

1 A reviser's bill to be entitled
2 An act relating to the Florida Statutes; amending ss.
3 11.0451, 39.5085, 39.6013, 39.6221, 61.076, 63.032,
4 110.1155, 112.32151, 163.370, 166.271, 171.205, 189.4155,
5 195.096, 196.012, 201.0205, 202.24, 205.1975, 212.08,
6 213.053, 213.0535, 215.82, 218.64, 220.181, 220.183,
7 250.01, 250.82, 250.84, 252.35, 255.25001, 259.1053,
8 260.016, 287.0574, 288.039, 288.1045, 288.106, 288.90151,
9 290.0057, 290.0072, 320.77, 322.2615, 328.64, 331.312,
10 331.313, 331.316, 331.319, 331.324, 336.68, 341.840,
11 366.93, 370.063, 375.065, 376.30, 376.301, 376.303,
12 376.305, 376.307, 376.3071, 376.3075, 376.30781, 376.3079,
13 376.308, 376.309, 376.313, 376.315, 376.317, 376.82,
14 376.84, 380.06, 380.23, 381.028, 400.0073, 400.0074,
15 400.0075, 400.506, 402.164, 403.091, 403.5175, 403.526,
16 403.5271, 403.528, 403.7043, 403.708, 408.036, 408.802,
17 408.803, 408.806, 408.820, 408.832, 409.1685, 409.221,
18 409.908, 409.912, 409.91211, 419.001, 421.49, 429.07,
19 429.35, 429.69, 429.73, 429.903, 429.909, 429.915,
20 429.919, 435.03, 435.04, 456.072, 458.348, 458.3485,
21 459.025, 482.242, 483.285, 489.127, 489.128, 489.131,
22 489.532, 497.461, 499.029, 500.511, 501.016, 501.143,
23 501.160, 509.233, 516.05, 551.101, 559.939, 607.0130,
24 607.193, 620.2113, 620.2118, 620.8911, 624.5105, 626.022,
25 626.171, 626.935, 626.9912, 627.351, 627.6617, 633.0245,
26 679.4031, 679.707, 727.109, 736.1001, 736.1209, 743.09,
27 775.21, 794.056, 817.36, 827.06, 847.001, 849.09, 849.15,
28 921.0022, 933.07, 943.0435, 943.325, 944.606, 944.607,
29 984.19, 985.483, 985.565, 1001.25, 1001.73, 1002.01,

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30 | 1002.20, 1002.335, 1003.51, 1004.28, 1008.33, 1008.345,
 31 | 1011.62, 1011.71, 1012.21, 1012.22, 1013.11, and 1013.721,
 32 | F.S.; reenacting and amending s. 215.559, F.S.; reenacting
 33 | ss. 316.006 and 1008.22, F.S.; and repealing ss. 253.421,
 34 | 253.422, 288.1231, 288.1232, 288.1233, 288.1235, 288.1236,
 35 | 288.1237, and 947.022, F.S.; pursuant to s. 11.242, F.S.;
 36 | deleting provisions that have expired, have become
 37 | obsolete, have had their effect, have served their
 38 | purpose, or have been impliedly repealed or superseded;
 39 | replacing incorrect cross-references and citations;
 40 | correcting grammatical, typographical, and like errors;
 41 | removing inconsistencies, redundancies, and unnecessary
 42 | repetition in the statutes; improving the clarity of the
 43 | statutes and facilitating their correct interpretation;
 44 | confirming the restoration of provisions unintentionally
 45 | omitted from republication in the acts of the Legislature
 46 | during the amendatory process; and conforming to the
 47 | directive of the Legislature in s. 1, ch. 93-199, Laws of
 48 | Florida, to remove gender-specific references applicable
 49 | to human beings from the Florida Statutes without
 50 | substantive change in legal effect.

51 |
 52 | Be It Enacted by the Legislature of the State of Florida:

53 |
 54 | Section 1. Section 11.0451, Florida Statutes, is amended to
 55 | read:

56 | 11.0451 Requirements for reinstatement of lobbyist
 57 | registration after felony conviction.--A person convicted of a
 58 | felony after January 1, 2006, may not be registered as a lobbyist

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59 pursuant to s. 11.045 ~~or s. 112.3125~~ until the person:

60 (1) Has been released from incarceration and any
 61 postconviction supervision, and has paid all court costs and
 62 court-ordered restitution; and

63 (2) Has had his or her civil rights restored.

64

65 Reviser's note.--Amended to delete redundancy in the
 66 statutes, as such prohibition relating to executive
 67 branch lobbyist registration already exists in s.
 68 112.32151.

69

70 Section 2. Paragraph (a) of subsection (2) of section
 71 39.5085, Florida Statutes, is amended to read:

72 39.5085 Relative Caregiver Program.--

73 (2)(a) The Department of Children and Family Services shall
 74 establish and operate the Relative Caregiver Program pursuant to
 75 eligibility guidelines established in this section as further
 76 implemented by rule of the department. The Relative Caregiver
 77 Program shall, within the limits of available funding, provide
 78 financial assistance to:

79 1. Relatives who are within the fifth degree by blood or
 80 marriage to the parent or stepparent of a child and who are
 81 caring full-time for that dependent child in the role of
 82 substitute parent as a result of a court's determination of child
 83 abuse, neglect, or abandonment and subsequent placement with the
 84 relative under this chapter.

85 2. Relatives who are within the fifth degree by blood or
 86 marriage to the parent or stepparent of a child and who are
 87 caring full-time for that dependent child, and a dependent half-

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88 | brother or half-sister of that dependent child, in the role of
 89 | substitute parent as a result of a court's determination of child
 90 | abuse, neglect, or abandonment and subsequent placement with the
 91 | relative under this chapter.

92 |
 93 | The placement may be court-ordered temporary legal custody to the
 94 | relative under protective supervision of the department pursuant
 95 | to s. 39.521(1)(b)3., or court-ordered placement in the home of a
 96 | relative as a permanency option under s. 39.6221 or s. 39.6231 or
 97 | under former s. 39.622 if the placement was made before July 1,
 98 | 2006. The Relative Caregiver Program shall offer financial
 99 | assistance to caregivers who are relatives and who would be
 100 | unable to serve in that capacity without the relative caregiver
 101 | payment because of financial burden, thus exposing the child to
 102 | the trauma of placement in a shelter or in foster care.

103 |
 104 | Reviser's note.--Amended to conform to the repeal of s.
 105 | 39.622 by s. 35, ch. 2006-86, Laws of Florida.

106 |
 107 | Section 3. Subsection (7) of section 39.6013, Florida
 108 | Statutes, is amended to read:

109 | 39.6013 Case plan amendments.--

110 | (7) Amendments must include service interventions that are
 111 | the least intrusive into the life of the parent and child, must
 112 | focus on clearly defined objectives, and must provide the most
 113 | efficient path to quick reunification or permanent placement
 114 | given the circumstances of the case and the child's need for safe
 115 | and proper care. A copy of the amended plan must be immediately
 116 | given to the persons identified in s. 39.6011(6)(b) ~~39.601(1)~~.

117
 118 Reviser's note.--Amended to conform to the repeal of s.
 119 39.601 by s. 35, ch. 2006-86, Laws of Florida; s.
 120 39.6011(6) (b), created by s. 15, ch. 2006-86,
 121 references persons who must receive case plan copies.
 122

123 Section 4. Subsection (3) of section 39.6221, Florida
 124 Statutes, is amended to read:

125 39.6221 Permanent guardianship of a dependent child.--

126 (3) The court shall give the permanent guardian a separate
 127 order establishing the authority of the permanent guardian to
 128 care for the child, ~~reciting what powers and duties listed in~~
 129 ~~paragraph (2) (g) belong to the permanent guardian~~ and providing
 130 any other information the court deems proper which can be
 131 provided to persons who are not parties to the proceeding as
 132 necessary, notwithstanding the confidentiality provisions of s.
 133 39.202.
 134

135 Reviser's note.--Amended to conform to the fact that
 136 paragraph (2) (g) does not exist; the original version
 137 of s. 39.6221, as created by Senate Bill 1080, 2006
 138 Regular Session, did include a paragraph (2) (g)
 139 containing a list of powers and duties, but that
 140 paragraph was deleted from the bill before passage.
 141

142 Section 5. Paragraph (b) of subsection (2) of section
 143 61.076, Florida Statutes, is amended to read:

144 61.076 Distribution of retirement plans upon dissolution of
 145 marriage.--

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146 (2) If the parties were married for at least 10 years,
 147 during which at least one of the parties who was a member of the
 148 federal uniformed services performed at least 10 years of
 149 creditable service, and if the division of marital property
 150 includes a division of uniformed services retired or retainer
 151 pay, the final judgment shall include the following:

152 (b) Certification that the Servicemembers' ~~Soldiers' and~~
 153 ~~Sailors'~~ Civil Relief Act ~~of 1940~~ was observed if the decree was
 154 issued while the member was on active duty and was not
 155 represented in court;

156
 157 Reviser's note.--Amended to conform to the
 158 redesignation of the federal act in Title 50 United
 159 States Code.

160
 161 Section 6. Subsection (17) of section 63.032, Florida
 162 Statutes, is amended to read:

163 63.032 Definitions.--As used in this chapter, the term:

164 (17) "Primarily lives and works outside Florida" means a
 165 person who lives and works outside this state at least 6 months
 166 of the year, military personnel who designate Florida as their
 167 place of residence in accordance with the Servicemembers'
 168 ~~Soldiers' and Sailors'~~ Civil Relief Act ~~of 1940~~, or employees of
 169 the United States Department of State living in a foreign country
 170 who designate a state other than Florida as their place of
 171 residence.

172
 173 Reviser's note.--Amended to conform to the
 174 redesignation of the federal act in Title 50 United

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175 States Code.

176

177 Section 7. Subsection (1) of section 110.1155, Florida
178 Statutes, is amended to read:

179 110.1155 Travel to or conducting business with a country in
180 the Western Hemisphere lacking diplomatic relations with the
181 United States.--

182 (1) An officer, employee, agent, or representative of:

183 (a) A state agency;

184 (b) A political subdivision of the state; or

185 (c) A corporation, partnership, association, or other
186 entity that does business or contracts with a state agency,
187 receives state funds, or claims a credit against any tax imposed
188 by the state

189

190 may not travel to or do business with any country located in the
191 Western Hemisphere which lacks diplomatic relations with the
192 United States.

193

194 Reviser's note.--Material regarding a prohibition of
195 travel or doing business with any country meeting
196 specifications set out at the end of what was paragraph
197 (1) (c) was placed in a flush left paragraph at the end
198 of subsection (1) to apply to the listed items in
199 paragraphs (a)-(c) to provide clarity and facilitate
200 correct interpretation.

201

202 Section 8. Section 112.32151, Florida Statutes, is amended
203 to read:

204 112.32151 Requirements for reinstatement of lobbyist
 205 registration after felony conviction.--A person convicted of a
 206 felony after January 1, 2006, may not be registered as a lobbyist
 207 pursuant to s. 112.3215 ~~11.045~~ or s. ~~112.3125~~ until the person:

208 (1) Has been released from incarceration and any
 209 postconviction supervision, and has paid all court costs and
 210 court-ordered restitution; and

211 (2) Has had his or her civil rights restored.

212
 213 Reviser's note.--Amended to delete redundancy in the
 214 statutes, as such prohibition relating to legislative
 215 lobbyist registration already exists in s. 11.0451, and
 216 to confirm the editorial substitution of a reference to
 217 s. 112.3215 for a reference to nonexistent s. 112.3125;
 218 s. 112.3215 relates to registration of lobbyists who
 219 lobby before the executive branch or Constitution
 220 Revision Commission.

