes ~~shall complete~~ the minimum number of
236 hours of range and classroom training required at the time of
237 initial licensure. The department may waive the foregoing
238 firearms training requirement if:

239 1. The applicant provides proof that he or she is currently
240 certified as a law enforcement officer or correctional officer
241 under the Criminal Justice Standards and Training Commission and
242 has completed law enforcement firearms requalification training
243 annually during the previous 2 years of the licensure period.

244 2. The applicant provides proof that he or she is currently
245 certified as a federal law enforcement officer and has received
246 law enforcement firearms training administered by a federal law
247 enforcement agency annually during the previous 2 years of the
248 licensure period.

249 3. The applicant submits a valid firearm certificate among
250 those specified in s. 493.6105(6)(a) and provides proof of
251 having completed requalification training during the previous 2
252 years of the licensure period.

253 Section 5. Subsections (2) through (4) of section 493.6116,
254 Florida Statutes, are amended to read:

255 493.6116 Sponsorship of interns.—

256 (2) An internship may not commence until a licensee submits
257 ~~the sponsor has submitted~~ to the department a ~~the~~ notice of
258 intent to sponsor. Such notice shall be on a form provided by
259 the department.

260 (3) An internship is intended to serve as a period of
261 learning ~~process~~. Licensees who sponsor interns ~~Sponsors~~ shall

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262 provide ~~assume a training status by providing~~ direction to and
263 maintain control of interns as part of this learning process.
264 Sponsors may ~~shall only sponsor interns whose place of business~~
265 ~~is within a 50-mile distance of the sponsor's place of business~~
266 ~~and shall~~ not allow interns to operate independently of ~~such~~
267 direction and control, or require interns to perform activities
268 that ~~which~~ do not enhance the intern's qualification for
269 licensure. Interns shall perform regulated duties within the
270 geographic boundaries of this state during the period of
271 internship.

272 (4) A licensee ~~No sponsor~~ may not sponsor more than six
273 interns at the same time.

274 Section 6. Present subsections (1) and (4) of section
275 493.6118, Florida Statutes, are amended, present subsections (2)
276 through (7) of that section are redesignated as subsections (3)
277 through (8), respectively, and a new subsection (2) is added to
278 that section, to read:

279 493.6118 Grounds for disciplinary action.—

280 (1) The following constitute grounds for which disciplinary
281 action specified in subsection (3) ~~(2)~~ may be taken by the
282 department against a ~~any~~ licensee, agency, or applicant
283 regulated by this chapter, or an ~~any~~ unlicensed person engaged
284 in activities regulated under this chapter.

285 (a) Fraud or willful misrepresentation in applying for or
286 obtaining a license.

287 (b) Use of a ~~any~~ fictitious or assumed name by an agency
288 unless the agency has department approval and qualifies under s.
289 865.09.

290 (c) Being found guilty of or entering a plea of guilty or

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291 nolo contendere to, regardless of adjudication, or being
292 convicted of a crime that directly relates to the business for
293 which the license is held or sought. A plea of nolo contendere
294 creates ~~shall create~~ a rebuttable presumption of guilt to the
295 underlying criminal charges, and the department shall allow the
296 individual being disciplined or denied an application for a
297 license to present any mitigating circumstances surrounding his
298 or her plea.

299 (d) A false statement by the licensee that an ~~any~~
300 individual is or has been in his or her employ.

301 (e) A finding that the licensee or an ~~any~~ employee of the
302 licensee is guilty of willful betrayal of a professional secret
303 or the ~~any~~ unauthorized release of information acquired as a
304 result of activities regulated under this chapter.

305 (f) Proof that the applicant or licensee is guilty of fraud
306 or deceit, or of negligence, incompetency, or misconduct, in the
307 practice of the activities regulated under this chapter.

308 (g) Conducting activities regulated under this chapter
309 without a license or with a revoked or suspended license.

310 (h) Failure of the licensee to maintain in full force and
311 effect the commercial general liability insurance coverage
312 required by s. 493.6110.

313 (i) Impersonating, or permitting or aiding and abetting an
314 employee to impersonate, a law enforcement officer or an
315 employee of the state, the United States, or a ~~any~~ political
316 subdivision thereof by identifying himself or herself as a
317 federal, state, county, or municipal law enforcement officer or
318 official representative, by wearing a uniform or presenting or
319 displaying a badge or credentials that would cause a reasonable

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320 person to believe that he or she is a law enforcement officer or
321 that he or she has official authority, by displaying ~~any~~
322 flashing or warning vehicular lights other than amber colored,
323 or by committing an ~~any~~ act that is intended to falsely convey
324 official status.

325 (j) Commission of an act of violence or the use of force on
326 a ~~any~~ person except in the lawful protection of one's self or
327 another from physical harm.

328 (k) Knowingly violating, advising, encouraging, or
329 assisting the violation of a ~~any~~ statute, court order, *capias*,
330 warrant, injunction, or cease and desist order, in the course of
331 business regulated under this chapter.

332 (l) Soliciting business for an attorney in return for
333 compensation.

334 (m) Transferring or attempting to transfer a license issued
335 pursuant to this chapter.

336 (n) Employing or contracting with an ~~any~~ unlicensed or
337 improperly licensed person or agency to conduct activities
338 regulated under this chapter, or performing an ~~any~~ act that
339 assists, aids, or abets a person or business entity in engaging
340 in unlicensed activity, when the licensure status was known or
341 could have been ascertained by reasonable inquiry.

342 (o) Failure or refusal to cooperate with or refusal of
343 access to an authorized representative of the department engaged
344 in an official investigation pursuant to this chapter.

345 (p) Failure of a ~~any~~ partner, principal corporate officer,
346 or licensee to have his or her identification card in his or her
347 possession while on duty.

348 (q) Failure of a ~~any~~ licensee to have his or her license in

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349 his or her possession while on duty, as specified in s.
350 493.6111(1).

351 (r) Failure or refusal by a sponsor to certify a biannual
352 written report on an intern or to certify completion or
353 termination of an internship to the department within 15 working
354 days.

355 (s) Failure to report to the department a ~~any~~ person whom
356 the licensee knows to be in violation of this chapter or the
357 rules of the department.

358 (t) Violating any provision of this chapter.

359 (u) For a Class "G" licensee, failing to complete
360 recertification training required to carry a firearm while
361 performing regulated duties.

362 (v) For a Class "K" licensee, failing to maintain active
363 certification as a professional firearms trainer.

364 (w) ~~(u)~~ For a Class "G" or a Class "K" applicant or
365 licensee, being prohibited from purchasing or possessing a
366 firearm by state or federal law.

367 (x) ~~(v)~~ In addition to the grounds for disciplinary action
368 prescribed in paragraphs (a)-(t), Class "R" recovery agencies,
369 Class "E" recovery agents, and Class "EE" recovery agent interns
370 are prohibited from committing the following acts:

371 1. Recovering a motor vehicle, mobile home, motorboat,
372 aircraft, personal watercraft, all-terrain vehicle, farm
373 equipment, or industrial equipment that has been sold under a
374 conditional sales agreement or under the terms of a chattel
375 mortgage before authorization has been received from the legal
376 owner or mortgagee.

377 2. Charging for expenses not actually incurred in

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378 connection with the recovery, transportation, storage, or
379 disposal of repossessed property or personal property obtained
380 in a repossession.

381 3. Using ~~any~~ repossessed property or personal property
382 obtained in a repossession for the personal benefit of a
383 licensee or an officer, director, partner, manager, or employee
384 of a licensee.

385 4. Selling property recovered under the provisions of this
386 chapter, except with written authorization from the legal owner
387 or the mortgagee thereof.

388 5. Failing to notify the police or sheriff's department of
389 the jurisdiction in which the repossessed property is recovered
390 within 2 hours after recovery.

391 6. Failing to remit moneys collected in lieu of recovery of
392 a motor vehicle, mobile home, motorboat, aircraft, personal
393 watercraft, all-terrain vehicle, farm equipment, or industrial
394 equipment to the client within 10 working days.

395 7. Failing to deliver to the client a negotiable instrument
396 that is payable to the client, within 10 working days after
397 receipt of such instrument.

398 8. Falsifying, altering, or failing to maintain ~~any~~
399 required inventory or records regarding disposal of personal
400 property contained in or on repossessed property pursuant to s.
401 493.6404(1).

402 9. Carrying a ~~any~~ weapon or firearm when he or she is on
403 private property and performing duties under his or her license
404 whether or not he or she is licensed pursuant to s. 790.06.

405 10. Soliciting from the legal owner the recovery of
406 property subject to repossession after such property has been

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407 seen or located on public or private property if the amount
408 charged or requested for such recovery is more than the amount
409 normally charged for such a recovery.

410 11. Wearing, presenting, or displaying a badge in the
411 course of performing a repossession regulated by this chapter.

412 (2) It is unlawful for a person to knowingly possess,
413 issue, cause to be issued, sell, submit, or offer a fraudulent
414 training certificate, proficiency form, or other official
415 document that declares an applicant has successfully completed a
416 course of training required for licensure under chapter 493 if
417 that person knows or reasonably should know that the
418 certificate, form, or document is fraudulent. A violation of
419 this section is a felony of the third degree, punishable as
420 provided in s. 775.082, s. 775.083, or s. 775.084.

421 (5) ~~(4)~~ Notwithstanding the provisions of paragraph (1) (c)
422 and subsection (3) ~~(2)~~:

423 (a) If the applicant or licensee has been convicted of a
424 felony, the department shall deny the application or revoke the
425 license unless and until civil rights have been restored by the
426 State of Florida or by a state acceptable to Florida and a
427 period of 10 years has expired since final release from
428 supervision.

429 (b) A Class "G" applicant who has been convicted of a
430 felony must ~~shall~~ also have had the specific right to possess,
431 carry, or use a firearm restored by the State of Florida.

432 (c) If the applicant or licensee has been found guilty of,
433 entered a plea of guilty to, or entered a plea of nolo
434 contendere to a felony and adjudication of guilt is withheld,
435 the department shall deny the application or revoke the license

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436 until a period of 3 years has expired since final release from
437 supervision.

438 (d) A plea of nolo contendere creates ~~shall create~~ a
439 rebuttable presumption of guilt to the underlying criminal
440 charges, and the department shall allow the person being
441 disciplined or denied an application for a license to present
442 any mitigating circumstances surrounding his or her plea.

443 (e) The grounds for discipline or denial cited in this
444 subsection apply ~~shall be applied~~ to a ~~any~~ disqualifying
445 criminal history regardless of the date of commission of the
446 underlying criminal charge. Such provisions are ~~shall be~~ applied
447 retroactively and prospectively.