221
 222 Section 9. Paragraph (a) of subsection (4) of section
 223 163.370, Florida Statutes, is amended to read:

224 163.370 Powers; counties and municipalities; community
 225 redevelopment agencies.--

226 (4) With the approval of the governing body, a community
 227 redevelopment agency may:

228 (a) Prior to approval of a community redevelopment plan or
 229 approval of any modifications of the plan, acquire real property
 230 in a community redevelopment area by purchase, lease, option,
 231 gift, grant, bequest, devise, or other voluntary method of
 232 acquisition; demolish and remove any structures on the property;

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233 and pay all costs related to the acquisition, demolition, or
 234 removal, including any administrative or relocation expenses,
 235 ~~provided such acquisition is not pursuant to s. 163.375.~~

236
 237 Reviser's note.--Amended to conform to the repeal of s.
 238 163.375 by s. 11, ch. 2006-11, Laws of Florida.

239
 240 Section 10. Subsection (1) and paragraph (a) of subsection
 241 (2) of section 166.271, Florida Statutes, are amended to read:

242 166.271 Surcharge on municipal facility parking fees.--

243 (1) The governing authority of any municipality with a
 244 resident population of 200,000 or more, more than 20 percent of
 245 the real property of which is exempt from ad valorem taxes, and
 246 which is located in a county with a population of more than
 247 500,000 may impose and collect, subject to referendum approval by
 248 voters in the municipality, a discretionary per vehicle surcharge
 249 of up to 15 percent of the amount charged for the sale, lease, or
 250 rental of space at parking facilities within the municipality
 251 which are open for use to the general public and which are not
 252 airports, seaports, county administration buildings, or other
 253 projects as defined under ss. 125.011 and 125.015, provided that
 254 this surcharge shall not take effect while any surcharge imposed
 255 pursuant to s. 218.503(6)(a) ~~218.503(5)(a)~~, is in effect.

256 (2) A municipal governing authority that imposes the
 257 surcharge authorized by this subsection may use the proceeds of
 258 such surcharge for the following purposes only:

259 (a) No less than 60 percent and no more than 80 percent of
 260 surcharge proceeds shall be used to reduce the municipality's ad
 261 valorem tax millage or to reduce or eliminate non-ad valorem

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262 assessments, unless the municipality has previously used the
 263 proceeds from the surcharge levied under s. 218.503(6)(b)
 264 ~~218.503(5)(b)~~ to reduce the municipality's ad valorem tax millage
 265 or to reduce non-ad valorem assessments.

266
 267 Reviser's note.--Amended to conform to the addition of
 268 new s. 218.503(4) and the redesignation of following
 269 subunits by s. 5, ch. 2006-190, Laws of Florida.

270
 271 Section 11. Subsection (2) of section 171.205, Florida
 272 Statutes, is amended to read:

273 171.205 Consent requirements for annexation of land under
 274 this part.--Notwithstanding part I, an interlocal service
 275 boundary agreement may provide a process for annexation
 276 consistent with this section or with part I.

277 (2) If the area to be annexed includes a privately owned
 278 solid waste disposal facility as defined in s. 403.703(11) which
 279 receives municipal solid waste collected within the jurisdiction
 280 of multiple local governments, the annexing municipality must set
 281 forth in its plan the effects ~~affects~~ that the annexation of the
 282 solid waste disposal facility will have on the other local
 283 governments. The plan must also indicate that the owner of the
 284 affected solid waste disposal facility has been contacted in
 285 writing concerning the annexation, that an agreement between the
 286 annexing municipality and the solid waste disposal facility to
 287 govern the operations of the solid waste disposal facility if the
 288 annexation occurs has been approved, and that the owner of the
 289 solid waste disposal facility does not object to the proposed
 290 annexation.

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Reviser's note.--Amended to confirm the editorial substitution of the word "effects" for the word "affects" to conform to context.

Section 12. Subsection (6) of section 189.4155, Florida Statutes, is amended to read:

189.4155 Activities of special districts; local government comprehensive planning.--

(6) Any independent district created under a special act or general law, including, but not limited to, this chapter, chapter 190, chapter 191, or chapter 298, for the purpose of providing urban infrastructure or ~~of~~ services may provide housing and housing assistance for its employed personnel whose total annual household income does not exceed 140 percent of the area median income, adjusted for family size.

Reviser's note.--Amended to confirm the editorial substitution of the word "or" for the word "of" to conform to context.

Section 13. Paragraph (f) of subsection (2) of section 195.096, Florida Statutes, is amended to read:

195.096 Review of assessment rolls.--

(2) The department shall conduct, no less frequently than once every 2 years, an in-depth review of the assessment rolls of each county. The department need not individually study every use-class of property set forth in s. 195.073, but shall at a minimum study the level of assessment in relation to just value

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320 of each classification specified in subsection (3). Such in-depth
 321 review may include proceedings of the value adjustment board and
 322 the audit or review of procedures used by the counties to
 323 appraise property.

324 (f) Within 120 days following the receipt of a county
 325 assessment roll by the executive director of the department
 326 pursuant to s. 193.1142(1), or within 10 days after approval of
 327 the assessment roll, whichever is later, the department shall
 328 complete the review for that county and forward its findings,
 329 including a statement of the confidence interval for the median
 330 and such other measures as may be appropriate for each
 331 classification or subclassification studied and for the roll as a
 332 whole, employing a 95-percent level of confidence, and related
 333 statistical and analytical details to the Senate and the House of
 334 Representatives committees with oversight responsibilities for
 335 taxation, and the appropriate property appraiser. Upon releasing
 336 its findings, the department shall notify the chairperson of the
 337 appropriate county commission or the corresponding official under
 338 a consolidated charter that the department's findings are
 339 available upon request. The department shall, within 90 days
 340 after receiving a written request from the chairperson of the
 341 appropriate county commission or the corresponding official under
 342 a consolidated charter, forward a copy of its findings, including
 343 the confidence interval for the median and such other measures of
 344 each classification or subclassification studied ~~studies~~ and for
 345 all the roll as a whole, and related statistical and analytical
 346 details, to the requesting party.

347

348 Reviser's note.--Amended to confirm the editorial

349 substitution of the word "studied" for the word
 350 "studies" to conform to context.

351
 352 Section 14. Subsection (6) of section 196.012, Florida
 353 Statutes, is amended to read:

354 196.012 Definitions.--For the purpose of this chapter, the
 355 following terms are defined as follows, except where the context
 356 clearly indicates otherwise:

357 (6) Governmental, municipal, or public purpose or function
 358 shall be deemed to be served or performed when the lessee under
 359 any leasehold interest created in property of the United States,
 360 the state or any of its political subdivisions, or any
 361 municipality, agency, special district, authority, or other
 362 public body corporate of the state is demonstrated to perform a
 363 function or serve a governmental purpose which could properly be
 364 performed or served by an appropriate governmental unit or which
 365 is demonstrated to perform a function or serve a purpose which
 366 would otherwise be a valid subject for the allocation of public
 367 funds. For purposes of the preceding sentence, an activity
 368 undertaken by a lessee which is permitted under the terms of its
 369 lease of real property designated as an aviation area on an
 370 airport layout plan which has been approved by the Federal
 371 Aviation Administration and which real property is used for the
 372 administration, operation, business offices and activities
 373 related specifically thereto in connection with the conduct of an
 374 aircraft full service fixed base operation which provides goods
 375 and services to the general aviation public in the promotion of
 376 air commerce shall be deemed an activity which serves a
 377 governmental, municipal, or public purpose or function. Any

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378 activity undertaken by a lessee which is permitted under the
 379 terms of its lease of real property designated as a public
 380 airport as defined in s. 332.004(14) by municipalities, agencies,
 381 special districts, authorities, or other public bodies corporate
 382 and public bodies politic of the state, a spaceport as defined in
 383 s. 331.303, or which is located in a deepwater port identified in
 384 s. 403.021(9)(b) and owned by one of the foregoing governmental
 385 units, subject to a leasehold or other possessory interest of a
 386 nongovernmental lessee that is deemed to perform an aviation,
 387 airport, aerospace, maritime, or port purpose or operation shall
 388 be deemed an activity that serves a governmental, municipal, or
 389 public purpose. The use by a lessee, licensee, or management
 390 company of real property or a portion thereof as a convention
 391 center, visitor center, sports facility with permanent seating,
 392 concert hall, arena, stadium, park, or beach is deemed a use that
 393 serves a governmental, municipal, or public purpose or function
 394 when access to the property is open to the general public with or
 395 without a charge for admission. If property deeded to a
 396 municipality by the United States is subject to a requirement
 397 that the Federal Government, through a schedule established by
 398 the Secretary of the Interior, determine that the property is
 399 being maintained for public historic preservation, park, or
 400 recreational purposes and if those conditions are not met the
 401 property will revert back to the Federal Government, then such
 402 property shall be deemed to serve a municipal or public purpose.
 403 The term "governmental purpose" also includes a direct use of
 404 property on federal lands in connection with the Federal
 405 Government's Space Exploration Program or spaceport activities as
 406 defined in s. 212.02(22). Real property and tangible personal

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407 property owned by the Federal Government or Space Florida and
408 used for defense and space exploration purposes or which is put
409 to a use in support thereof shall be deemed to perform an
410 essential national governmental purpose and shall be exempt.
411 "Owned by the lessee" as used in this chapter does not include
412 personal property, buildings, or other real property improvements
413 used for the administration, operation, business offices and
414 activities related specifically thereto in connection with the
415 conduct of an aircraft full service fixed based operation which
416 provides goods and services to the general aviation public in the
417 promotion of air commerce provided that the real property is
418 designated as an aviation area on an airport layout plan approved
419 by the Federal Aviation Administration. For purposes of
420 determination of "ownership," buildings and other real property
421 improvements which will revert to the airport authority or other
422 governmental unit upon expiration of the term of the lease shall
423 be deemed "owned" by the governmental unit and not the lessee.
424 Providing two-way telecommunications services to the public for
425 hire by the use of a telecommunications facility, as defined in
426 s. 364.02(15), and for which a certificate is required under
427 chapter 364 does not constitute an exempt use for purposes of s.
428 196.199, unless the telecommunications services are provided by
429 the operator of a public-use airport, as defined in s. 332.004,
430 for the operator's provision of telecommunications services for
431 the airport or its tenants, concessionaires, or licensees, or
432 unless the telecommunications services are provided by a public
433 hospital. ~~However, property that is being used to provide such~~
434 ~~telecommunications services on or before October 1, 1997, shall~~
435 ~~remain exempt, but such exemption expires October 1, 2004.~~

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

Section 15. Section 201.0205, Florida Statutes, is amended to read:

201.0205 Counties that have implemented ch. 83-220; inapplicability of 10-cent tax increase by s. 2, ch. 92-317, Laws of Florida.--The 10-cent tax increase in the documentary stamp tax levied by s. 2, chapter 92-317, does not apply to deeds and other taxable instruments relating to real property located in any county that has implemented the provisions of chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida. Each such county and each eligible jurisdiction within such county shall not be eligible to participate in programs funded pursuant to s. 201.15(9) ~~201.15(6)~~. However, each such county and each eligible jurisdiction within such county shall be eligible to participate in programs funded pursuant to s. 201.15(10) ~~201.15(7)~~.

Reviser's note.--Amended to conform to the redesignation of subunits within s. 201.15 by s. 2, ch. 99-247, Laws of Florida.