448 Section 7. Subsection (1) of section 493.6120, Florida
449 Statutes, is amended to read:

450 493.6120 Violations; penalty.—

451 (1) Any person who violates any provision of this chapter
452 except ss. 493.6118(2) and ~~s.~~ 493.6405 commits a misdemeanor of
453 the first degree, punishable as provided in s. 775.082 or s.
454 775.083.

455 Section 8. Subsection (3) of section 493.6121, Florida
456 Statutes, is amended to read:

457 493.6121 Enforcement; investigation.—

458 (3) The department has ~~shall have~~ the authority to
459 investigate a ~~any~~ licensed or unlicensed person, firm, company,
460 partnership, or corporation when such person, firm, company,
461 partnership, or corporation is advertising as providing or is
462 engaged in performing services that ~~which~~ require licensure
463 under this chapter or when a licensee is engaged in activities
464 that ~~which~~ do not comply with or are prohibited by this chapter;

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465 and the department has ~~shall have~~ the authority to issue an
466 order to cease and desist the further conduct of such
467 activities, or seek an injunction, or take other appropriate
468 action pursuant to s. 493.6118(3)(a) ~~493.6118(2)(a)~~ or (c).

469 Section 9. Paragraph (b) of subsection (1) and subsections
470 (2) and (7) of section 496.405, Florida Statutes, are amended to
471 read:

472 496.405 Registration statements by charitable organizations
473 and sponsors.—

474 (1)

475 (b) ~~Any~~ Changes in the information submitted on the initial
476 registration statement or the last renewal statement must be
477 updated annually on a renewal statement provided by the
478 department on or before the date that marks one year after the
479 date the department approved the initial registration statement
480 as provided in this section. The department shall annually
481 provide a renewal statement to each registrant by mail or by
482 electronic mail at least 30 ~~60~~ days before the renewal date.

483 (2) The initial registration statement must be submitted on
484 a form prescribed by the department, signed ~~under oath~~ by an
485 authorized official ~~the treasurer or chief fiscal officer~~ of the
486 charitable organization or sponsor who shall certify that the
487 registration statement is true and correct, and include the
488 following information or material:

489 (a) A copy of the financial report or Internal Revenue
490 Service Form 990 and all attached schedules, ~~Schedule A~~ or
491 Internal Revenue Service Form 990-EZ and Schedule O, required
492 under s. 496.407 for the immediately preceding fiscal year. A
493 newly organized charitable organization or sponsor with no

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494 financial history must file a budget for the current fiscal
495 year.

496 (b) The name of the charitable organization or sponsor, the
497 purpose for which it is organized, the name under which it
498 intends to solicit contributions, and the purpose or purposes
499 for which the contributions to be solicited will be used.

500 (c) The name of the individuals or officers who are in
501 charge of ~~any~~ solicitation activities.

502 (d) A statement of whether:

503 1. The charitable organization or sponsor is authorized by
504 another ~~any other~~ state to solicit contributions;

505 2. The charitable organization or sponsor or any of its
506 officers, directors, trustees, or principal salaried executive
507 personnel have been enjoined in any jurisdiction from soliciting
508 contributions or have been found to have engaged in unlawful
509 practices in the solicitation of contributions or administration
510 of charitable assets;

511 3. The charitable organization or sponsor has had its
512 registration or authority denied, suspended, or revoked by a ~~any~~
513 governmental agency, together with the reasons for such denial,
514 suspension, or revocation; and

515 4. The charitable organization or sponsor has voluntarily
516 entered into an assurance of voluntary compliance in any
517 jurisdiction or agreement similar to that set forth in s.
518 496.420, together with a copy of the ~~that~~ agreement.

519 5. The charitable organization or sponsor or any of its
520 officers, directors, trustees, or employees, regardless of
521 adjudication, has been convicted of, or found guilty of, or pled
522 guilty or nolo contendere to, or has been incarcerated within

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523 the last 10 years as a result of having previously been
524 convicted of, or found guilty of, or pled guilty or nolo
525 contendere to:7

526 a. A Any felony or any crime involving fraud, theft,
527 larceny, embezzlement, fraudulent conversion, misappropriation
528 of property, or any crime arising from the conduct of a
529 solicitation for a charitable organization or sponsor within the
530 last 10 years and, if so, the name of such person, the nature of
531 the offense, the date of the offense, the court having
532 jurisdiction in the case, the date of conviction or other
533 disposition, and the disposition of the offense.

534 b. A crime involving fraud, theft, larceny, embezzlement,
535 fraudulent conversion, misappropriation of property, or a crime
536 enumerated in this section or resulting from acts committed
537 while involved in the solicitation of contributions within the
538 last 10 years and, if so, the name of such person, the nature of
539 the offense, the date of the offense, the court having
540 jurisdiction in the case, the date of conviction or other
541 disposition, and the disposition of the offense.

542 6. The charitable organization or sponsor or any of its
543 officers, directors, trustees, or employees has been enjoined
544 from violating a any law relating to a charitable solicitation,
545 and, if so, the name of such person, the date of the injunction,
546 and the court issuing the injunction.

547 (e) The names, street addresses, and telephone numbers of a
548 any professional solicitor, professional fundraising consultant,
549 and commercial co-venturer who is acting or has agreed to act on
550 behalf of the charitable organization or sponsor, together with
551 a statement setting forth the specific terms of the arrangements

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552 for salaries, bonuses, commissions, expenses, or other
553 remunerations to be paid the fundraising consultant and
554 professional solicitor.

555 (f) With initial registration only, a statement showing
556 when and where the organization was established and the tax-
557 exempt status of the organization together with a copy of the
558 ~~any~~ federal tax exemption determination letter. If the
559 charitable organization or sponsor has not received a federal
560 tax exemption determination letter at the time of initial
561 registration, a copy of such determination must be filed with
562 the department within 30 days after receipt of the determination
563 by the charitable organization or sponsor. If the organization
564 is subsequently notified by the Internal Revenue Service of a
565 ~~any~~ challenge to its continued entitlement to federal tax
566 exemption, the charitable organization or sponsor shall notify
567 the department of this fact within 30 days after receipt.

568 (g) The following information must be filed with the
569 initial registration statement and must be updated when a a ~~any~~
570 change occurs in the information that was previously filed with
571 the initial registration statement:

572 1. The principal street address and telephone number of the
573 organization and the street address and telephone numbers of ~~any~~
574 offices in this state or, if the charitable organization or
575 sponsor does not maintain an office in this state, the name,
576 street address, and telephone number of the person who ~~that~~ has
577 custody of its financial records. The parent organization that
578 files a consolidated registration statement on behalf of its
579 chapters, branches, or affiliates must additionally provide the
580 street addresses and telephone numbers of all such locations in

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581 this state.

582 2. The names and street addresses of the officers,
583 directors, trustees, and the principal salaried executive
584 personnel.

585 3. The date when the charitable organization's or sponsor's
586 fiscal year ends.

587 4. A list or description of the major program activities.

588 5. The names, street addresses, and telephone numbers of
589 the individuals or officers who have final responsibility for
590 the custody of the contributions and who will be responsible for
591 the final distribution of the contributions.

592 (7) The department must examine each initial registration
593 statement or annual renewal statement and the supporting
594 documents filed by a charitable organization or sponsor and
595 shall determine whether the registration requirements are
596 satisfied. Within 15 ~~10~~ working days after its receipt of a
597 statement, the department must examine the statement, notify the
598 applicant of ~~any~~ apparent errors or omissions, and request ~~any~~
599 additional information the department is allowed by law to
600 require. Failure to correct an error or omission or to supply
601 additional information is not grounds for denial of the initial
602 registration or annual renewal statement unless the department
603 has notified the applicant within the 15 ~~10~~-working-day period.
604 The department must approve or deny each statement, or must
605 notify the applicant that the activity for which she or he seeks
606 registration is exempt from the registration requirement, within
607 15 ~~10~~ working days after receipt of the initial registration or
608 annual renewal statement or the requested additional information
609 or correction of errors or omissions. A ~~Any~~ statement that is

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610 not approved or denied within 15 ~~10~~ working days after receipt
611 of the requested additional information or correction of errors
612 or omissions is approved. Within 7 working days after receipt of
613 a notification that the registration requirements are not
614 satisfied, the charitable organization or sponsor may request a
615 hearing. The hearing must be held within 7 working days after
616 receipt of the request, and the ~~any~~ recommended order, if one is
617 issued, must be rendered within 3 working days of the hearing.
618 The final order must then be issued within 2 working days after
619 the recommended order. If a recommended order is not issued, the
620 final order must be issued within 5 working days after the
621 hearing. The proceedings must be conducted in accordance with
622 chapter 120, except that the time limits and provisions set
623 forth in this subsection prevail to the extent of any conflict.

624 Section 10. Section 496.406, Florida Statutes, is amended
625 to read:

626 496.406 Exemption from registration. ~~The following~~
627 ~~charitable organizations and sponsors are exempt from the~~
628 ~~requirements of s. 496.405:~~

629 (1) The following charitable organizations and sponsors are
630 exempt from the requirements of s. 496.405:

631 (a) A person who is soliciting for a named individual,
632 provided that all the contributions collected without ~~any~~
633 deductions ~~whatsoever~~ are turned over to the beneficiary for her
634 or his use and provided that the person has complied with the
635 requirements of s. 496.413.

636 (b) ~~(2)~~ A charitable organization or sponsor that ~~which~~
637 limits solicitation of contributions to the membership of the
638 charitable organization or sponsor. For the purposes of this

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639 paragraph, the term "membership" does not include those persons
640 who are granted a membership upon making a contribution as a
641 result of a solicitation.

642 (c) ~~(3)~~ A Any division, department, post, or chapter of a
643 veterans' service organization granted a federal charter under
644 Title 36, United States Code.

645 (d) Charitable organizations or sponsors that have less
646 than \$25,000 in total revenue during a fiscal year, if the
647 fundraising activities of such organization or sponsor are
648 carried on by volunteers, members, or officers who are not
649 compensated and if no part of the assets or income of such
650 organization or sponsor inures to the benefit of or is paid to
651 an officer or member of such organization, sponsor, professional
652 fundraising consultant, professional solicitor, or commercial
653 co-venturer. If a charitable organization or sponsor that has
654 less than \$25,000 in total revenue during a fiscal year acquires
655 total revenue in excess of that amount, the charitable
656 organization or sponsor must register with the department as
657 required by s. 496.405 within 30 days after the date the revenue
658 reaches \$25,000.

659 (2) Before soliciting contributions, each charitable
660 organization or sponsor under paragraph (1) (d) claiming to be
661 exempt from the registration requirements specified in s.
662 496.405 shall submit annually to the department, on forms
663 prescribed by the department:

664 (a) The name, address, and phone number of the charitable
665 organization or sponsor, the name under which it intends to
666 solicit contributions, the purpose for which it is organized,
667 and the purpose or purposes for which the solicited

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668 contributions will be used.

669 (b) The tax exempt status of the organization.

670 (c) The date the organization's fiscal year ends.

671 (d) The names, street addresses, and telephone numbers of
672 the individuals or officers who have final responsibility for
673 the custody of the contributions and who will be responsible for
674 the final distribution of the contributions.

675 (e) A financial statement of support, revenue, and expenses
676 and a statement of functional expenses which must include, but
677 need not be limited to, expenses in the following categories:
678 program, management and general, and fundraising. In lieu of the
679 financial statement, a charitable organization or sponsor may
680 submit a copy of its Internal Revenue Service Form 990 with
681 attached schedules or 990-EZ with Schedule O.

682 (3) A charitable organization or sponsor claiming to be
683 exempt from the registration requirements of this chapter shall
684 submit such information that the department may request to
685 substantiate an exemption under this section. A charitable
686 organization or sponsor that fails to submit evidence
687 satisfactory to the department is not exempt from the
688 requirements of this chapter. In any proceeding, the burden of
689 proving an exemption is upon the organization or sponsor
690 claiming the exemption.

691 (4) Exemption from the registration requirements of s.
692 496.405 does not limit the applicability of other provisions of
693 this section to a charitable organization or sponsor.

694 Section 11. Subsection (2) of section 496.407, Florida
695 Statutes, is amended to read:

696 496.407 Financial report.—

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697 (2) In lieu of the financial report described in subsection
698 (1), a charitable organization or sponsor may submit a copy of
699 its Internal Revenue Service Form 990 and all attached schedules
700 ~~Schedule A~~ filed for the preceding fiscal year, or a copy of its
701 Form 990-EZ and Schedule O filed for the preceding fiscal year.

702 Section 12. Subsections (2), (3), and (6) of section
703 496.409, Florida Statutes, are amended to read:

704 496.409 Registration and duties of professional fundraising
705 consultant.—

706 (2) Applications for registration or renewal of
707 registration must be submitted on a form prescribed by the
708 department, signed by an authorized official of the professional
709 fundraising consultant who shall certify that the report is true
710 and correct ~~under oath~~, and must include the following
711 information:

712 (a) The street address and telephone number of the
713 principal place of business of the applicant and a any Florida
714 street addresses if the principal place of business is located
715 outside this state.

716 (b) The form of the applicant's business.

717 (c) The names and residence addresses of all principals of
718 the applicant, including all officers, directors, and owners.

719 (d) Whether any of the owners, directors, officers, or
720 employees of the applicant are related as parent, child, spouse,
721 or sibling to ~~any~~ other directors, officers, owners, or
722 employees of the applicant; to an any officer, director,
723 trustee, or employee of a any charitable organization or sponsor
724 under contract to the applicant; or to a any supplier or vendor
725 providing goods or services to a any charitable organization or

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726 sponsor under contract to the applicant.

727 (e) Whether the applicant or any of its officers,
728 directors, trustees, or employees have, within the last 10
729 years, regardless of adjudication, been convicted, or found
730 guilty of, or pled guilty or nolo contendere to, or have been
731 incarcerated within the last 10 years as a result of having
732 previously been convicted of, or found guilty of, or pled guilty
733 or nolo contendere to, a ~~any~~ felony and, if so, the name of such
734 person, the nature of the offense, the date of the offense, the
735 court having jurisdiction in the case, the date of conviction or
736 other disposition, and the disposition of the offense.

737 (f) Whether the applicant or any of its officers,
738 directors, trustees, or employees have, regardless of
739 adjudication, been convicted of, or found guilty of, or pled
740 guilty or nolo contendere to, or have been incarcerated within
741 the last 10 years as a result of having previously been
742 convicted of, or found guilty of, or pled guilty or nolo
743 contendere to, a crime within the last 10 years involving fraud,
744 theft, larceny, embezzlement, fraudulent conversion, or
745 misappropriation of property, or a ~~any~~ crime arising from the
746 conduct of a solicitation for a charitable organization or
747 sponsor and, if so, the name of such person, the nature of the
748 offense, the date of the offense, the court having jurisdiction
749 in the case, the date of conviction or other disposition, and
750 the disposition of the offense.

751 (g) Whether the applicant or any of its officers,
752 directors, trustees, or employees have been enjoined from
753 violating a ~~any~~ law relating to a charitable solicitation and,
754 if so, the name of such person, the date of the injunction, and

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755 the court issuing the injunction.

756 (3) The application for registration must be accompanied by
757 a fee of \$300. A professional fundraising consultant that ~~which~~
758 is a partnership or corporation may register for and pay a
759 single fee on behalf of all of its partners, members, officers,
760 directors, agents, and employees. In that case, the names and
761 street addresses of all the officers, employees, and agents of
762 the fundraising consultant and all other persons with whom the
763 fundraising consultant has contracted to work under its
764 direction must be listed in the application. Each registration
765 is valid for 1 year ~~or a part of 1 year and expires on March 31~~
766 ~~of each year~~. The registration may be renewed ~~on or before March~~
767 ~~31 of each year~~ for additional 1-year periods upon application
768 to the department and payment of the registration fee.

769 (6) The department shall examine each registration
770 statement and supporting documents filed by a professional
771 fundraising consultant and determine whether the registration
772 requirements are satisfied. If the department determines that
773 the registration requirements are not satisfied, the department
774 must notify the professional fundraising consultant within 15 ~~10~~
775 working days after its receipt of the registration statement;
776 otherwise the registration statement is approved. Within 7
777 working days after receipt of a notification that the
778 registration requirements are not satisfied, the applicant may
779 request a hearing. The hearing must be held within 7 working
780 days after receipt of the request, and the ~~any~~ recommended
781 order, if one is issued, must be rendered within 3 working days
782 after the hearing. The final order must then be issued within 2
783 working days after the recommended order. If there is no

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784 recommended order, the final order must be issued within 5
785 working days after the hearing. The proceedings must be
786 conducted in accordance with chapter 120, except that the time
787 limits and provisions set forth in this subsection prevail to
788 the extent of any conflict.

789 Section 13. Subsections (2), (3), (5), and (8) of section
790 496.410, Florida Statutes, are amended to read:

791 496.410 Registration and duties of professional
792 solicitors.—

793 (2) Applications for registration or renewal of
794 registration must be submitted on a form prescribed by rule of
795 the department, signed by an authorized official of the
796 professional solicitor who shall certify that the report is true
797 and correct ~~under oath~~, and must include the following
798 information:

799 (a) The street address and telephone number of the
800 principal place of business of the applicant and a ~~any~~ Florida
801 street addresses if the principal place of business is located
802 outside this state.

803 (b) The form of the applicant's business.

804 (c) The place and date when the applicant, if other than an
805 individual, was legally established.

806 (d) The names and residence addresses of all principals of
807 the applicant, including all officers, directors, and owners.

808 (e) A statement as to whether any of the owners, directors,
809 officers, or employees of the applicant are related as parent,
810 spouse, child, or sibling to ~~any~~ other directors, officers,
811 owners, or employees of the applicant; to an ~~any~~ officer,
812 director, trustee, or employee of a ~~any~~ charitable organization

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813 or sponsor under contract to the applicant; or to a ~~any~~ supplier
814 or vendor providing goods or services to a ~~any~~ charitable
815 organization or sponsor under contract to the applicant.

816 (f) A statement as to whether the applicant or any of its
817 directors, officers, trustees, persons with a controlling
818 interest in the applicant, or employees or agents involved in
819 solicitation have, within the last 10 years, regardless of
820 adjudication, been convicted of, or found guilty of, or pled
821 guilty or nolo contendere to, or have been incarcerated within
822 the last 10 years as a result of having previously been
823 convicted of, or found guilty of, or pled guilty or nolo
824 contendere to, a ~~any~~ felony and, if so, the name of such person,
825 the nature of the offense, the date of the offense, the court
826 having jurisdiction in the case, the date of conviction or other
827 disposition, and the disposition of the offense.

828 (g) A statement as to whether the applicant or any of its
829 directors, officers, trustees, persons with a controlling
830 interest in the applicant, or employees or agents involved in
831 solicitation have, regardless of adjudication, been convicted
832 of, or found guilty of, or pled guilty or nolo contendere to, or
833 have been incarcerated within the last 10 years as a result of
834 having previously been convicted of, or found guilty of, or pled
835 guilty or nolo contendere to, a crime within the last 10 years
836 involving fraud, theft, larceny, embezzlement, fraudulent
837 conversion, or misappropriation of property, or a ~~any~~ crime
838 arising from the conduct of a solicitation for a charitable
839 organization or sponsor and, if so, the name of such person, the
840 nature of the offense, the date of the offense, the court having
841 jurisdiction in the case, the date of conviction or other

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842 disposition, and the disposition of the offense.

843 (h) A statement as to whether the applicant or any of its
844 directors, officers, trustees, persons with a controlling
845 interest in the applicant, or employees or agents involved in
846 solicitation have been enjoined from violating a ~~any~~ law
847 relating to a charitable solicitation and, if so, the name of
848 such person, the date of the injunction, and the court issuing
849 the injunction.

850 (i) The names of all persons in charge of ~~any~~ solicitation
851 activity.

852 (3) The application for registration must be accompanied by
853 a fee of \$300. A professional solicitor that is a partnership or
854 corporation may register for and pay a single fee on behalf of
855 all of its partners, members, officers, directors, agents, and
856 employees. In that case, the names and street addresses of all
857 the officers, employees, and agents of the professional
858 solicitor and all other persons with whom the professional
859 solicitor has contracted to work under its direction, including
860 solicitors, must be listed in the application or furnished to
861 the department within 5 days after the date of employment or
862 contractual arrangement. Each registration is valid for 1 year
863 ~~or a part of 1 year and expires on March 31 of each year.~~ The
864 registration may be renewed ~~on or before March 31 of each year~~
865 for an additional 1-year period upon application to the
866 department and payment of the registration fee.