Section 16. Paragraph (c) of subsection (2) of section 202.24, Florida Statutes, is amended to read:

202.24 Limitations on local taxes and fees imposed on dealers of communications services.--
(2)

- 465 (c) This subsection does not apply to:
- 466 1. Local communications services taxes levied under this
- 467 chapter.
- 468 2. Ad valorem taxes levied pursuant to chapter 200.
- 469 3. Business ~~Occupational license~~ taxes levied under chapter
- 470 205.
- 471 4. "911" service charges levied under chapter 365.
- 472 5. Amounts charged for the rental or other use of property
- 473 owned by a public body which is not in the public rights-of-way
- 474 to a dealer of communications services for any purpose,
- 475 including, but not limited to, the placement or attachment of
- 476 equipment used in the provision of communications services.
- 477 6. Permit fees of general applicability which are not
- 478 related to placing or maintaining facilities in or on public
- 479 roads or rights-of-way.
- 480 7. Permit fees related to placing or maintaining facilities
- 481 in or on public roads or rights-of-way pursuant to s. 337.401.
- 482 8. Any in-kind requirements, institutional networks, or
- 483 contributions for, or in support of, the use or construction of
- 484 public, educational, or governmental access facilities allowed
- 485 under federal law and imposed on providers of cable service
- 486 pursuant to any ordinance or agreement. Nothing in this
- 487 subparagraph shall prohibit the ability of providers of cable
- 488 service to recover such expenses as allowed under federal law.
- 489 9. Special assessments and impact fees.
- 490 10. Pole attachment fees that are charged by a local
- 491 government for attachments to utility poles owned by the local
- 492 government.
- 493 11. Utility service fees or other similar user fees for

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494 utility services.

495 12. Any other generally applicable tax, fee, charge, or
 496 imposition authorized by general law on July 1, 2000, which is
 497 not specifically prohibited by this subsection or included as a
 498 replaced revenue source in s. 202.20.

499
 500 Reviser's note.--Amended to conform to the
 501 redesignation of occupational license taxes in chapter
 502 205 as business taxes by ch. 2006-152, Laws of Florida.

503
 504 Section 17. Section 205.1975, Florida Statutes, is amended
 505 to read:

506 205.1975 Household moving services; consumer protection.--A
 507 county or municipality may not issue or renew a business tax
 508 receipt ~~occupational license~~ for the operation of a mover or
 509 moving broker under chapter 507 unless the mover or broker
 510 exhibits a current registration from the Department of
 511 Agriculture and Consumer Services.

512
 513 Reviser's note.--Amended to confirm the editorial
 514 substitution of the term "business tax receipt" for the
 515 term "occupational license" to conform to usage
 516 throughout chapter 205 as amended by ch. 2006-152, Laws
 517 of Florida.

518
 519 Section 18. Paragraph (p) of subsection (5) of section
 520 212.08, Florida Statutes, is amended to read:

521 212.08 Sales, rental, use, consumption, distribution, and
 522 storage tax; specified exemptions.--The sale at retail, the

523 rental, the use, the consumption, the distribution, and the
 524 storage to be used or consumed in this state of the following are
 525 hereby specifically exempt from the tax imposed by this chapter.

526 (5) EXEMPTIONS; ACCOUNT OF USE.--

527 (p) Community contribution tax credit for donations.--

528 1. Authorization.--Persons who are registered with the
 529 department under s. 212.18 to collect or remit sales or use tax
 530 and who make donations to eligible sponsors are eligible for tax
 531 credits against their state sales and use tax liabilities as
 532 provided in this paragraph:

533 a. The credit shall be computed as 50 percent of the
 534 person's approved annual community contribution.

535 b. The credit shall be granted as a refund against state
 536 sales and use taxes reported on returns and remitted in the 12
 537 months preceding the date of application to the department for
 538 the credit as required in sub-subparagraph 3.c. If the annual
 539 credit is not fully used through such refund because of
 540 insufficient tax payments during the applicable 12-month period,
 541 the unused amount may be included in an application for a refund
 542 made pursuant to sub-subparagraph 3.c. in subsequent years
 543 against the total tax payments made for such year. Carryover
 544 credits may be applied for a 3-year period without regard to any
 545 time limitation that would otherwise apply under s. 215.26.

546 c. A person may not receive more than \$200,000 in annual
 547 tax credits for all approved community contributions made in any
 548 one year.

549 d. All proposals for the granting of the tax credit require
 550 the prior approval of the Office of Tourism, Trade, and Economic
 551 Development.

552 e. The total amount of tax credits which may be granted for
 553 all programs approved under this paragraph, s. 220.183, and s.
 554 624.5105 is \$10.5 million annually for projects that provide
 555 homeownership opportunities for low-income or very-low-income
 556 households as defined in s. 420.9071(19) and (28) and \$3.5
 557 million annually for all other projects.

558 f. A person who is eligible to receive the credit provided
 559 for in this paragraph, s. 220.183, or s. 624.5105 may receive the
 560 credit only under the one section of the person's choice.

561 2. Eligibility requirements.--

562 a. A community contribution by a person must be in the
 563 following form:

- 564 (I) Cash or other liquid assets;
- 565 (II) Real property;
- 566 (III) Goods or inventory; or
- 567 (IV) Other physical resources as identified by the Office
 568 of Tourism, Trade, and Economic Development.

569 b. All community contributions must be reserved exclusively
 570 for use in a project. As used in this sub-subparagraph, the term
 571 "project" means any activity undertaken by an eligible sponsor
 572 which is designed to construct, improve, or substantially
 573 rehabilitate housing that is affordable to low-income or very-
 574 low-income households as defined in s. 420.9071(19) and (28);
 575 designed to provide commercial, industrial, or public resources
 576 and facilities; or designed to improve entrepreneurial and job-
 577 development opportunities for low-income persons. A project may
 578 be the investment necessary to increase access to high-speed
 579 broadband capability in rural communities with enterprise zones,
 580 including projects that result in improvements to communications

581 assets that are owned by a business. A project may include the
 582 provision of museum educational programs and materials that are
 583 directly related to any project approved between January 1, 1996,
 584 and December 31, 1999, and located in an enterprise zone
 585 designated pursuant to s. 290.0065. This paragraph does not
 586 preclude projects that propose to construct or rehabilitate
 587 housing for low-income or very-low-income households on scattered
 588 sites. With respect to housing, contributions may be used to pay
 589 the following eligible low-income and very-low-income housing-
 590 related activities:

591 (I) Project development impact and management fees for low-
 592 income or very-low-income housing projects;

593 (II) Down payment and closing costs for eligible persons,
 594 as defined in s. 420.9071(19) and (28);

595 (III) Administrative costs, including housing counseling
 596 and marketing fees, not to exceed 10 percent of the community
 597 contribution, directly related to low-income or very-low-income
 598 projects; and

599 (IV) Removal of liens recorded against residential property
 600 by municipal, county, or special district local governments when
 601 satisfaction of the lien is a necessary precedent to the transfer
 602 of the property to an eligible person, as defined in s.
 603 420.9071(19) and (28), for the purpose of promoting home
 604 ownership. Contributions for lien removal must be received from a
 605 nonrelated third party.

606 c. The project must be undertaken by an "eligible sponsor,"
 607 which includes:

608 (I) A community action program;

609 (II) A nonprofit community-based development organization

610 whose mission is the provision of housing for low-income or very-
 611 low-income households or increasing entrepreneurial and job-
 612 development opportunities for low-income persons;

613 (III) A neighborhood housing services corporation;

614 (IV) A local housing authority created under chapter 421;

615 (V) A community redevelopment agency created under s.
 616 163.356;

617 (VI) The Florida Industrial Development Corporation;

618 (VII) A historic preservation district agency or
 619 organization;

620 (VIII) A regional workforce board;

621 (IX) A direct-support organization as provided in s.
 622 1009.983;

623 (X) An enterprise zone development agency created under s.
 624 290.0056;

625 (XI) A community-based organization incorporated under
 626 chapter 617 which is recognized as educational, charitable, or
 627 scientific pursuant to s. 501(c)(3) of the Internal Revenue Code
 628 and whose bylaws and articles of incorporation include affordable
 629 housing, economic development, or community development as the
 630 primary mission of the corporation;

631 (XII) Units of local government;

632 (XIII) Units of state government; or

633 (XIV) Any other agency that the Office of Tourism, Trade,
 634 and Economic Development designates by rule.

635

636 In no event may a contributing person have a financial interest
 637 in the eligible sponsor.

638 d. The project must be located in an area designated an

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639 enterprise zone or a Front Porch Florida Community pursuant to s.
640 20.18(6), unless the project increases access to high-speed
641 broadband capability for rural communities with enterprise zones
642 but is physically located outside the designated rural zone
643 boundaries. Any project designed to construct or rehabilitate
644 housing for low-income or very-low-income households as defined
645 in s. 420.9071(19) and (28) ~~420.0971(19) and (28)~~ is exempt from
646 the area requirement of this sub-subparagraph.

647 e.(I) If, during the first 10 business days of the state
648 fiscal year, eligible tax credit applications for projects that
649 provide homeownership opportunities for low-income or very-low-
650 income households as defined in s. 420.9071(19) and (28) are
651 received for less than the annual tax credits available for those
652 projects, the Office of Tourism, Trade, and Economic Development
653 shall grant tax credits for those applications and shall grant
654 remaining tax credits on a first-come, first-served basis for any
655 subsequent eligible applications received before the end of the
656 state fiscal year. If, during the first 10 business days of the
657 state fiscal year, eligible tax credit applications for projects
658 that provide homeownership opportunities for low-income or very-
659 low-income households as defined in s. 420.9071(19) and (28) are
660 received for more than the annual tax credits available for those
661 projects, the office shall grant the tax credits for those
662 applications as follows:

663 (A) If tax credit applications submitted for approved
664 projects of an eligible sponsor do not exceed \$200,000 in total,
665 the credits shall be granted in full if the tax credit
666 applications are approved.

667 (B) If tax credit applications submitted for approved

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668 projects of an eligible sponsor exceed \$200,000 in total, the
 669 amount of tax credits granted pursuant to sub-sub-sub-
 670 subparagraph (A) shall be subtracted from the amount of available
 671 tax credits, and the remaining credits shall be granted to each
 672 approved tax credit application on a pro rata basis.

673 (II) If, during the first 10 business days of the state
 674 fiscal year, eligible tax credit applications for projects other
 675 than those that provide homeownership opportunities for low-
 676 income or very-low-income households as defined in s.
 677 420.9071(19) and (28) are received for less than the annual tax
 678 credits available for those projects, the office shall grant tax
 679 credits for those applications and shall grant remaining tax
 680 credits on a first-come, first-served basis for any subsequent
 681 eligible applications received before the end of the state fiscal
 682 year. If, during the first 10 business days of the state fiscal
 683 year, eligible tax credit applications for projects other than
 684 those that provide homeownership opportunities for low-income or
 685 very-low-income households as defined in s. 420.9071(19) and (28)
 686 are received for more than the annual tax credits available for
 687 those projects, the office shall grant the tax credits for those
 688 applications on a pro rata basis.

689 3. Application requirements.--

690 a. Any eligible sponsor seeking to participate in this
 691 program must submit a proposal to the Office of Tourism, Trade,
 692 and Economic Development which sets forth the name of the
 693 sponsor, a description of the project, and the area in which the
 694 project is located, together with such supporting information as
 695 is prescribed by rule. The proposal must also contain a
 696 resolution from the local governmental unit in which the project

697 is located certifying that the project is consistent with local
698 plans and regulations.

699 b. Any person seeking to participate in this program must
700 submit an application for tax credit to the office which sets
701 forth the name of the sponsor, a description of the project, and
702 the type, value, and purpose of the contribution. The sponsor
703 shall verify the terms of the application and indicate its
704 receipt of the contribution, which verification must be in
705 writing and accompany the application for tax credit. The person
706 must submit a separate tax credit application to the office for
707 each individual contribution that it makes to each individual
708 project.