867 (5) The department must examine each registration statement
868 and supporting documents filed by a professional solicitor. If
869 the department determines that the registration requirements are
870 not satisfied, the department must notify the professional

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871 solicitor within 15 ~~10~~ working days after its receipt of the
872 registration statement; otherwise the registration statement is
873 approved. Within 7 working days after receipt of a notification
874 that the registration requirements are not satisfied, the
875 applicant may request a hearing. The hearing must be held within
876 7 working days after receipt of the request, and the ~~any~~
877 recommended order, if one is issued, must be rendered within 3
878 working days after the hearing. The final order must then be
879 issued within 2 working days after the recommended order. If
880 there is no recommended order, the final order must be issued
881 within 5 working days after the hearing. The proceedings must be
882 conducted in accordance with chapter 120, except that the time
883 limits and provisions set forth in this subsection prevail to
884 the extent of any conflict.

885 (8) Within 45 ~~90~~ days after a solicitation campaign has
886 been completed and within 45 days after ~~on~~ the anniversary of
887 the commencement of a solicitation campaign lasting more than 1
888 year, the professional solicitor must provide to the charitable
889 organization or sponsor and file with the department a financial
890 report of the campaign, including the gross revenue received and
891 an itemization of all expenses incurred. The report must be
892 completed on a form prescribed by the department and signed by
893 an authorized official of the professional solicitor who shall
894 certify ~~under oath~~ that the report is true and correct.

895 Section 14. Subsections (3) and (6) of section 496.411,
896 Florida Statutes, are amended to read:

897 496.411 Disclosure requirements and duties of charitable
898 organizations and sponsors.—

899 (3) Every charitable organization or sponsor that ~~which~~ is

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900 required to register under s. 496.405 must conspicuously display
901 ~~in capital letters the following statement~~ on every printed
902 solicitation, written confirmation, receipt, or reminder of a
903 contribution:

904 (a) Its registration number; and
905 (b) The following statement written in capital letters
906 which must include a toll-free telephone number for the division
907 which can be used to obtain the registration information:

908
909 "A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL
910 INFORMATION MAY BE OBTAINED FROM THE DIVISION OF
911 CONSUMER SERVICES BY CALLING TOLL-FREE WITHIN THE
912 STATE. REGISTRATION DOES NOT IMPLY ENDORSEMENT,
913 APPROVAL, OR RECOMMENDATION BY THE STATE."

914
915 ~~If The statement must include a toll-free number for the~~
916 ~~division that can be used to obtain the registration~~
917 ~~information. When the solicitation consists of more than a~~
918 ~~single item one piece, the registration number and statement~~
919 ~~must be displayed prominently in the solicitation materials.~~

920 ~~(6) Each charitable organization or sponsor that is~~
921 ~~required to register under s. 496.405 shall conspicuously~~
922 ~~display the following information on every printed solicitation,~~
923 ~~written confirmation, receipt, or reminder of a contribution:~~

924 ~~(a) The organization's or sponsor's registration number~~
925 ~~issued by the department under this chapter.~~

926 ~~(b) The percentage, if any, of each contribution that is~~
927 ~~retained by any professional solicitor that has contracted with~~
928 ~~the organization or sponsor.~~

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929 ~~(c) The percentage of each contribution that is received by~~
930 ~~the organization or sponsor.~~

931

932 ~~If the solicitation consists of more than a single item, the~~
933 ~~statement shall be displayed prominently in the solicitation~~
934 ~~materials.~~

935 Section 15. Subsection (2) of section 496.415, Florida
936 Statutes, is amended to read:

937 496.415 Prohibited acts.—It is unlawful for any person in
938 connection with the planning, conduct, or execution of any
939 solicitation or charitable or sponsor sales promotion to:

940 (2) Knowingly file false, ~~or~~ misleading, or inaccurate
941 information in a any document required to be filed with the
942 department, provided to the public, or in response to a any
943 request or investigation by the department, the Department of
944 Legal Affairs, or the State Attorney.

945 Section 16. Present subsections (4) through (9) of section
946 496.419, Florida Statutes, are redesignated as subsections (5)
947 through (10), respectively, a new subsection (4) is added to
948 that section, and present subsections (4) through (9) are
949 amended, to read:

950 496.419 Powers of the department.—

951 (4) A violation of s. 496.415(3), (5), (6), (10), (12),
952 (13), or (14) constitutes an immediate threat to the public
953 health, safety, and welfare and is sufficient grounds for the
954 department to issue an immediate order to cease and desist all
955 solicitation activities. The order acts as an immediate final
956 order under s. 120.569(2)(n) and shall remain in effect until
957 the violation has been remedied pursuant to this part.

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958 (5)~~(4)~~ The department may enter an order imposing one or
959 more of the penalties set forth in subsection (6) ~~(5)~~ if the
960 department finds that a charitable organization, sponsor,
961 professional fundraising consultant, or professional solicitor,
962 or an agent, servant, or employee thereof has:

963 (a) Violated or is operating in violation of ~~any of the~~
964 ~~provisions of~~ ss. 496.401-496.424 or s. 496.426 or of the rules
965 adopted or orders issued thereunder;

966 (b) Made a material false statement in an application,
967 statement, or report required to be filed under ss. 496.401-
968 496.424 or s. 496.426;

969 (c) Refused or failed, or any of its principal officers has
970 refused or failed, after notice, to produce the ~~any~~ records of
971 such organization or to disclose ~~any~~ information required to be
972 disclosed under ss. 496.401-496.424 or s. 496.426 or the rules
973 of the department; or

974 (d) Made a material false statement in response to a ~~any~~
975 request or investigation by the department, the Department of
976 Legal Affairs, or the State Attorney.

977 (6)~~(5)~~ Upon a finding as set forth in subsection (5) ~~(4)~~,
978 the department may enter an order doing one or more of the
979 following:

980 (a) Issuing a notice of noncompliance pursuant to s.
981 120.695;

982 (b) Issuing a cease and desist order that directs that the
983 person cease and desist specified fundraising activities;

984 (c) Refusing to register or canceling or suspending a
985 registration;

986 (d) Placing the registrant on probation for a period of

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987 time, subject to such conditions as the department may specify;

988 (e) Canceling an exemption granted under s. 496.406; and

989 (f) Imposing an administrative fine not to exceed \$1,000
990 for each act or omission that ~~which~~ constitutes a violation of
991 ss. 496.401-496.424 or s. 496.426 or a rule or order.

992

993 With respect to a s. 501(c)(3) organization, the penalty imposed
994 pursuant to this subsection may ~~shall~~ not exceed \$500 per
995 violation. The penalty is ~~shall be~~ the entire amount per
996 violation and may ~~is~~ not ~~to~~ be interpreted as a daily penalty.

997 (7) ~~(6)~~ Except as otherwise provided in this section, the
998 administrative proceedings that could result in the entry of an
999 order imposing ~~any~~ of the penalties specified in subsection (6)
1000 ~~(5)~~ are governed by chapter 120, except that the applicable
1001 provisions and time limits specified in s. 496.405(7), s.
1002 496.409(6), or s. 496.410(5) apply if the department determines
1003 that a registration should be refused.

1004 (8) ~~(7)~~ The department may forward an investigative report
1005 and supporting documentation of an ~~any~~ investigation conducted
1006 pursuant to this section to the Department of Legal Affairs. The
1007 report must identify proposed ~~any~~ administrative actions or
1008 actions that ~~are proposed or~~ have been commenced by the
1009 department in accordance with subsection (5) ~~(4)~~.

1010 (9) ~~(8)~~ The department shall report a ~~any~~ substantiated
1011 criminal violation of ss. 496.401-496.424 or s. 496.426 to the
1012 proper prosecuting authority for prompt prosecution.

1013 (10) ~~(9)~~ All fines collected by the department under
1014 subsection (6) ~~(5)~~ must be paid into the General Inspection
1015 Trust Fund.

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1016 Section 17. Subsections (1), (2), and (4) of section
1017 501.016, Florida Statutes, are amended to read:

1018 501.016 Health studios; security requirements.—Each health
1019 studio that sells contracts for health studio services shall
1020 meet the following requirements:

1021 (1) Each health studio shall maintain for each separate
1022 business location a bond issued by a surety company admitted to
1023 do business in this state. The principal sum of the bond must be
1024 \$25,000 ~~shall be \$50,000~~, and the bond, when required, shall be
1025 obtained before a business tax receipt may be issued under
1026 chapter 205. Upon issuance of a business tax receipt, the
1027 licensing authority shall immediately notify the department of
1028 such issuance in a manner established by the department by rule.
1029 The bond shall be in favor of the state for the benefit of any
1030 person injured as a result of a violation of ss. 501.012-
1031 501.019. The aggregate liability of the surety to all persons
1032 for all breaches of the conditions of such ~~the~~ bonds may not
1033 ~~provided herein shall in no event~~ exceed the amount of the bond.
1034 The original surety bond required by this section shall be filed
1035 with the department.

1036 (2) In lieu of maintaining the bond required in subsection
1037 (1), the health studio may furnish to the department:

1038 (a) An irrevocable letter of credit from a ~~any~~ foreign or
1039 domestic bank in the amount of \$25,000 ~~\$50,000~~; or

1040 (b) A guaranty agreement that ~~which~~ is secured by a
1041 certificate of deposit in the amount of \$25,000 ~~\$50,000~~.

1042

1043 The original letter of credit or certificate of deposit
1044 submitted in lieu of the bond shall be filed with the

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1045 department. The department shall determine ~~decide~~ whether the
1046 security furnished in lieu of bond by the health studio is in
1047 compliance with the requirements of this section.

1048 (4) If the health studio furnishes the department with
1049 evidence satisfactory to the department that the aggregate
1050 dollar amount of all current outstanding contracts of the health
1051 studio is less than \$5,000, the department may, at its
1052 discretion, reduce the principal amount of the surety bond or
1053 other sufficient financial responsibility required in
1054 subsections (1) and (2) to a sum of not less than \$10,000.
1055 However, the health studio shall notify the department ~~at~~ any
1056 time the aggregate dollar amount of such contracts exceeds
1057 \$5,000, ~~the health studio shall so notify the department and~~
1058 shall thereupon provide the bond or other documentation as
1059 required in subsections (1) and (2). Health studios whose bonds
1060 have been reduced must provide the department with an annually
1061 updated list of members. The department shall raise the security
1062 requirement to \$25,000 for a health studio that fails ~~Failure to~~
1063 ~~file an annual report will result in the department raising the~~
1064 ~~security requirement to \$50,000.~~

1065 Section 18. Subsection (4) of section 501.059, Florida
1066 Statutes, is amended to read:

1067 501.059 Telephone solicitation.—

1068 (4) (a) A ~~No~~ telephone solicitor may not ~~shall~~ make or cause
1069 to be made any unsolicited telephonic sales call to a ~~any~~
1070 residential, mobile, or telephonic paging device telephone
1071 number if the number for that telephone appears in the then-
1072 current quarterly listing published by the department. A ~~Any~~
1073 telephone solicitor or person who offers for sale ~~any~~ consumer

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1074 information that ~~which~~ includes residential, mobile, or
1075 telephonic paging device telephone numbers, except directory
1076 assistance and telephone directories sold by telephone companies
1077 and organizations exempt under s. 501(c)(3) or (6) of the
1078 Internal Revenue Code, shall screen and exclude those numbers
1079 that ~~which~~ appear on the division's then-current "no sales
1080 solicitation calls" list. This subsection does not apply to a
1081 ~~any~~ person licensed pursuant to chapter 475 who calls an actual
1082 or prospective seller or lessor of real property when such call
1083 is made in response to a yard sign or other form of
1084 advertisement placed by the seller or lessor.