709 c. Any person who has received notification from the office
710 that a tax credit has been approved must apply to the department
711 to receive the refund. Application must be made on the form
712 prescribed for claiming refunds of sales and use taxes and be
713 accompanied by a copy of the notification. A person may submit
714 only one application for refund to the department within any 12-
715 month period.

716 4. Administration.--

717 a. The Office of Tourism, Trade, and Economic Development
718 may adopt rules pursuant to ss. 120.536(1) and 120.54 necessary
719 to administer this paragraph, including rules for the approval or
720 disapproval of proposals by a person.

721 b. The decision of the office must be in writing, and, if
722 approved, the notification shall state the maximum credit
723 allowable to the person. Upon approval, the office shall transmit
724 a copy of the decision to the Department of Revenue.

725 c. The office shall periodically monitor all projects in a

726 manner consistent with available resources to ensure that
 727 resources are used in accordance with this paragraph; however,
 728 each project must be reviewed at least once every 2 years.

729 d. The office shall, in consultation with the Department of
 730 Community Affairs and the statewide and regional housing and
 731 financial intermediaries, market the availability of the
 732 community contribution tax credit program to community-based
 733 organizations.

734 5. Expiration.--This paragraph expires June 30, 2015;
 735 however, any accrued credit carryover that is unused on that date
 736 may be used until the expiration of the 3-year carryover period
 737 for such credit.

738
 739 Reviser's note.--Amended to correct an erroneous
 740 reference. Section 420.0971 does not exist; s.
 741 420.9071(19) and (28) define "low-income household" and
 742 "very-low-income household."

743
 744 Section 19. Paragraph (b) of subsection (5) of section
 745 213.053, Florida Statutes, is amended to read:

746 213.053 Confidentiality and information sharing.--
 747 (5) Nothing contained in this section shall prevent the
 748 department from:

749 (b) Disclosing to the Chief Financial Officer the names and
 750 addresses of those taxpayers who have claimed an exemption
 751 pursuant to former s. 199.185(1)(i) or a deduction pursuant to s.
 752 220.63(5).

753
 754 Reviser's note.--Amended to conform to the repeal of s.

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755 | 199.185 by s. 1, ch. 2006-312, Laws of Florida.

756

757 | Section 20. Paragraph (a) of subsection (4) of section
758 | 213.0535, Florida Statutes, is amended to read:

759 | 213.0535 Registration Information Sharing and Exchange
760 | Program.--

761 | (4) There are two levels of participation:

762 | (a) Each unit of state or local government responsible for
763 | administering one or more of the provisions specified in
764 | subparagraphs 1.-8. is a level-one participant. Level-one
765 | participants shall exchange, monthly or quarterly, as determined
766 | jointly by each participant and the department, the data
767 | enumerated in subsection (2) for each new registrant, new filer,
768 | or initial reporter, permittee, or licensee, with respect to the
769 | following taxes, licenses, or permits:

- 770 | 1. The sales and use tax imposed under chapter 212.
- 771 | 2. The tourist development tax imposed under s. 125.0104.
- 772 | 3. The tourist impact tax imposed under s. 125.0108.
- 773 | 4. Local business ~~occupational license~~ taxes imposed under
774 | chapter 205.
- 775 | 5. Convention development taxes imposed under s. 212.0305.
- 776 | 6. Public lodging and food service establishment licenses
777 | issued pursuant to chapter 509.
- 778 | 7. Beverage law licenses issued pursuant to chapter 561.
- 779 | 8. A municipal resort tax as authorized under chapter 67-
780 | 930, Laws of Florida.

781

782 | Reviser's note.--Amended to conform to the
783 | redesignation of local occupational license taxes as

784 local business taxes by ch. 2006-152, Laws of Florida.

785

786 Section 21. Paragraph (a) of subsection (2) and subsection
787 (7) of section 215.559, Florida Statutes, are reenacted, and
788 subsection (4) of that section is amended to read:

789 215.559 Hurricane Loss Mitigation Program.--

790 (2)(a) Seven million dollars in funds provided in
791 subsection (1) shall be used for programs to improve the wind
792 resistance of residences and mobile homes, including loans,
793 subsidies, grants, demonstration projects, and direct assistance;
794 educating persons concerning the Florida Building Code
795 cooperative programs with local governments and the Federal
796 Government; and other efforts to prevent or reduce losses or
797 reduce the cost of rebuilding after a disaster.

798 (4) Of moneys provided to the Department of Community
799 Affairs in paragraph (2)(a), 10 percent shall be allocated to a
800 Type I Center within the State University System dedicated to
801 hurricane research. The Type I Center shall develop a preliminary
802 work plan approved by the advisory council set forth in
803 subsection (5)~~(6)~~ to eliminate the state and local barriers to
804 upgrading existing mobile homes and communities, research and
805 develop a program for the recycling of existing older mobile
806 homes, and support programs of research and development relating
807 to hurricane loss reduction devices and techniques for site-built
808 residences. The State University System also shall consult with
809 the Department of Community Affairs and assist the department
810 with the report required under subsection (7)~~(8)~~.

811 (7) On January 1st of each year, the Department of
812 Community Affairs shall provide a full report and accounting of

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813 activities under this section and an evaluation of such
 814 activities to the Speaker of the House of Representatives, the
 815 President of the Senate, and the Majority and Minority Leaders of
 816 the House of Representatives and the Senate. Upon completion of
 817 the report, the Department of Community Affairs shall deliver the
 818 report to the Office of Insurance Regulation. The Office of
 819 Insurance Regulation shall review the report and shall make such
 820 recommendations available to the insurance industry as the Office
 821 of Insurance Regulation deems appropriate. These recommendations
 822 may be used by insurers for potential discounts or rebates
 823 pursuant to s. 627.0629. The Office of Insurance Regulation shall
 824 make the recommendations within 1 year after receiving the
 825 report.

826
 827 Reviser's note.--Paragraph (2)(a) and subsection (7)
 828 are reenacted to confirm the validity of the amendments
 829 to those provisions by s. 1, ch. 2005-147, Laws of
 830 Florida. The Governor vetoed the addition of what would
 831 have been a new subsection (5) by s. 1, ch. 2005-147.
 832 Subsection (4) is amended to conform references within
 833 the section to the current location of the referenced
 834 material as a result of the repeal of former subsection
 835 (3) by s. 46, ch. 2006-12, Laws of Florida.

836
 837 Section 22. Subsection (2) of section 215.82, Florida
 838 Statutes, is amended to read:

839 215.82 Validation; when required.--

840 (2) Any bonds issued pursuant to this act which are
 841 validated shall be validated in the manner provided by chapter

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842 75. In actions to validate bonds to be issued in the name of the
843 State Board of Education under s. 9(a) and (d), Art. XII of the
844 State Constitution and bonds to be issued pursuant to chapter
845 259, the Land Conservation Act of 1972, the complaint shall be
846 filed in the circuit court of the county where the seat of state
847 government is situated, the notice required to be published by s.
848 75.06 shall be published only in the county where the complaint
849 is filed, and the complaint and order of the circuit court shall
850 be served only on the state attorney of the circuit in which the
851 action is pending. In any action to validate bonds issued
852 pursuant to former ss. 1010.61-1010.619 or issued pursuant to s.
853 9(a)(1), Art. XII of the State Constitution or issued pursuant to
854 s. 215.605 or s. 338.227, the complaint shall be filed in the
855 circuit court of the county where the seat of state government is
856 situated, the notice required to be published by s. 75.06 shall
857 be published in a newspaper of general circulation in the county
858 where the complaint is filed and in two other newspapers of
859 general circulation in the state, and the complaint and order of
860 the circuit court shall be served only on the state attorney of
861 the circuit in which the action is pending; provided, however,
862 that if publication of notice pursuant to this section would
863 require publication in more newspapers than would publication
864 pursuant to s. 75.06, such publication shall be made pursuant to
865 s. 75.06.

866
867 Reviser's note.--Amended to conform to the repeal of
868 ss. 1010.61-1010.619 by s. 15, ch. 2006-27, Laws of
869 Florida.

870

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871 Section 23. Paragraph (b) of subsection (3) of section
872 218.64, Florida Statutes, is amended to read:

873 218.64 Local government half-cent sales tax; uses;
874 limitations.--

875 (3) Subject to ordinances enacted by the majority of the
876 members of the county governing authority and by the majority of
877 the members of the governing authorities of municipalities
878 representing at least 50 percent of the municipal population of
879 such county, counties may use up to \$2 million annually of the
880 local government half-cent sales tax allocated to that county for
881 funding for any of the following applicants:

882 (b) A certified applicant as a "motorsport entertainment
883 complex," as provided for in s. 288.1171 ~~288.1097~~. Funding for
884 each franchise or motorsport complex shall begin 60 days after
885 certification and shall continue for not more than 30 years.

886
887 Reviser's note.--Amended to correct an erroneous
888 reference. Section 288.1097 relates to qualified
889 training organizations; s. 288.1171 relates to a
890 motorsport entertainment complex.

891
892 Section 24. Paragraph (a) of subsection (1) of section
893 220.181, Florida Statutes, is amended to read:

894 220.181 Enterprise zone jobs credit.--

895 (1)(a) There shall be allowed a credit against the tax
896 imposed by this chapter to any business located in an enterprise
897 zone which demonstrates to the department that, on the date of
898 application, the total number of full-time jobs is greater than
899 the total was 12 months prior to that date. The credit shall be

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900 computed as 20 percent of the actual monthly wages paid in this
 901 state to each new employee hired when a new job has been created,
 902 as defined under s. 220.03(1)(ee) ~~220.03(1)(ff)~~, unless the
 903 business is located in a rural enterprise zone, pursuant to s.
 904 290.004(6), in which case the credit shall be 30 percent of the
 905 actual monthly wages paid. If no less than 20 percent of the
 906 employees of the business are residents of an enterprise zone,
 907 excluding temporary and part-time employees, the credit shall be
 908 computed as 30 percent of the actual monthly wages paid in this
 909 state to each new employee hired when a new job has been created,
 910 unless the business is located in a rural enterprise zone, in
 911 which case the credit shall be 45 percent of the actual monthly
 912 wages paid, for a period of up to 24 consecutive months. If the
 913 new employee hired when a new job is created is a participant in
 914 the welfare transition program, the following credit shall be a
 915 percent of the actual monthly wages paid: 40 percent for \$4 above
 916 the hourly federal minimum wage rate; 41 percent for \$5 above the
 917 hourly federal minimum wage rate; 42 percent for \$6 above the
 918 hourly federal minimum wage rate; 43 percent for \$7 above the
 919 hourly federal minimum wage rate; and 44 percent for \$8 above the
 920 hourly federal minimum wage rate.

921
 922 Reviser's note.--Amended to conform to the repeal of
 923 former s. 220.03(1)(x) by s. 4, ch. 2006-2, Laws of
 924 Florida, and the redesignation of subunits as a result
 925 of that repeal; current s. 220.03(1)(ee) defines "new
 926 job has been created."

927
 928 Section 25. Paragraph (c) of subsection (1) of section

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929 220.183, Florida Statutes, is amended to read:

930 220.183 Community contribution tax credit.--

931 (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX
 932 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM
 933 SPENDING.--

934 (c) The total amount of tax credit which may be granted for
 935 all programs approved under this section, s. 212.08(5)(p)
 936 ~~212.08(5)(q)~~, and s. 624.5105 is \$10.5 million annually for
 937 projects that provide homeownership opportunities for low-income
 938 or very-low-income households as defined in s. 420.9071(19) and
 939 (28) and \$3.5 million annually for all other projects.

940
 941 Reviser's note.--Amended to conform to the
 942 redesignation of s. 212.08(5)(q) as s. 212.08(5)(p) to
 943 conform to the repeal of former s. 212.08(5)(p) by s.
 944 2, ch. 2006-2, Laws of Florida.

945
 946 Section 26. Subsection (20) of section 250.01, Florida
 947 Statutes, is amended to read:

948 250.01 Definitions.--As used in this chapter, the term:

949 (20) "SCRA ~~SSCRA~~" means the Servicemembers' ~~Soldiers'~~ and
 950 ~~Sailors'~~ Civil Relief Act, Title 50, Appendix U.S.C. ss. 501 et
 951 seq.

952
 953 Reviser's note.--Amended to conform to the
 954 redesignation of the federal act in Title 50 United
 955 States Code.

956
 957 Section 27. Subsection (1) of section 250.82, Florida

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958 Statutes, is amended to read:

959 250.82 Applicability of federal law.--

960 (1) Florida law provides certain protections to members of
 961 the United States Armed Forces, the United States Reserve Forces,
 962 and the Florida National Guard in various legal proceedings and
 963 contractual relationships. In addition to these state provisions,
 964 federal law also contains protections, such as those provided in
 965 the Servicemembers' ~~Soldiers' and Sailors'~~ Civil Relief Act (SCRA
 966 ~~SSCRA~~), Title 50, Appendix U.S.C. ss. 501 et seq., and the
 967 Uniformed Services Employment and Reemployment Rights Act
 968 (USERRA), Title 38 United States Code, chapter 43, that are
 969 applicable to members in every state even though such provisions
 970 are not specifically identified under state law.

971
 972 Reviser's note.--Amended to conform to the
 973 redesignation of the federal act in Title 50 United
 974 States Code.

975
 976 Section 28. Paragraph (b) of subsection (3) of section
 977 250.84, Florida Statutes, is amended to read:

978 250.84 Florida Uniformed Servicemembers Protection Act;
 979 rights of servicemembers; incorporation by reference.--

980 (3) Such documents containing the rights and
 981 responsibilities of servicemembers set forth in this act shall
 982 include an enumeration of all rights and responsibilities under
 983 state and federal law, including, but not limited to:

984 (b) The rights and responsibilities provided by the
 985 Servicemembers' ~~Soldiers' and Sailors'~~ Civil Relief Act.

986

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987 Reviser's note.--Amended to conform to the
 988 redesignation of the federal act in Title 50 United
 989 States Code.

990
 991 Section 29. Paragraph (s) of subsection (2) of section
 992 252.35, Florida Statutes, is amended to read:

993 252.35 Emergency management powers; Division of Emergency
 994 Management.--

995 (2) The division is responsible for carrying out the
 996 provisions of ss. 252.31-252.90. In performing its duties under
 997 ss. 252.31-252.90, the division shall:

998 (s) By January 1, 2007, the Division of Emergency
 999 Management shall complete an inventory of portable generators
 1000 owned by the state and local governments which are capable of
 1001 operating during a major disaster. The inventory must identify,
 1002 at a minimum, the location of each generator, the number of
 1003 generators stored at each specific location, the agency to which
 1004 each ~~the~~ generator belongs, the primary use of the generator by
 1005 the owner agency, and the names, addresses, and telephone numbers
 1006 of persons having the authority to loan the stored generators as
 1007 authorized by the Division of Emergency Management during a
 1008 declared emergency.

1009
 1010 Reviser's note.--Amended to confirm the editorial
 1011 deletion of the word "the" following the word "each" to
 1012 improve clarity.

1013
 1014 Section 30. Section 253.421, Florida Statutes, is repealed.
 1015

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1016 Reviser's note.--The cited section, which provides for
 1017 the exchange of donated state lands between the Board
 1018 of Trustees of the Internal Improvement Trust Fund and
 1019 a local government no later than August 31, 2003, has
 1020 served its purpose.

1021
 1022 Section 31. Section 253.422, Florida Statutes, is repealed.

1023
 1024 Reviser's note.--The cited section, which provides for
 1025 an exchange of lands contemplated between the Board of
 1026 Trustees of the Internal Improvement Trust Fund and a
 1027 private entity for formerly submerged sovereignty
 1028 lands, known as the "Chapman Exchange," no later than
 1029 July 1, 2003, has served its purpose.

1030
 1031 Section 32. Paragraph (c) of subsection (2) of section
 1032 255.25001, Florida Statutes, is amended to read:

1033 255.25001 Suspension or delay of specified functions,
 1034 programs, and requirements relating to governmental
 1035 operations.--Notwithstanding the provisions of:

1036 (2) Sections 253.025 and 255.25, the Department of
 1037 Management Services has the authority to promulgate rules
 1038 pursuant to chapter 120 to be used in determining whether a
 1039 lease-purchase of a state-owned office building is in the best
 1040 interests of the state, which rules provide:

1041 (c) Acceptable terms and conditions for inclusion in lease-
 1042 purchase agreements, which shall include but not be limited to:

1043 1. The assignment of the lease-purchase agreement to other
 1044 governmental entities, including accumulated equity.

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1045 2. The ability of the acquiring state agency to sublease a
 1046 portion of the facility, not to exceed 25 percent, to other
 1047 governmental entities. These subleases shall provide for the
 1048 recovery of the agencies' cost of operations and maintenance.

1049
 1050 The execution of a lease-purchase is conditioned upon a finding
 1051 by the Department of Management Services that it would be in the
 1052 best interests of the state. The language in this subsection
 1053 shall be considered specific authorization for a lease-purchase
 1054 pursuant to s. 255.25(1)(c) ~~255.25(1)(b)~~ upon the Department of
 1055 Management Services' certification that the lease-purchase is in
 1056 the best interests of the state. Thereafter, the agency is
 1057 authorized to enter into a lease-purchase agreement and to expend
 1058 operating funds for lease-purchase payments. Any facility which
 1059 is acquired pursuant to the processes authorized by this
 1060 subsection shall be considered to be a "state-owned office
 1061 building" and a "state-owned building" as those terms are applied
 1062 in ss. 255.248-255.25.

1063
 1064 Reviser's note.--Amended to conform to the
 1065 redesignation of s. 255.25(1)(b) as s. 255.25(1)(c) by
 1066 s. 3, ch. 94-333, Laws of Florida.

1067
 1068 Section 33. Paragraph (b) of subsection (7) of section
 1069 259.1053, Florida Statutes, is amended to read:

1070 259.1053 Babcock Ranch Preserve; Babcock Ranch, Inc.;
 1071 creation; membership; organization; meetings.--

1072 (7) BOARD; MEMBERSHIP; REMOVAL; LIABILITY.--The corporation
 1073 shall be governed by a nine-member board of directors who shall

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1074 be appointed by the Board of Trustees of the Internal Improvement
 1075 Trust Fund; the executive director of the commission; the
 1076 Commissioner of Agriculture; the Babcock Florida Company, a
 1077 corporation registered to do business in the state, or its
 1078 successors or assigns; the Charlotte County Board of County
 1079 Commissioners; and the Lee County Board of County Commissioners
 1080 in the following manner:

1081 (b) All members of the board of directors shall be
 1082 appointed no later than 90 days following the initial acquisition
 1083 of the Babcock Ranch by the state, and:

1084 1. Four members initially appointed by the Board of
 1085 Trustees of the Internal Improvement Trust Fund shall each serve
 1086 a 4-year term.

1087 2. The remaining initial five appointees shall each serve a
 1088 2-year term.

1089 3. Each member appointed thereafter shall serve a 4-year
 1090 term.

1091 4. A vacancy shall be filled in the same manner in which
 1092 the original appointment was made, and a member appointed to fill
 1093 a vacancy shall serve for the remainder of that term.

1094 5. No member may serve more than 8 years in consecutive
 1095 terms.

1096
 1097 Reviser's note.--Amended to confirm the editorial
 1098 insertion of the word "than" after the word "later" to
 1099 improve clarity and facilitate correct interpretation.

1100
 1101 Section 34. Paragraph (d) of subsection (1) of section
 1102 260.016, Florida Statutes, is amended to read:

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1103 260.016 General powers of the department.--
 1104 (1) The department may:
 1105 (d) Establish, develop, and publicize greenways and trails
 1106 in a manner that will permit public recreation when appropriate
 1107 without damaging natural resources and avoiding unnecessary
 1108 impact upon sensitive environments such as wetlands or animal
 1109 habitats, wherever encountered. The Big Bend Historic Saltwater
 1110 Paddling Trail from the St. Marks River to Yankeetown is hereby
 1111 designated as part of the Florida Greenways and Trails System.
 1112 Additions to this trail may be added by the Legislature or the
 1113 department from time to time as part of the Florida
 1114 Circumnavigation Saltwater Paddling Trail created in s. 260.019
 1115 ~~260.19~~.

1116
 1117 Reviser's note.--Amended to correct a reference to s.
 1118 260.19, which does not exist; s. 260.019 creates the
 1119 Florida Circumnavigation Saltwater Paddling Trail.

1120
 1121 Section 35. Subsection (4) of section 287.0574, Florida
 1122 Statutes, is amended to read:
 1123 287.0574 Business cases to outsource; review and analysis;
 1124 requirements.--
 1125 (4) For any proposed outsourcing, the state agency shall
 1126 develop a business case that justifies the proposal to outsource.
 1127 In order to reduce any administrative burden, the council may
 1128 allow a state agency to submit the business case in the form
 1129 required by the budget instructions issued pursuant to s.
 1130 216.023 (4) (a) 7. ~~216.023 (4) (a) 11.~~, augmented with additional
 1131 information if necessary, to ensure that the requirements of this

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1132 section are met. The business case is not subject to challenge or
1133 protest pursuant to chapter 120. The business case must include,
1134 but need not be limited to:

1135 (a) A detailed description of the service or activity for
1136 which the outsourcing is proposed.

1137 (b) A description and analysis of the state agency's
1138 current performance, based on existing performance metrics if the
1139 state agency is currently performing the service or activity.

1140 (c) The goals desired to be achieved through the proposed
1141 outsourcing and the rationale for such goals.

1142 (d) A citation to the existing or proposed legal authority
1143 for outsourcing the service or activity.

1144 (e) A description of available options for achieving the
1145 goals. If state employees are currently performing the service or
1146 activity, at least one option involving maintaining state
1147 provision of the service or activity shall be included.

1148 (f) An analysis of the advantages and disadvantages of each
1149 option, including, at a minimum, potential performance
1150 improvements and risks.

1151 (g) A description of the current market for the contractual
1152 services that are under consideration for outsourcing.

1153 (h) A cost-benefit analysis documenting the direct and
1154 indirect specific baseline costs, savings, and qualitative and
1155 quantitative benefits involved in or resulting from the
1156 implementation of the recommended option or options. Such
1157 analysis must specify the schedule that, at a minimum, must be
1158 adhered to in order to achieve the estimated savings. All
1159 elements of cost must be clearly identified in the cost-benefit
1160 analysis, described in the business case, and supported by

1161 applicable records and reports. The state agency head shall
 1162 attest that, based on the data and information underlying the
 1163 business case, to the best of his or her knowledge, all projected
 1164 costs, savings, and benefits are valid and achievable. As used in
 1165 this section, the term "cost" means the reasonable, relevant, and
 1166 verifiable cost, which may include, but is not limited to,
 1167 elements such as personnel, materials and supplies, services,
 1168 equipment, capital depreciation, rent, maintenance and repairs,
 1169 utilities, insurance, personnel travel, overhead, and interim and
 1170 final payments. The appropriate elements shall depend on the
 1171 nature of the specific initiative. As used in this section, the
 1172 term "savings" means the difference between the direct and
 1173 indirect actual annual baseline costs compared to the projected
 1174 annual cost for the contracted functions or responsibilities in
 1175 any succeeding state fiscal year during the term of the contract.