1085 (b) A person is in violation of this subsection if the
1086 person initiates an outbound telephonic sales call to a consumer
1087 who has previously communicated to the telephone solicitor that
1088 he or she does not wish to receive an outbound telephone call:

1089 1. Made by or on behalf of the seller whose goods or
1090 services are being offered; or

1091 2. Made by or on behalf of a charitable organization for
1092 which a charitable contribution is being solicited.

1093 Section 19. Subsections (1) and (2) of section 501.603,
1094 Florida Statutes, are amended to read:

1095 501.603 Definitions.—As used in this part, unless the
1096 context otherwise requires, the term:

1097 (1) "Commercial telephone solicitation" means:

1098 (a) An unsolicited telephone call to a person initiated by
1099 a commercial telephone seller or salesperson, or an automated
1100 dialing machine used in accordance with the provisions of s.
1101 501.059(7) for the purpose of inducing the person to purchase or
1102 invest in consumer goods or services;

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- 1103 (b) Other communication with a person where:
1104 1. A gift, award, or prize is offered; or
1105 2. A telephone call response is invited; and
1106 3. The salesperson intends to complete a sale or enter into
1107 an agreement to purchase or invest in consumer goods or services
1108 during the course of the telephone call; or
- 1109 (c) Other communication with a person which represents a
1110 price, quality, or availability of consumer goods or services
1111 and which invites a response by telephone or which is followed
1112 by a call to the person by a salesperson.

1113
1114 For purposes of this section, "other communication" means a
1115 written or oral notification or advertisement transmitted
1116 through any means. Also, for purposes of this section, "invites
1117 a response by telephone" does not mean the mere listing or
1118 including of a telephone number in a notification or
1119 advertisement.

1120 (2) "Commercial telephone seller" means a ~~any~~ person who
1121 engages in commercial telephone solicitation on his or her own
1122 behalf or through salespersons, except that a commercial
1123 telephone seller does not include ~~any of the~~ persons or entities
1124 operating under a properly filed and valid affidavit of
1125 exemption pursuant to ~~exempted from this part by~~ s. 501.604. A
1126 commercial telephone seller does not include a salesperson as
1127 defined in subsection (10). A commercial telephone seller
1128 includes, but is not limited to, owners, operators, officers,
1129 directors, partners, or other individuals engaged in the
1130 management activities of a business entity pursuant to this
1131 part.

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1132 Section 20. Subsections (4), (7), (10), (14), and (24) of
1133 section 501.604, Florida Statutes, are amended to read:

1134 501.604 Exemptions.—The provisions of this part, except ss.
1135 501.608 and 501.616(6) and (7), do not apply to:

1136 (4) A ~~Any~~ licensed securities, commodities, or investment
1137 broker, dealer, or investment adviser, when soliciting within
1138 the scope of his or her license, or a ~~any~~ licensed associated
1139 person of a securities, commodities, or investment broker,
1140 dealer, or investment adviser, when soliciting within the scope
1141 of his or her license. As used in this section, "licensed
1142 securities, commodities, or investment broker, dealer, or
1143 investment adviser" means a person subject to license or
1144 registration as such by the Securities and Exchange Commission,
1145 by the Financial Industry Regulatory Authority ~~National~~
1146 ~~Association of Securities Dealers~~ or other self-regulatory
1147 organization as defined by the Securities Exchange Act of 1934,
1148 15 U.S.C. s. 781, or by an official or agency of this or another
1149 ~~state or of any state~~ of the United States. As used in this
1150 section, "licensed associated person of a securities,
1151 commodities, or investment broker, dealer, or investment
1152 adviser" means an ~~any~~ associated person registered or licensed
1153 by the Financial Industry Regulatory Authority ~~National~~
1154 ~~Association of Securities Dealers~~ or other self-regulatory
1155 organization as defined by the Securities Exchange Act of 1934,
1156 15 U.S.C. s. 781, or by an official or agency of this or another
1157 ~~state or of any state~~ of the United States.

1158 (7) A ~~Any~~ supervised financial institution or parent,
1159 subsidiary, or affiliate thereof operating within the scope of
1160 the supervised activity. As used in this section, "supervised

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1161 financial institution" means a ~~any~~ commercial bank, trust
1162 company, savings and loan association, mutual savings bank,
1163 credit union, industrial loan company, consumer finance lender,
1164 commercial finance lender, or insurer, provided that the
1165 institution is subject to supervision by an official or agency
1166 of this state, of any state, or of the United States. For the
1167 purposes of this exemption, "affiliate" means a person who
1168 directly, or indirectly through one or more intermediaries,
1169 controls or is controlled by, or is under common control with, a
1170 supervised financial institution.

1171 (10) A business-to-business sale where:

1172 (a) The commercial telephone seller has been lawfully
1173 operating continuously for at least 3 years under the same
1174 business name and has at least 50 percent of its dollar volume
1175 consisting of repeat sales to existing businesses;

1176 (b) The purchaser business intends to resell or offer for
1177 purposes of advertisement or as a promotional item the property
1178 or goods purchased; or

1179 (c) The purchaser business intends to use the property or
1180 goods purchased in a recycling, reuse, remanufacturing, or
1181 manufacturing process.

1182 (14) A telephone company subject to the provisions of
1183 chapter 364, or affiliate thereof or its agents, or a
1184 telecommunications business that ~~which~~ is regulated by the
1185 Florida Public Service Commission, or a Federal Communications
1186 Commission licensed cellular telephone company or other bona
1187 fide radio telecommunication services provider. For the purposes
1188 of this exemption, "affiliate" means a person who directly, or
1189 indirectly through one or more intermediaries, controls or is

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1190 controlled by, or is under common control with, a telephone
1191 company subject to the provisions of chapter 364.

1192 (24) An entity that ~~Any person which~~ has been lawfully
1193 providing telemarketing sales services continuously for at least
1194 5 years under the same ownership and control and that ~~which~~
1195 derives 75 percent of its gross telemarketing sales revenues
1196 from contracts with persons exempted in this section.

1197 Section 21. Present paragraphs (c) through (h) of
1198 subsection (1) of section 501.607, Florida Statutes, are
1199 redesignated as paragraphs (b) through (g), respectively, and
1200 present paragraph (b) of subsection (1) of that section is
1201 amended, to read:

1202 501.607 Licensure of salespersons.—

1203 (1) An applicant for a license as a salesperson must submit
1204 to the department, in such form as it prescribes, a written
1205 application for a license. The application must set forth the
1206 following information:

1207 ~~(b) Each business or occupation engaged in by the applicant~~
1208 ~~during the 3 years immediately preceding the date of the~~
1209 ~~application, and the location thereof.~~

1210 Section 22. Paragraph (b) of subsection (1) and subsections
1211 (2) and (3) of section 501.608, Florida Statutes, are amended to
1212 read:

1213 501.608 License or affidavit of exemption; occupational
1214 license.—

1215 (1)

1216 (b) A ~~Any~~ commercial telephone seller that claims ~~claiming~~
1217 to be exempt from the act under s. 501.604(2), (3), (5), (6),
1218 (9), (10), (11), (12), (17), (21), (22), (24), or (26) must file

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1219 with the department a notarized affidavit of exemption. The
1220 affidavit of exemption must be on forms prescribed by the
1221 department and must require the name of the commercial telephone
1222 seller, the name of the business, and the business address. A
1223 ~~Any~~ commercial telephone seller that maintains ~~maintaining~~ more
1224 than one business may file a single notarized affidavit of
1225 exemption that clearly indicates the location of each place of
1226 business. If a change of ownership occurs, the commercial
1227 telephone seller must notify the department. At the request of
1228 the department, the commercial telephone seller shall provide
1229 sales scripts, contracts, and other documentation in order to
1230 determine if the affidavit of exemption is appropriate before
1231 accepting such affidavit for filing.

1232 (2) Each licensee or person operating under a valid and
1233 appropriately filed exemption ~~claiming an exemption~~ shall
1234 prominently display his or her license or a copy of his or her
1235 receipt of filing of the affidavit of exemption at each location
1236 where he or she does business. Each licensee or person claiming
1237 an exemption shall make the license or the receipt of filing
1238 ~~copy~~ of the affidavit of exemption available for inspection upon
1239 request by a ~~by any~~ governmental agency ~~upon request~~.

1240 (3) Failure to obtain or display a license or ~~a copy of the~~
1241 receipt of filing of an affidavit of exemption is sufficient
1242 grounds for the department to issue an immediate cease and
1243 desist order, which acts ~~shall act~~ as an immediate final order
1244 under s. 120.569(2)(n). The order shall ~~may~~ remain in effect
1245 until the commercial telephone seller or a person claiming to be
1246 exempt shows the authorities that he or she is properly licensed
1247 or exempt. The department may order the business to cease

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1248 operations and shall order the phones to be shut off. Failure of
1249 a salesperson to display a license or the receipt of filing of
1250 an affidavit of exemption may result in the salesperson being
1251 summarily ordered by the department to leave the office until he
1252 or she can produce a license or a receipt of filing of an
1253 affidavit of exemption for the department.

1254 Section 23. Subsection (3) of section 501.611, Florida
1255 Statutes, is amended to read:

1256 501.611 Security.—

1257 (3) The bond shall be posted with the department and must
1258 remain in force throughout the period of licensure with the
1259 department.