1176 (i) A description of differences among current state agency
 1177 policies and processes and, as appropriate, a discussion of
 1178 options for or a plan to standardize, consolidate, or revise
 1179 current policies and processes, if any, to reduce the
 1180 customization of any proposed solution that would otherwise be
 1181 required.

1182 (j) A description of the specific performance standards
 1183 that must, at a minimum, be met to ensure adequate performance.

1184 (k) The projected timeframe for key events from the
 1185 beginning of the procurement process through the expiration of a
 1186 contract.

1187 (l) A plan to ensure compliance with the public records
 1188 law.

1189 (m) A specific and feasible contingency plan addressing

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1190 contractor nonperformance and a description of the tasks involved
 1191 in and costs required for its implementation.

1192 (n) A state agency's transition plan for addressing changes
 1193 in the number of agency personnel, affected business processes,
 1194 employee transition issues, and communication with affected
 1195 stakeholders, such as agency clients and the public. The
 1196 transition plan must contain a reemployment and retraining
 1197 assistance plan for employees who are not retained by the state
 1198 agency or employed by the contractor.

1199 (o) A plan for ensuring access by persons with disabilities
 1200 in compliance with applicable state and federal law.

1201 (p) A description of legislative and budgetary actions
 1202 necessary to accomplish the proposed outsourcing.

1203

1204 Reviser's note.--Amended to conform to the
 1205 redesignation of s. 216.023(4)(a)11. as s.
 1206 216.023(4)(a)7. by s. 26, ch. 2006-122, Laws of
 1207 Florida, and by s. 17, ch. 2006-146, Laws of Florida.

1208

1209 Section 36. Paragraph (b) of subsection (2) of section
 1210 288.039, Florida Statutes, is amended to read:

1211 288.039 Employing and Training our Youths (ENTRY).--

1212 (2) TAX REFUND; ELIGIBLE AMOUNTS.--

1213 (b) After entering into an employment/tax refund agreement
 1214 under subsection (3), an eligible business may receive refunds
 1215 for the following taxes or fees due and paid by that business:

1216 1. Taxes on sales, use, and other transactions under
 1217 chapter 212.

1218 2. Corporate income taxes under chapter 220.

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- 1219 3. Intangible personal property taxes under chapter 199.
- 1220 4. Emergency excise taxes under chapter 221.
- 1221 5. Excise taxes on documents under chapter 201.
- 1222 6. Ad valorem taxes paid, as defined in s. 220.03(1).
- 1223 7. Insurance premium taxes under s. 624.509.
- 1224 8. Business tax ~~Occupational license~~ fees under chapter
- 1225 205.

1226

1227 However, an eligible business may not receive a refund under this

1228 section for any amount of credit, refund, or exemption granted to

1229 that business for any of such taxes or fees. If a refund for

1230 such taxes or fees is provided by the office, which taxes or fees

1231 are subsequently adjusted by the application of any credit,

1232 refund, or exemption granted to the eligible business other than

1233 as provided in this section, the business shall reimburse the

1234 office for the amount of that credit, refund, or exemption. An

1235 eligible business shall notify and tender payment to the office

1236 within 20 days after receiving any credit, refund, or exemption

1237 other than the one provided in this section.

1238

1239 Reviser's note.--Amended to conform to the

1240 redesignation of occupational license taxes in chapter

1241 205 as business taxes by ch. 2006-152, Laws of Florida.

1242

1243 Section 37. Paragraph (1) of subsection (1) of section

1244 288.1045, Florida Statutes, is amended to read:

1245 288.1045 Qualified defense contractor tax refund program.--

1246 (1) DEFINITIONS.--As used in this section:

1247 (1) "Taxable year" means the same as in s. 220.03(1)(y)

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1248 ~~220.03(1)(z).~~

1249

1250 Reviser's note.--Amended to conform to the
 1251 redesignation of s. 220.03(1)(z) as s. 220.03(1)(y)
 1252 necessitated by the repeal of paragraph (1)(x) by s. 4,
 1253 ch. 2006-2, Laws of Florida.

1254

1255 Section 38. Paragraph (p) of subsection (1) of section
 1256 288.106, Florida Statutes, is amended to read:

1257 288.106 Tax refund program for qualified target industry
 1258 businesses.--

1259 (1) DEFINITIONS.--As used in this section:

1260 (p) "Taxable year" means taxable year as defined in s.
 1261 220.03(1)(y) ~~220.03(1)(z)~~.

1262

1263 Reviser's note.--Amended to conform to the
 1264 redesignation of s. 220.03(1)(z) as s. 220.03(1)(y)
 1265 necessitated by the repeal of paragraph (1)(x) by s. 4,
 1266 ch. 2006-2, Laws of Florida.

1267

1268 Section 39. Sections 288.1231, 288.1232, 288.1233,
 1269 288.1235, 288.1236, and 288.1237, Florida Statutes, are repealed.

1270

1271 Reviser's note.--The cited sections, which relate to
 1272 the selection of a host city for the XXXth Olympic
 1273 Games in 2012, have served their purpose.

1274

1275 Section 40. Subsection (6) of section 288.90151, Florida
 1276 Statutes, is amended to read:

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1277 288.90151 Return on investment from activities of
 1278 Enterprise Florida, Inc.--

1279 (6) Enterprise Florida, Inc., shall fully comply with the
 1280 performance measures, standards, and sanctions in its contracts
 1281 with the Office of Tourism, Trade, and Economic Development under
 1282 s. 14.2015(2)(g) and (7) ~~14.2015(2)(h)~~ and ~~(7)~~. The Office of
 1283 Tourism, Trade, and Economic Development shall ensure, to the
 1284 maximum extent possible, that the contract performance measures
 1285 are consistent with performance measures that the office is
 1286 required to develop and track under performance-based program
 1287 budgeting.

1288
 1289 Reviser's note.--Amended to conform to the
 1290 redesignation of s. 14.2015(2)(h) as s. 14.2015(2)(g)
 1291 by s. 1, ch. 99-251, Laws of Florida.

1292
 1293 Section 41. Paragraph (e) of subsection (1) of section
 1294 290.0057, Florida Statutes, is amended to read:

1295 290.0057 Enterprise zone development plan.--

1296 (1) Any application for designation as a new enterprise
 1297 zone must be accompanied by a strategic plan adopted by the
 1298 governing body of the municipality or county, or the governing
 1299 bodies of the county and one or more municipalities together. At
 1300 a minimum, the plan must:

1301 (e) Commit the governing body or bodies to enact and
 1302 maintain local fiscal and regulatory incentives, if approval for
 1303 the area is received under s. 290.0065. These incentives may
 1304 include the municipal public service tax exemption provided by s.
 1305 166.231, the economic development ad valorem tax exemption

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1306 provided by s. 196.1995, the business ~~occupational license~~ tax
 1307 exemption provided by s. 205.054, local impact fee abatement or
 1308 reduction, or low-interest or interest-free loans or grants to
 1309 businesses to encourage the revitalization of the nominated area.

1310

1311 Reviser's note.--Amended to conform to the
 1312 redesignation of occupational license taxes in chapter
 1313 205 as business taxes by ch. 2006-152, Laws of Florida.

1314

1315 Section 42. Section 290.0072, Florida Statutes, is amended
 1316 to read:

1317 290.0072 Enterprise zone designation for the City of Winter
 1318 Haven.--The City of Winter Haven may apply to the Office of
 1319 Tourism, Trade, and Economic Development for designation of one
 1320 enterprise zone for an area within the City of Winter Haven,
 1321 which zone shall encompass an ~~en~~ area up to 5 square miles.
 1322 Notwithstanding s. 290.0065 limiting the total number of
 1323 enterprise zones designated and the number of enterprise zones
 1324 within a population category, the Office of Tourism, Trade, and
 1325 Economic Development may designate one enterprise zone under this
 1326 section. The Office of Tourism, Trade, and Economic Development
 1327 shall establish the initial effective date of the enterprise zone
 1328 designated pursuant to this section.

1329

1330 Reviser's note.--Amended to confirm the editorial
 1331 substitution of the word "an" for the word "on" to
 1332 conform to context.

1333

1334 Section 43. Subsections (2) and (3) of section 316.006,

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1335 Florida Statutes, are reenacted to read:
 1336 316.006 Jurisdiction.--Jurisdiction to control traffic is
 1337 vested as follows:
 1338 (2) MUNICIPALITIES.--
 1339 (a) Chartered municipalities shall have original
 1340 jurisdiction over all streets and highways located within their
 1341 boundaries, except state roads, and may place and maintain such
 1342 traffic control devices which conform to the manual and
 1343 specifications of the Department of Transportation upon all
 1344 streets and highways under their original jurisdiction as they
 1345 shall deem necessary to indicate and to carry out the provisions
 1346 of this chapter or to regulate, warn, or guide traffic.
 1347 (b) A municipality may exercise jurisdiction over any
 1348 private road or roads, or over any limited access road or roads
 1349 owned or controlled by a special district, located within its
 1350 boundaries if the municipality and party or parties owning or
 1351 controlling such road or roads provide, by written agreement
 1352 approved by the governing body of the municipality, for municipal
 1353 traffic control jurisdiction over the road or roads encompassed
 1354 by such agreement. Pursuant thereto:
 1355 1. Provision for reimbursement for actual costs of traffic
 1356 control and enforcement and for liability insurance and
 1357 indemnification by the party or parties, and such other terms as
 1358 are mutually agreeable, may be included in such an agreement.
 1359 2. The exercise of jurisdiction provided for herein shall
 1360 be in addition to jurisdictional authority presently exercised by
 1361 municipalities under law, and nothing in this paragraph shall be
 1362 construed to limit or remove any such jurisdictional authority.
 1363 Such jurisdiction includes regulation of access to such road or

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1364 roads by security devices or personnel.

1365 3. Any such agreement may provide for the installation of
 1366 multiparty stop signs by the parties controlling the roads
 1367 covered by the agreement if a determination is made by such
 1368 parties that the signage will enhance traffic safety. Multiparty
 1369 stop signs must conform to the manual and specifications of the
 1370 Department of Transportation; however, minimum traffic volumes
 1371 may not be required for the installation of such signage.
 1372 Enforcement for the signs shall be as provided in s. 316.123.

1373 4. The board of directors of a homeowners' association as
 1374 defined in chapter 720 may, by majority vote, elect to have state
 1375 traffic laws enforced by local law enforcement agencies on
 1376 private roads that are controlled by the association.

1377 (c) Notwithstanding any other provisions of law to the
 1378 contrary, a municipality may, by interlocal agreement with a
 1379 county, agree to transfer traffic regulatory authority over areas
 1380 within the municipality to the county.

1381
 1382 This subsection shall not limit those counties which have the
 1383 charter powers to provide and regulate arterial, toll, and other
 1384 roads, bridges, tunnels, and related facilities from the proper
 1385 exercise of those powers by the placement and maintenance of
 1386 traffic control devices which conform to the manual and
 1387 specifications of the Department of Transportation on streets and
 1388 highways located within municipal boundaries.

1389 (3) COUNTIES.--

1390 (a) Counties shall have original jurisdiction over all
 1391 streets and highways located within their boundaries, except all
 1392 state roads and those streets and highways specified in

1393 subsection (2), and may place and maintain such traffic control
 1394 devices which conform to the manual and specifications of the
 1395 Department of Transportation upon all streets and highways under
 1396 their original jurisdiction as they shall deem necessary to
 1397 indicate and to carry out the provisions of this chapter or to
 1398 regulate, warn, or guide traffic.

1399 (b) A county may exercise jurisdiction over any private
 1400 road or roads, or over any limited access road or roads owned or
 1401 controlled by a special district, located in the unincorporated
 1402 area within its boundaries if the county and party or parties
 1403 owning or controlling such road or roads provide, by written
 1404 agreement approved by the governing body of the county, for
 1405 county traffic control jurisdiction over the road or roads
 1406 encompassed by such agreement. Pursuant thereto:

1407 1. Provision for reimbursement for actual costs of traffic
 1408 control and enforcement and for liability insurance and
 1409 indemnification by the party or parties, and such other terms as
 1410 are mutually agreeable, may be included in such an agreement.

1411 2. Prior to entering into an agreement which provides for
 1412 enforcement of the traffic laws of the state over a private road
 1413 or roads, or over any limited access road or roads owned or
 1414 controlled by a special district, the governing body of the
 1415 county shall consult with the sheriff. No such agreement shall
 1416 take effect prior to October 1, the beginning of the county
 1417 fiscal year, unless this requirement is waived in writing by the
 1418 sheriff.

1419 3. The exercise of jurisdiction provided for herein shall
 1420 be in addition to jurisdictional authority presently exercised by
 1421 counties under law, and nothing in this paragraph shall be

1422 construed to limit or remove any such jurisdictional authority.

1423 4. Any such agreement may provide for the installation of
 1424 multiparty stop signs by the parties controlling the roads
 1425 covered by the agreement if a determination is made by such
 1426 parties that the signage will enhance traffic safety. Multiparty
 1427 stop signs must conform to the manual and specifications of the
 1428 Department of Transportation; however, minimum traffic volumes
 1429 may not be required for the installation of such signage.
 1430 Enforcement for the signs shall be as provided in s. 316.123.

1431 5. The board of directors of a homeowners' association as
 1432 defined in chapter 720 may, by majority vote, elect to have state
 1433 traffic laws enforced by local law enforcement agencies on
 1434 private roads that are controlled by the association.

1435 (c) If the governing body of a county abandons the roads
 1436 and rights-of-way dedicated in a recorded residential
 1437 subdivision, and simultaneously conveys the county's interest
 1438 therein to a homeowners' association for the subdivision in the
 1439 manner prescribed in s. 336.125, that county's traffic control
 1440 jurisdiction over the abandoned and conveyed roads ceases unless
 1441 the requirements of paragraph (b) are met.

1442
 1443 Notwithstanding the provisions of subsection (2), each county
 1444 shall have original jurisdiction to regulate parking, by
 1445 resolution of the board of county commissioners and the erection
 1446 of signs conforming to the manual and specifications of the
 1447 Department of Transportation, in parking areas located on
 1448 property owned or leased by the county, whether or not such areas
 1449 are located within the boundaries of chartered municipalities.

1450

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1451 Reviser's note.--Section 6, ch. 2006-290, Laws of
 1452 Florida, amended paragraphs (2)(b) and (3)(b) without
 1453 publishing the flush left language at the end of the
 1454 respective subsections. Absent affirmative evidence of
 1455 legislative intent to repeal it, the flush left
 1456 language is reenacted to confirm that the omissions
 1457 were not intended.

1458
 1459 Section 44. Paragraph (b) of subsection (9) of section
 1460 320.77, Florida Statutes, is amended to read:

1461 320.77 License required of mobile home dealers.--
 1462 (9) SALESPERSONS TO BE REGISTERED BY LICENSEES.--
 1463 (b) Each time a mobile home salesperson employed by a
 1464 licensee changes his or her residence address, the salesperson
 1465 must notify the department within 20 days after the change.

1466
 1467 Reviser's note.--Amended pursuant to the directive of
 1468 the Legislature in s. 1, ch. 93-199, Laws of Florida,
 1469 to remove gender-specific references applicable to
 1470 human beings from the Florida Statutes without
 1471 substantive change in legal effect.

1472
 1473 Section 45. Subsection (2) of section 322.2615, Florida
 1474 Statutes, is amended to read:

1475 322.2615 Suspension of license; right to review.--
 1476 (2) Except as provided in paragraph (1)(a), the law
 1477 enforcement officer shall forward to the department, within 5
 1478 days after issuing the notice of suspension, the driver's
 1479 license; an affidavit stating the officer's grounds for belief

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1480 that the person was driving or in actual physical control of a
 1481 motor vehicle while under the influence of alcoholic beverages or
 1482 chemical or controlled substances; the results of any breath or
 1483 blood test or an affidavit stating that a breath, blood, or urine
 1484 test was requested by a law enforcement officer or correctional
 1485 officer and that the person refused to submit; the officer's
 1486 description of the person's field sobriety test, if any; the
 1487 notice of suspension; and a copy of the crash report, if any. The
 1488 failure of the officer to submit materials within the 5-day
 1489 period specified in this subsection and in subsection (1) does
 1490 not affect the department's ability to consider any evidence
 1491 submitted at or prior to the hearing. The officer may also submit
 1492 a copy of a videotape of the field sobriety test or the attempt
 1493 to administer such test. Materials submitted to the department by
 1494 a law enforcement agency or correctional agency shall be
 1495 considered self-authenticating and shall be in the record for
 1496 consideration by the hearing officer. Notwithstanding s.
 1497 316.066(7) ~~316.066(4)~~, the crash report shall be considered by
 1498 the hearing officer.

1499
 1500 Reviser's note.--Amended to conform to the
 1501 redesignation of s. 316.066(4) as s. 316.066(7) by s.
 1502 1, ch. 2006-260, Laws of Florida.

1503
 1504 Section 46. Subsection (1) of section 328.64, Florida
 1505 Statutes, is amended to read:

1506 328.64 Change of interest and address.--

1507 (1) The owner shall furnish the Department of Highway
 1508 Safety and Motor Vehicles notice of the transfer of all or any

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1509 part of his or her interest in a vessel registered or titled in
 1510 this state pursuant to this chapter ~~or chapter 328~~ or of the
 1511 destruction or abandonment of such vessel, within 30 days
 1512 thereof, on a form prescribed by the department. Such transfer,
 1513 destruction, or abandonment shall terminate the certificate for
 1514 such vessel, except that in the case of a transfer of a part
 1515 interest which does not affect the owner's right to operate such
 1516 vessel, such transfer shall not terminate the certificate. The
 1517 department shall provide the form for such notice and shall
 1518 attach the form to every vessel title issued or reissued.

1519
 1520 Reviser's note.--Amended to confirm the editorial
 1521 deletion of the words "or chapter 328" following the
 1522 words "this chapter" to conform to the renumbering of
 1523 s. 327.19 as s. 328.64 by s. 19, ch. 99-289, Laws of
 1524 Florida, and to eliminate redundancy.

1525
 1526 Section 47. Section 331.312, Florida Statutes, is amended
 1527 to read:

1528 331.312 Furnishing facilities and services within the
 1529 spaceport territory.--Space Florida may construct, develop,
 1530 create, maintain, and operate its projects within the
 1531 geographical limits of the spaceport territory, including any
 1532 portions of the spaceport territory located inside the boundaries
 1533 of any incorporated municipality or other political subdivision,
 1534 and ~~to~~ offer, supply, and furnish the facilities and services
 1535 provided for in this act to, and ~~to~~ establish and collect fees,
 1536 rentals, and other charges from, persons, public or private,
 1537 within the geographical limits of the spaceport territory and for

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1538 the use of Space Florida itself.

1539

1540 Reviser's note.--Amended to confirm the editorial
 1541 deletion of the word "to" following the word "and" to
 1542 improve clarity and correct sentence construction.

1543

1544 Section 48. Section 331.313, Florida Statutes, is amended
 1545 to read:

1546 331.313 Power of Space Florida with respect to
 1547 roads.--Within the territorial limits of any spaceport territory,
 1548 Space Florida may acquire, through purchase or interagency
 1549 agreement, or as otherwise provided in law, and ~~to~~ construct,
 1550 control, and maintain, roads deemed necessary by Space Florida
 1551 and connections thereto and extensions thereof now or hereafter
 1552 acquired, constructed, or maintained in accordance with
 1553 established highway safety standards; provided that, in the event
 1554 a road being addressed by Space Florida is owned by another
 1555 agency or jurisdiction, Space Florida, before proceeding with the
 1556 proposed project or work activity, shall have either coordinated
 1557 the desired work with the owning agency or jurisdiction or shall
 1558 have successfully executed an interagency agreement with the
 1559 owning agency or jurisdiction.

1560

1561 Reviser's note.--Amended to confirm the editorial
 1562 deletion of the word "to" preceding the word
 1563 "construct" to improve clarity and correct sentence
 1564 construction.

1565

1566 Section 49. Subsection (1) of section 331.316, Florida

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1567 Statutes, is amended to read:

1568 331.316 Rates, fees, rentals, tolls, fares, and charges;
 1569 procedure for adoption and modification; minimum revenue
 1570 requirements.--

1571 (1) To recover the costs of the spaceport facility or
 1572 system, Space Florida may prescribe, fix, establish, and collect
 1573 rates, fees, rentals, tolls, fares, or other charges (hereinafter
 1574 referred to as "revenues"), and ~~to~~ revise the same from time to
 1575 time, for the facilities and services furnished or to be
 1576 furnished by Space Florida and the spaceport, including, but not
 1577 limited to, launch pads, ranges, payload assembly and processing
 1578 facilities, visitor and tourist facilities, transportation
 1579 facilities, and parking and other related facilities, and may
 1580 provide for reasonable penalties against any user or property for
 1581 any such rates, fees, rentals, tolls, fares, or other charges
 1582 that are delinquent.

1583
 1584 Reviser's note.--Amended to confirm the editorial
 1585 deletion of the word "to" preceding the word "revise"
 1586 to improve clarity and correct sentence construction.

1587
 1588 Section 50. Subsection (2) of section 331.319, Florida
 1589 Statutes, is amended to read:

1590 331.319 Comprehensive planning; building and safety
 1591 codes.--The board of directors may:

1592 (2) Prohibit within the spaceport territory the
 1593 construction, alteration, repair, removal, or demolition, or the
 1594 commencement of the construction, alteration, repair (except
 1595 emergency repairs), removal, or demolition, of any building or

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1596 structure, including, but not by way of limitation, public
 1597 utility poles, lines, pipes, and facilities, without first
 1598 obtaining a permit from the board or such other officer or agency
 1599 as the board may designate, and ~~to~~ prescribe the procedure with
 1600 respect to the obtaining of such permit.

1601
 1602 Reviser's note.--Amended to confirm the editorial
 1603 deletion of the word "to" preceding the word
 1604 "prescribe" to improve clarity and correct sentence
 1605 construction.

1606
 1607 Section 51. Section 331.324, Florida Statutes, is amended
 1608 to read:

1609 331.324 Contracts, grants, and contributions.--Space
 1610 Florida may make and enter all contracts and agreements necessary
 1611 or incidental to the performance of the functions of Space
 1612 Florida and the execution of its powers, and ~~to~~ contract with,
 1613 and ~~to~~ accept and receive grants or loans of money, material, or
 1614 property from, any person, private or public, as the board shall
 1615 determine to be necessary or desirable to carry out the purposes
 1616 of this act, and, in connection with any such contract, grant, or
 1617 loan, ~~to~~ stipulate and agree to such covenants, terms, and
 1618 conditions as the board shall deem appropriate.