1260 Section 24. Subsection (12) of section 501.615, Florida
1261 Statutes, is amended to read:

1262 501.615 Written contract; cancellation; refund.—

1263 (12) A sale in which the consumer is given a full refund
1264 for the return of undamaged and unused goods or in which a
1265 cancellation of services notice is given to the seller within 7
1266 days after the date of the sale is exempt from the requirements
1267 of subsections (1)-(5). A commercial telephone seller or
1268 salesperson engaged in activity regulated by chapter 721 must
1269 comply with s. 721.205 ~~Exempt from the requirements of~~
1270 ~~subsections (1)-(5) is any sale in which the consumer is given a~~
1271 ~~full refund for the return of undamaged and unused goods or a~~
1272 ~~cancellation of services notice is given to the seller, within 7~~
1273 ~~days after receipt of the goods or services by the consumer, and~~
1274 ~~the seller shall process the refund within 30 days after receipt~~
1275 ~~of the returned merchandise by the consumer.~~

1276 Section 25. Subsection (1) of section 501.617, Florida

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1277 Statutes, is amended to read:

1278 501.617 Investigative powers of enforcing authority.—

1279 (1) If, by her or his own inquiries or as a result of
1280 complaints, the enforcing authority has reason to believe that a
1281 person has engaged in, or is engaging in, an act or practice
1282 that violates the provisions of this part, she or he may
1283 administer oaths and affirmations, subpoena witnesses or matter,
1284 conduct regulatory inspections, and collect evidence. Within 10
1285 days after the service of a subpoena or at any time before the
1286 return date specified therein, whichever is longer, the party
1287 served may file in the circuit court in the county in which she
1288 or he resides or in which she or he transacts business and serve
1289 upon the enforcing authority a petition for an order modifying
1290 or setting aside the subpoena. The petitioner may raise an ~~any~~
1291 objection or privilege that ~~which~~ would be available under this
1292 part or upon service of such subpoena in a civil action. The
1293 subpoena must ~~shall~~ inform the party served of her or his rights
1294 under this subsection.

1295 Section 26. Subsection (10) is added to section 507.03,
1296 Florida Statutes, to read:

1297 507.03 Registration.—

1298 (10) Upon the request of the department, each moving broker
1299 shall provide a complete list of the movers it has contracted or
1300 affiliated with, advertises on behalf of, arranges moves for, or
1301 to which it refers shippers. Such list, at a minimum, must
1302 include the mover's complete name, address, telephone number,
1303 email address, and name of the owner or other principal.

1304 Section 27. Subsections (7) and (8) are added to section
1305 507.07, Florida Statutes, to read:

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1306 507.07 Violations.—It is a violation of this chapter to:

1307 (7) Conduct business as a moving broker, advertise to
1308 engage in the business of a moving broker, or offer to perform a
1309 move through a subcontract or agreement with a mover who is not
1310 registered with the department under this part.

1311 (8) Conduct business as a mover, advertise to engage in the
1312 business of moving, or offer to perform a move through a
1313 subcontract or agreement with a moving broker who is not
1314 registered with the department pursuant to the provisions on
1315 this part.

1316 Section 28. Paragraph (c) of subsection (1) of section
1317 525.01, Florida Statutes, is amended to read:

1318 525.01 Gasoline and oil to be inspected.—

1319 (1) For the purpose of this chapter:

1320 (c) "Alternative fuel" means:

1321 1. Methanol, denatured ethanol, or other alcohols;

1322 2. Mixtures of gasoline or other fuels with methanol,
1323 denatured ethanol, or other alcohols ~~Mixtures containing 85~~
1324 ~~percent or more by volume of methanol, denatured ethanol, or~~
1325 ~~other alcohols with gasoline or other fuels, or such other~~
1326 ~~percentage, but not less than 70 percent, as determined by the~~
1327 ~~department by rule, to provide for requirements relating to cold~~
1328 ~~start, safety, or vehicle functions;~~

1329 3. Hydrogen;

1330 4. Coal-derived liquid fuels; and

1331 5. Fuels, other than alcohol, derived from biological
1332 materials.

1333 Section 29. Subsections (2) through (4) of section 525.09,
1334 Florida Statutes, are repealed.

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1335 Section 30. Section 525.10, Florida Statutes, is amended to
1336 read:

1337 525.10 ~~Moneys to be paid into State Treasury;~~ Payment of
1338 expenses. ~~All moneys payable under this chapter shall be payable~~
1339 ~~to the department and shall be paid by it into the State~~
1340 ~~Treasury monthly to be deposited into the General Inspection~~
1341 ~~Trust Fund.~~ All expenses incurred in the enforcement of this
1342 chapter and other inspection laws of this state for which fees
1343 or taxes are collected, including acquiring equipment and other
1344 property, shall be paid from the General Inspection Trust Fund.
1345 No money may ~~shall~~ be paid to an ~~any~~ inspector or employee
1346 created under this chapter except from the funds collected from
1347 the administration of this chapter.

1348 Section 31. Present subsections (3) and (4) of section
1349 525.16, Florida Statutes, are renumbered as subsections (4) and
1350 (5), respectively, and a new subsection (3) is added to that
1351 section, to read:

1352 525.16 Administrative fine; penalties; prosecution of cases
1353 by state attorney.-

1354 (3) Entities that sell, offer for sale, distribute, or
1355 offer for distribution petroleum or alternative fuels shall
1356 ensure that their activities result in petroleum fuels that meet
1357 all requirements and standards adopted under s 525.14. A
1358 terminal supplier, wholesaler, or blender licensed under chapter
1359 206 is not liable for injuries or damages resulting from the
1360 subsequent blending of petroleum or alternative fuels occurring
1361 after the transfer of ownership of such fuels from the terminal
1362 supplier, wholesaler, or blender if the petroleum or alternative
1363 fuels used to make the petroleum fuel at issue met the standards

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1364 and requirements adopted by rule of the department under s.
1365 525.14 while under ownership of the terminal supplier,
1366 wholesaler, or blender.

1367 Section 32. Present subsection (7) of section 526.141,
1368 Florida Statutes, is renumbered as subsection (8), and a new
1369 subsection (7) is added to that section, to read:

1370 526.141 Self-service gasoline stations; attendants;
1371 regulations.—

1372 (7) A refiner, terminal supplier, wholesaler, or retailer
1373 is not liable for damages caused by the use of incompatible
1374 motor fuel dispensed at a retail site if:

1375 (a) The incompatible fuel meets the standards adopted under
1376 s. 525.14;

1377 (b) The incompatible fuel is selected by the purchaser; and

1378 (c) The retail dispenser from which the incompatible fuel
1379 is dispensed was properly labeled with regard to the
1380 incompatible fuel pursuant to labeling requirements adopted
1381 under s. 525.14.

1382 Section 33. Subsection (20) is added to section 527.01,
1383 Florida Statutes, to read:

1384 527.01 Definitions.—As used in this chapter:

1385 (20) "License year" means the period from either September
1386 1 through the following August 31, or April 1 through the
1387 following March 31, depending upon the type of license.

1388 Section 34. Subsections (1) and (3) and paragraphs (a) and
1389 (c) of subsection (5) of section 527.0201, Florida Statutes, are
1390 amended to read:

1391 527.0201 Qualifiers; master qualifiers; examinations.—

1392 (1) In addition to the requirements of s. 527.02, a any

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1393 person applying for a license to engage in the activities of a
1394 pipeline system operator, category I liquefied petroleum gas
1395 dealer, category II liquefied petroleum gas dispenser, category
1396 IV liquefied petroleum gas dispenser and recreational vehicle
1397 servicer, category V liquefied petroleum gases dealer for
1398 industrial uses only, LP gas installer, specialty installer,
1399 requalifier ~~requalification~~ of cylinders, or fabricator,
1400 repairer, and tester of vehicles and cargo tanks must prove
1401 competency by passing a written examination administered by the
1402 department or its agent with a grade of at least 75 percent in
1403 each area tested ~~or above~~. Each applicant for examination shall
1404 submit a \$20 nonrefundable fee. The department shall by rule
1405 specify the general areas of competency to be covered by each
1406 examination and the relative weight to be assigned in grading
1407 each area tested.

1408 (3) Qualifier cards issued to category I liquefied
1409 petroleum gas dealers and liquefied petroleum gas installers
1410 ~~shall~~ expire 3 years after the date of issuance. All category I
1411 liquefied petroleum gas dealer qualifiers and liquefied
1412 petroleum gas installer qualifiers holding a valid qualifier
1413 card upon the effective date of this act ~~shall~~ retain their
1414 qualifier status until July 1, 2003, and may sit for the master
1415 qualifier examination at any time during that time period. All
1416 such category I liquefied petroleum gas dealer qualifiers and
1417 liquefied petroleum gas installer qualifiers may renew their
1418 qualification on or before July 1, 2003, upon application to the
1419 department, payment of a \$20 renewal fee, and documentation of
1420 the completion of a minimum of 16 ~~12~~ hours approved continuing
1421 education courses, as defined by department rule, during the

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1422 previous 3-year period. Applications for renewal must be made 30
1423 calendar days before ~~prior to~~ expiration. Persons failing to
1424 renew before ~~prior to~~ the expiration date must reapply and take
1425 a qualifier competency examination in order to reestablish
1426 category I liquefied petroleum gas dealer qualifier and
1427 liquefied petroleum gas installer qualifier status. If a
1428 category I liquefied petroleum gas qualifier or liquefied
1429 petroleum gas installer qualifier becomes a master qualifier at
1430 any time during the effective date of the qualifier card, the
1431 card remains ~~shall remain~~ in effect until expiration of the
1432 master qualifier certification.

1433 (5) In addition to all other licensing requirements, each
1434 category I liquefied petroleum gas dealer and liquefied
1435 petroleum gas installer must, at the time of application for
1436 licensure, identify to the department one master qualifier who
1437 is a full-time employee at the licensed location. The master
1438 qualifier must ~~This person shall~~ be a manager, owner, or
1439 otherwise primarily responsible for overseeing the operations of
1440 the licensed location and must provide documentation to the
1441 department as provided by rule. The master qualifier requirement
1442 is ~~shall be~~ in addition to the requirements of subsection (1).

1443 (a) In order to apply for certification as a master
1444 qualifier, each applicant must be a category I liquefied
1445 petroleum gas dealer qualifier or liquefied petroleum gas
1446 installer qualifier, must be employed by a licensed category I
1447 liquefied petroleum gas dealer, liquefied petroleum gas
1448 installer, or applicant for such license, must provide
1449 documentation of a minimum of 1 year's work experience in the
1450 gas industry, and must pass a master qualifier competency

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1451 examination. Master qualifier examinations shall be based on
1452 Florida's laws, rules, and adopted codes governing liquefied
1453 petroleum gas safety, general industry safety standards, and
1454 administrative procedures. The applicant must pass the
1455 ~~examination must be successfully completed by the applicant~~ with
1456 a grade of at least 75 percent ~~or more~~. Each applicant for
1457 master qualifier status shall submit to the department a
1458 nonrefundable \$30 examination fee before ~~prior to~~ the
1459 examination.

1460 (c) Master qualifier status expires ~~shall expire~~ 3 years
1461 after the date of issuance of the certificate and may be renewed
1462 by submission to the department of documentation of completion
1463 of at least 16 ~~12~~ hours of approved continuing education courses
1464 during the 3-year period; proof of employment with a licensed
1465 category I liquefied petroleum gas dealer, liquefied petroleum
1466 gas installer, or applicant; and a \$30 certificate renewal fee.
1467 The department shall define, by rule, approved courses of
1468 continuing education.

1469 Section 35. Section 527.03, Florida Statutes, is amended to
1470 read:

1471 527.03 Annual renewal of license.—All licenses required
1472 under this chapter shall be renewed annually subject to the
1473 license fees prescribed in s. 527.02. With the exception of the
1474 Category III Liquefied Petroleum Gas Cylinder Exchange Operator
1475 license and the Dealer in Appliances and Equipment for Use of
1476 Liquefied Petroleum Gas license, all licenses shall be renewed
1477 for the period beginning September 1 and ~~shall~~ expire on the
1478 following August 31 unless sooner suspended, revoked, or
1479 otherwise terminated. All Category III Liquefied Petroleum Gas

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1480 Cylinder Exchange Operator licenses and Dealer in Appliances and
 1481 Equipment for Use of Liquefied Petroleum Gas licenses shall be
 1482 renewed for the period beginning April 1 and expire on the
 1483 following March 31 unless sooner suspended, revoked, or
 1484 otherwise terminated. A ~~Any~~ license allowed to expire becomes ~~on~~
 1485 ~~August 31 shall become~~ inoperative because of failure to renew.
 1486 The fee for restoration of a license is equal to the original
 1487 license fee and must be paid before the licensee may resume
 1488 operations.

1489 Section 36. Subsection (3) of section 531.415, Florida
 1490 Statutes, is amended to read:

1491 531.415 Fees.—

1492 (3) ~~Any petroleum product taxed under s. 525.09 and any~~
 1493 Petroleum equipment that is used to measure petroleum fuel, as
 1494 defined in s. 525.01, and owned by a person licensed pursuant to
 1495 chapter 206 is exempt from the fees established in this section.

1496 Section 37. Subsection (3) of section 531.61, Florida
 1497 Statutes, is amended to read:

1498 531.61 Exemptions from permit requirement.—Commercial
 1499 weights or measures instruments or devices are exempt from the
 1500 permit requirements of ss. 531.60-531.66 if:

1501 (3) The device is used exclusively for measuring aviation
 1502 fuel or petroleum products inspected ~~taxed~~ under chapter 525 s.
 1503 ~~525.09.~~

1504 Section 38. Section 40 of chapter 2009-66, Laws of Florida,
 1505 is amended to read:

1506 Section 40. Sections 531.60, 531.61, 531.62, 531.63,
 1507 531.64, 531.65, and 531.66, Florida Statutes, as created by this
 1508 act, shall expire July 1, 2020 ~~2014~~.

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1509 Section 39. Paragraph (c) of subsection (5) of section
1510 539.001, Florida Statutes, is amended to read:

1511 539.001 The Florida Pawnbroking Act.—

1512 (5) APPLICATION FOR LICENSE.—

1513 (c) Each initial application for a license must be
1514 accompanied by a complete set of fingerprints taken by an
1515 authorized law enforcement officer or a fingerprinting service
1516 provider approved by the Department of Law Enforcement, \$300 for
1517 the first year's license fee, and the actual cost to the agency
1518 for fingerprint analysis for each person subject to the
1519 eligibility requirements. The agency shall submit the
1520 fingerprints to the Department of Law Enforcement for state
1521 processing, and the Department of Law Enforcement shall forward
1522 the fingerprints to the Federal Bureau of Investigation for a
1523 national criminal history check. These fees and costs are not
1524 refundable.

1525 Section 40. Subsection (1) of section 559.802, Florida
1526 Statutes, is amended to read:

1527 559.802 Franchises; exemption.—

1528 (1) The sale of a franchise is exempt from this part if:

1529 (a) The franchise meets the definition of that term as
1530 defined by the Federal Trade Commission regulations entitled,
1531 "Disclosure Requirements and Prohibitions Concerning Franchising
1532 and Business Opportunity Ventures," as set forth in 16 C.F.R.
1533 ss. 436.1 et seq.; and

1534 (b) Before offering for sale or selling a franchise to be
1535 located in this state or to a resident of this state, the
1536 franchisor files a notice with the department stating that the
1537 franchisor is in substantial compliance with the requirements of

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1538 the Federal Trade Commission rule, and pays a fee in an amount
1539 set by the department, not exceeding \$100. This notice shall be
1540 filed on a form promulgated by the department.

1541 Section 41. Section 559.803, Florida Statutes, is amended
1542 to read:

1543 559.803 Disclosure statement.—At least 3 working days prior
1544 to the time the purchaser signs a business opportunity contract,
1545 or at least 3 working days prior to the receipt of any
1546 consideration by the seller, whichever occurs first, the seller
1547 must provide the prospective purchaser a written document, the
1548 cover sheet of which is entitled in at least 12-point boldfaced
1549 capital letters "DISCLOSURES REQUIRED BY FLORIDA LAW." Under
1550 this title shall appear the following statement in at least 10-
1551 point type: "The State of Florida has not reviewed and does not
1552 approve, recommend, endorse, or sponsor any business
1553 opportunity. The information contained in this disclosure has
1554 not been verified by the state. If you have any questions about
1555 this investment, see an attorney before you sign a contract or
1556 agreement." Nothing except the title and required statement
1557 shall appear on the cover sheet. Immediately following the cover
1558 sheet, the seller must provide an index page that briefly lists
1559 the contents of the disclosure document as required in this
1560 section and any pages on which the prospective purchaser can
1561 find each required disclosure. At the top of the index page, the
1562 following statement must appear in at least 10-point type: "The
1563 State of Florida requires sellers of business opportunities to
1564 disclose certain information to prospective purchasers. This
1565 index is provided to help you locate this information." If the
1566 index contains other information not required by this section,

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1567 the seller shall place a designation beside each of the
1568 disclosures required by this section and provide an explanation
1569 of the designation at the end of the statement at the top of the
1570 index page. The disclosure document shall contain the following
1571 information:

1572 (1) The name of the seller; whether the seller is doing
1573 business as an individual, partnership, corporation, or other
1574 business entity; the names under which the seller has done
1575 business; and the name of any parent or affiliated company that
1576 will engage in business transactions with the purchasers or who
1577 takes responsibility for statements made by the seller.

1578 (2) The names, addresses, and titles of the seller's
1579 officers, directors, trustees, general partners, general
1580 managers, and principal executives and of any other persons
1581 charged with the responsibility for the seller's business
1582 activities relating to the sale of business opportunities.

1583 (3) The length of time the seller has:

1584 (a) Sold business opportunities; or

1585 (b) Sold business opportunities involving the products,
1586 equipment, supplies, or services currently being offered to the
1587 purchaser.

1588 (4) A full and detailed description of the actual services
1589 that the business opportunity seller undertakes to perform for
1590 the purchaser.

1591 (5) A copy of a current (not older than 13 months)
1592 financial statement of the seller, updated to reflect material
1593 changes in the seller's financial condition.

1594 (6) If training is promised by the seller, a complete
1595 description of the training, the length of the training, and the

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1596 cost or incidental expenses of that training, which cost or
1597 expense the purchaser will be required to incur.

1598 (7) If the seller promises services to be performed in
1599 connection with the placement of the equipment, product, or
1600 supplies at a location, the full nature of those services as
1601 well as the nature of the agreements to be made with the owners
1602 or managers of the location where the purchaser's equipment,
1603 product, or supplies will be placed.

1604 (8) If the business opportunity seller is required to
1605 secure a bond, guaranteed letter of credit, or certificate of
1606 deposit pursuant to s. 559.807, either of the following
1607 statements:

1608 (a) "As required by Florida law, the seller has secured a
1609 bond issued by, a surety company authorized to do business
1610 in this state. Before signing a contract to purchase this
1611 business opportunity, you should confirm the bond's status with
1612 the surety company."; or

1613 (b) "As required by Florida law, the seller has established
1614 a guaranteed letter of credit or certificate of deposit
1615 . . . (number of account) . . . with . . . (name and address of bank or
1616 savings institution) Before signing a contract to purchase
1617 this business opportunity, you should confirm with the bank or
1618 savings institution the current status of the guaranteed letter
1619 of credit or certificate of deposit."

1620 (9) The following statement: "If the seller fails to
1621 deliver the product, equipment, or supplies necessary to begin
1622 substantial operation of the business within 45 days of the
1623 delivery date stated in your contract, you may notify the seller
1624 in writing and cancel your contract."

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1625 (10) If the seller makes any statement concerning sales or
1626 earnings or a range of sales or earnings that may be made
1627 through this business opportunity, a statement disclosing:

1628 (a) The total number of purchasers of business
1629 opportunities involving the product, equipment, supplies, or
1630 services being offered who have actually achieved sales of or
1631 received earnings in the amount or range specified within 3
1632 years prior to the date of the disclosure statement.

1633 (b) The total number of purchasers of business
1634 opportunities involving the product, equipment, supplies, or
1635 services being offered within 3 years prior to the date of the
1636 disclosure statement.

1637 (11) (a) The total number of persons who purchased the
1638 business opportunity being offered by the seller within the past
1639 3 years.

1640 (b) The names, addresses, and telephone numbers of the 10
1641 persons who previously purchased the business opportunity from
1642 the seller and who are geographically closest to the potential
1643 purchaser.

1644 (12) A statement disclosing who, if any, of the persons
1645 listed in subsections (1) and (2):

1646 (a) Has, at any time during the previous 10 fiscal years,
1647 regardless of adjudication, been convicted of, or found guilty
1648 of, or pled guilty or nolo contendere to, or has been
1649 incarcerated within the last 10 years as a result of having
1650 previously been convicted of, or found guilty of, or pled guilty
1651 or nolo contendere to, a felony or a crime involving fraud,
1652 theft, larceny, violation of any franchise or business
1653 opportunity law or unfair or deceptive practices law,

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1654 embezzlement, fraudulent conversion, misappropriation of
1655 property, or restraint of trade.

1656 (b) Has, at any time during the previous 7 fiscal years,
1657 been held liable in a civil action resulting in a final judgment
1658 or has settled out of court any civil action or is a party to
1659 any civil action involving allegations of fraud (including
1660 violation of any franchise or business opportunity law or unfair
1661 or deceptive practices law), embezzlement, fraudulent
1662 conversion, misappropriation of property, or restraint of trade
1663 or any civil action which was brought by a present or former
1664 franchisee or franchisees and which involves or involved the
1665 franchise relationship. However, only material individual civil
1666 actions need be so listed pursuant to this paragraph, including
1667 any group of civil actions which, irrespective of the
1668 materiality of any single such action, in the aggregate is
1669 material.

1670 (c) Is subject to any currently effective state or federal
1671 agency or court injunctive or restrictive order, or has been
1672 subject to any administrative action in which an order by a
1673 governmental agency was rendered, or is a party to a proceeding
1674 currently pending in which such order is sought, relating to or
1675 affecting business opportunities activities or the business
1676 opportunity seller-purchaser relationship or involving fraud
1677 (including violation of any franchise or business opportunity
1678 law or unfair or deceptive practices law), embezzlement,
1679 fraudulent conversion, misappropriation of property, or
1680 restraint of trade.

1681
1682 Such statement shall set forth the identity and location of the

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1683 court or agency; the date of conviction, judgment, or decision;
1684 the penalty imposed; the damages assessed; the terms of
1685 settlement or the terms of the order; and the date, nature, and
1686 issuer of each such order or ruling. A business opportunity
1687 seller may include a summary opinion of counsel as to any
1688 pending litigation, but only if counsel's consent to the use of
1689 such opinion is included in the disclosure statement.

1690 (13) A statement disclosing who, if any, of the persons
1691 listed in subsections (1) and (2) at any time during the
1692 previous 7 fiscal years has:

1693 (a) Filed in bankruptcy.

1694 (b) Been adjudged bankrupt.

1695 (c) Been reorganized due to insolvency.

1696 (d) Been a principal, director, executive officer, or
1697 partner of any other person that has so filed or was so adjudged
1698 or reorganized during or within 1 year after the period that
1699 such person held such position in relation to such other person.
1700 If so, the name and location of the person having so filed or
1701 having been so adjudged or reorganized, the date thereof, and
1702 any other material facts relating thereto shall be set forth.

1703 (14) A copy of the business opportunity contract ~~which~~ the
1704 seller uses as a matter of course and which is to be presented
1705 to the purchaser at closing.

1706

1707 ~~Should any seller of business opportunities prepare a disclosure~~
1708 ~~statement pursuant to 16 C.F.R. ss. 436.1 et seq., a Trade~~
1709 ~~Regulation Rule of the Federal Trade Commission regarding~~
1710 ~~Disclosure Requirements and Prohibitions Concerning Franchising~~
1711 ~~and Business Opportunity Ventures, the seller may file that~~

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1712 ~~disclosure statement in lieu of the document required pursuant~~
1713 ~~to this section. Should the seller be required pursuant to 16~~
1714 ~~C.F.R. to prepare any other documents to be presented to the~~
1715 ~~prospective purchaser, those documents shall also be filed with~~
1716 ~~the department.~~

1717 Section 42. Section 559.805, Florida Statutes, is repealed.

1718 Section 43. Subsection (2) of section 559.807, Florida
1719 Statutes, is repealed.

1720 Section 44. Present subsections (3) through (7) of section
1721 559.813, Florida Statutes, are redesignated as subsections (2)
1722 through (6), respectively, and present subsections (2), (5), and
1723 (8) of that section are amended, to read:

1724 559.813 Remedies; enforcement.—

1725 ~~(2) (a) The department may enter an order imposing one or~~
1726 ~~more of the penalties set forth in paragraph (b) if the~~
1727 ~~department finds that a seller or any of the seller's principal~~
1728 ~~officers or agents:~~

1729 ~~1. Violated or is operating in violation of any of the~~
1730 ~~provisions of this part or of the rules adopted or orders issued~~
1731 ~~thereunder;~~

1732 ~~2. Made a material false statement in any application,~~
1733 ~~document, or record required to be submitted or retained under~~
1734 ~~this part;~~

1735 ~~3. Refused or failed, after notice, to produce any document~~
1736 ~~or record or disclose any information required to be produced or~~
1737 ~~disclosed under this part or the rules of the department;~~

1738 ~~4. Made a material false statement in response to any~~
1739 ~~request or investigation by the department, the Department of~~
1740 ~~Legal Affairs, or the state attorney; or~~

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1741 ~~5. Has intentionally defrauded the public through dishonest~~
1742 ~~or deceptive means.~~

1743 ~~(b) Upon a finding as set forth in paragraph (a), the~~
1744 ~~department may enter an order doing one or more of the~~
1745 ~~following:~~

1746 ~~1. Issuing a notice of noncompliance pursuant to s.~~
1747 ~~120.695.~~

1748 ~~2. Imposing an administrative fine not to exceed \$5,000 per~~
1749 ~~violation for each act which constitutes a violation of this~~
1750 ~~part or a rule or order.~~

1751 ~~3. Directing that the seller or its principal officers or~~
1752 ~~agents cease and desist specified activities.~~

1753 ~~4. Refusing to issue or revoking or suspending an~~
1754 ~~advertisement identification number.~~

1755 ~~5. Placing the registrant on probation for a period of~~
1756 ~~time, subject to such conditions as the department may specify.~~

1757 ~~(c) The administrative proceedings which could result in~~
1758 ~~the entry of an order imposing any of the penalties specified in~~
1759 ~~paragraph (b) shall be conducted in accordance with chapter 120.~~

1760 ~~(4)(5) The Department of Legal Affairs, the Department of~~
1761 ~~Agriculture and Consumer Services, or the state attorney, if a~~
1762 ~~violation of this part occurs in her or his judicial circuit, is~~
1763 ~~are the enforcing authority ~~authorities~~ for purposes of this~~
1764 ~~part, and ~~they~~ may bring civil actions in circuit court for~~
1765 ~~temporary or permanent injunctive relief and may seek other~~
1766 ~~appropriate civil relief, including, but not limited to, a civil~~
1767 ~~penalty not to exceed \$5,000 for each violation, restitution and~~
1768 ~~damages for injured purchasers of business opportunities, and~~
1769 ~~court costs and reasonable attorney ~~attorney's~~ fees.~~

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1770 ~~(8) The department has the authority to adopt rules~~
1771 ~~pursuant to chapter 120 to implement this part.~~

1772 Section 45. Section 559.815, Florida Statutes, is amended
1773 to read:

1774 559.815 Penalties.—A ~~Any~~ person who ~~fails to file with the~~
1775 ~~department as required by s. 559.805 or who~~ commits an act
1776 described in s. 559.809 is guilty of a felony of the third
1777 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1778 775.084.

1779 Section 46. Subsection (1) of section 559.9221, Florida
1780 Statutes, is amended to read:

1781 559.9221 Motor Vehicle Repair Advisory Council.—The Motor
1782 Vehicle Repair Advisory Council is created to advise and assist
1783 the department in carrying out this part.

1784 (1) The membership of the council may not exceed 9 ~~11~~
1785 members appointed by the Commissioner of Agriculture.

1786 (a) Six ~~Eight~~ industry members of the council must be
1787 chosen from individuals already engaged in the motor vehicle
1788 repair business who are eligible to be registered under this
1789 part. The professional members of this council must be licensed
1790 under this part. The commissioner shall select one industry
1791 member from each of the following categories:

- 1792 1. Independent automotive mechanics shops.
- 1793 2. Franchise or company-owned automotive mechanics shops.
- 1794 3. Automotive Independent ~~automotive~~ collision shops.
- 1795 ~~4. Franchise or company-owned automotive collision shops.~~
- 1796 ~~4.5. Tire dealers~~ Independent tire dealer.
- 1797 ~~6. Franchise or company-owned tire dealer.~~
- 1798 ~~5.7.~~ Independent motor vehicle dealers ~~dealer~~ licensed

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1799 under s. 320.27.

1800 ~~6.8.~~ Franchise motor vehicle dealers ~~dealer~~ licensed under
1801 s. 320.27.

1802 (b) One member of the council may be chosen from persons
1803 already engaged in motor vehicle repair service.

1804 (c) Two consumer members of the council must be residents
1805 of this state and may ~~must~~ not be connected with the motor
1806 vehicle repair business.

1807 (d) As terms of the members expire, the commissioner shall
1808 appoint successors for terms of 4 years. Members ~~shall~~ serve
1809 from the time of their appointment until their successors are
1810 appointed.

1811 Section 47. Paragraphs (a) and (b) of subsection (9) of
1812 section 616.242, Florida Statutes, are amended to read:

1813 616.242 Safety standards for amusement rides.—

1814 (9) INSURANCE REQUIREMENTS.—

1815 (a) An owner may not operate an amusement ride unless the
1816 owner has in effect, at all times of operation, an insurance
1817 ~~meeting the following requirements:~~

1818 ~~1. An insurance policy in an amount of not less than \$1~~
1819 ~~million per occurrence, \$1 million in the aggregate, which~~
1820 ~~insures the owner of the amusement ride against liability for~~
1821 ~~injury to persons arising out of the use of the amusement ride.~~
1822 ~~or~~

1823 ~~2. A bond in a like amount; however, the aggregate~~
1824 ~~liability of the surety under the bond may not exceed the face~~
1825 ~~amount thereof.~~

1826 (b) The policy ~~or bond~~ must be procured from an insurer ~~or~~
1827 ~~surety~~ that is licensed to transact business in this state or

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1828 that is approved as a surplus lines insurer.

1829 Section 48. Subsection (9) is added to section 721.20,
1830 Florida Statutes, to read:

1831 721.20 Licensing requirements; suspension or revocation of
1832 license; exceptions to applicability; collection of advance fees
1833 for listings unlawful.—

1834 (9) A person who meets the definition of a commercial
1835 telephone seller or salesperson as defined in s. 501.603 must be
1836 licensed under part IV of chapter 501 before doing business in
1837 this state under this chapter.

1838 Section 49. If any provision of this act or its application
1839 to any person or circumstance is held invalid, the invalidity
1840 does not affect other provisions or applications of the act
1841 which can be given effect without the invalid provision or
1842 application, and to this end the provisions of this act are
1843 severable.

1844 Section 50. This act shall take effect July 1, 2013.