1619
 1620 Reviser's note.--Amended to confirm the editorial
 1621 deletion of the word "to" following the words "and" and
 1622 "loan" to improve clarity and correct sentence
 1623 construction.

1624

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1625 Section 52. Subsection (4) of section 336.68, Florida
 1626 Statutes, is amended to read:

1627 336.68 Special road and bridge district boundaries;
 1628 property owner rights and options.--

1629 (4) The property owner shall provide copies of the recorded
 1630 certificate to the governing body of the district from which the
 1631 property is being withdrawn within ~~days~~ 10 days after the date
 1632 that the certificate is recorded. If the district does not record
 1633 an objection to the withdrawal of the property in the public
 1634 records within 30 days after the recording of the certificate
 1635 identifying the criteria in this section that has not been met,
 1636 the withdrawal shall be final and the property shall be
 1637 permanently withdrawn from the boundaries of the district.

1638
 1639 Reviser's note.--Amended to confirm the editorial
 1640 deletion of the word "days" following the word "within"
 1641 to correct a typographical error.

1642
 1643 Section 53. Subsection (6) of section 341.840, Florida
 1644 Statutes, is amended to read:

1645 341.840 Tax exemption.--

1646 (6) A leasehold interest held by the authority is not
 1647 subject to intangible tax. However, if a leasehold interest held
 1648 by the authority is subleased to a nongovernmental lessee, such
 1649 subleasehold interest shall be deemed to be an interest described
 1650 in s. 199.023(1)(d), Florida Statutes 2005, and is subject to the
 1651 intangible tax.

1652
 1653 Reviser's note.--Amended to conform to the repeal of s.

1654 199.023 by s. 1, ch. 2006-312, Laws of Florida.

1655

1656 Section 54. Paragraph (c) of subsection (1) and subsection
1657 (2) of section 366.93, Florida Statutes, are amended to read:

1658 366.93 Cost recovery for the siting, design, licensing, and
1659 construction of nuclear power plants.--

1660 (1) As used in this section, the term:

1661 (c) "Nuclear power plant" or "plant" is an electrical power
1662 plant as defined in s. 403.503(13) ~~403.503(12)~~ that uses nuclear
1663 materials for fuel.

1664 (2) Within 6 months after the enactment of this act, the
1665 commission shall establish, by rule, alternative cost recovery
1666 mechanisms for the recovery of costs incurred in the siting,
1667 design, licensing, and construction of a nuclear power plant.
1668 Such mechanisms shall be designed to promote utility investment
1669 in nuclear power plants and allow for the recovery in rates of
1670 all prudently incurred costs, and shall include, but are not
1671 limited to:

1672 (a) Recovery through the capacity cost recovery clause of
1673 any preconstruction costs.

1674 (b) Recovery through an incremental increase in the
1675 utility's capacity cost recovery clause rates of the carrying
1676 costs on the utility's projected construction cost balance
1677 associated with the nuclear power plant. To encourage investment
1678 and provide certainty, for nuclear power plant need petitions
1679 submitted on or before December 31, 2010, associated carrying
1680 costs shall be equal to the pretax AFUDC in effect upon this act
1681 becoming law. For nuclear power plants for which need petitions
1682 are submitted after December 31, 2010, the utility's existing

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1683 | pretax AFUDC rate is presumed to be appropriate unless determined
 1684 | otherwise by the commission in the determination of need for the
 1685 | nuclear power plant.

1686 |
 1687 | Reviser's note.--Paragraph (1)(c) is amended to conform
 1688 | to the redesignation of s. 403.503(12) as s.
 1689 | 403.503(13) by s. 20, ch. 2006-230, Laws of Florida.
 1690 | Subsection (2) is amended to confirm the editorial
 1691 | insertion of the word "of" following the word "rates"
 1692 | to improve clarity and correct sentence construction.

1693 |
 1694 | Section 55. Subsection (4) of section 370.063, Florida
 1695 | Statutes, is amended to read:

1696 | 370.063 Special recreational spiny lobster license.--There
 1697 | is created a special recreational spiny lobster license, to be
 1698 | issued to qualified persons as provided by this section for the
 1699 | recreational harvest of spiny lobster beginning August 5, 1994.

1700 | (4) As a condition precedent to the issuance of a special
 1701 | recreational spiny lobster license, the applicant must agree to
 1702 | file quarterly reports with the Fish and Wildlife Conservation
 1703 | Commission in such form as the commission requires, detailing the
 1704 | amount of the licenseholder's spiny lobster harvest in the
 1705 | previous quarter, including the harvest of other recreational
 1706 | harvesters aboard the licenseholder's vessel.

1707 |
 1708 | Reviser's note.--Amended to conform to the editorial
 1709 | insertion of the word "license" following the word
 1710 | "lobster" to improve clarity and correct sentence
 1711 | construction.

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Section 56. Subsection (4) of section 375.065, Florida Statutes, is amended to read:

375.065 Public beaches; financial and other assistance by Department of Environmental Protection to local governments.--

(4) In addition to the authorized assistance procedures provided by this section, the Legislature urges the Department of Environmental Protection to give priority to applications relating to the acquisition of public beaches in urban areas, and to make full use of the federal Land and Water Conservation Fund Act of 1965, as amended, or other applicable federal programs. This section is supplemental to and shall not limit or repeal any provision of the Outdoor Recreation and Conservation Act of 1963.

Reviser's note.--Amended to conform to the name of the Outdoor Recreation and Conservation Act of 1963 as referenced in s. 375.011.

Section 57. Subsections (3) and (5) of section 376.30, Florida Statutes, are amended to read:

376.30 Legislative intent with respect to pollution of surface and ground waters.--

(3) The Legislature intends by the enactment of ss. 376.30-376.317 ~~376.30-376.319~~ to exercise the police power of the state by conferring upon the Department of Environmental Protection the power to:

(a) Deal with the environmental and health hazards and threats of danger and damage posed by such storage, transportation, disposal, and related activities;

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1741 (b) Require the prompt containment and removal of products
 1742 occasioned thereby; and

1743 (c) Establish a program which will enable the department
 1744 to:

1745 1. Provide for expeditious restoration or replacement of
 1746 potable water systems or potable private wells of affected
 1747 persons where health hazards exist due to contamination from
 1748 pollutants (which may include provision of bottled water on a
 1749 temporary basis, after which a more stable and convenient source
 1750 of potable water shall be provided) and hazardous substances,
 1751 subject to the following conditions:

1752 a. For the purposes of this subparagraph, the term
 1753 "restoration" means restoration of a contaminated potable water
 1754 supply to a level which meets applicable water quality standards
 1755 or applicable water quality criteria, as adopted by rule, for the
 1756 contaminant or contaminants present in the water supply, or,
 1757 where no such standards or criteria have been adopted, to a level
 1758 that is determined to be a safe, potable level by the State
 1759 Health Officer in the Department of Health, through the
 1760 installation of a filtration system and provision of replacement
 1761 filters as necessary or through employment of repairs or another
 1762 treatment method or methods designed to remove or filter out
 1763 contamination from the water supply; and the term "replacement"
 1764 means replacement of a well or well field or connection to an
 1765 alternative source of safe, potable water.

1766 b. For the purposes of the Inland Protection Trust Fund and
 1767 the drycleaning facility restoration funds in the Water Quality
 1768 Assurance Trust Fund as provided in s. 376.3078, such restoration
 1769 or replacement shall take precedence over other uses of the

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1770 unobligated moneys within the fund after payment of amounts
 1771 appropriated annually from the Inland Protection Trust Fund for
 1772 payments under any service contract entered into by the
 1773 department pursuant to s. 376.3075.

1774 c. Funding for activities described in this subparagraph
 1775 shall not exceed \$10 million for any one county for any one year,
 1776 other than for the provision of bottled water.

1777 d. Funding for activities described in this subparagraph
 1778 shall not be available to fund any increase in the capacity of a
 1779 potable water system or potable private well over the capacity
 1780 which existed prior to such restoration or replacement, unless
 1781 such increase is the result of the use of a more cost-effective
 1782 alternative than other alternatives available.

1783 2. Provide for the inspection and supervision of activities
 1784 described in this subsection.

1785 3. Guarantee the prompt payment of reasonable costs
 1786 resulting therefrom, including those administrative costs
 1787 incurred by the Department of Health in providing field and
 1788 laboratory services, toxicological risk assessment, and other
 1789 services to the department in the investigation of drinking water
 1790 contamination complaints.

1791 (5) The Legislature further declares that it is the intent
 1792 of ss. 376.30-376.317 ~~376.30-376.319~~ to support and complement
 1793 applicable provisions of the Federal Water Pollution Control Act,
 1794 as amended, specifically those provisions relating to the
 1795 national contingency plan for removal of pollutants.

1796
 1797 Reviser's note.--Amended to conform to the repeal of s.
 1798 376.319 by s. 18, ch. 99-4, Laws of Florida.

1799
 1800 Section 58. Section 376.301, Florida Statutes, is amended
 1801 to read:

1802 376.301 Definitions of terms used in ss. 376.30-376.317
 1803 ~~376.30-376.319~~, 376.70, and 376.75.--When used in ss. 376.30-
 1804 376.317 ~~376.30-376.319~~, 376.70, and 376.75, unless the context
 1805 clearly requires otherwise, the term:

1806 (1) "Aboveground hazardous substance tank" means any
 1807 stationary aboveground storage tank and onsite integral piping
 1808 that contains hazardous substances which are liquid at standard
 1809 temperature and pressure and has an individual storage capacity
 1810 greater than 110 gallons.

1811 (2) "Additive effects" means a scientific principle that
 1812 the toxicity that occurs as a result of exposure is the sum of
 1813 the toxicities of the individual chemicals to which the
 1814 individual is exposed.

1815 (3) "Antagonistic effects" means a scientific principle
 1816 that the toxicity that occurs as a result of exposure is less
 1817 than the sum of the toxicities of the individual chemicals to
 1818 which the individual is exposed.

1819 (4) "Backlog" means reimbursement obligations incurred
 1820 pursuant to s. 376.3071(12), prior to March 29, 1995, or
 1821 authorized for reimbursement under the provisions of s.
 1822 376.3071(12), pursuant to chapter 95-2, Laws of Florida. Claims
 1823 within the backlog are subject to adjustment, where appropriate.

1824 (5) "Barrel" means 42 U.S. gallons at 60 degrees
 1825 Fahrenheit.

1826 (6) "Bulk product facility" means a waterfront location
 1827 with at least one aboveground tank with a capacity greater than

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1828 30,000 gallons which is used for the storage of pollutants.

1829 (7) "Cattle-dipping vat" means any structure, excavation,
 1830 or other facility constructed by any person, or the site where
 1831 such structure, excavation, or other facility once existed, for
 1832 the purpose of treating cattle or other livestock with a chemical
 1833 solution pursuant to or in compliance with any local, state, or
 1834 federal governmental program for the prevention, suppression,
 1835 control, or eradication of any dangerous, contagious, or
 1836 infectious diseases.

1837 (8) "Cleanup target level" means the concentration for each
 1838 contaminant identified by an applicable analytical test method,
 1839 in the medium of concern, at which a site rehabilitation program
 1840 is deemed complete.

1841 (9) "Compression vessel" means any stationary container,
 1842 tank, or onsite integral piping system, or combination thereof,
 1843 which has a capacity of greater than 110 gallons, that is
 1844 primarily used to store pollutants or hazardous substances above
 1845 atmospheric pressure or at a reduced temperature in order to
 1846 lower the vapor pressure of the contents. Manifold compression
 1847 vessels that function as a single vessel shall be considered as
 1848 one vessel.

1849 (10) "Contaminant" means any physical, chemical,
 1850 biological, or radiological substance present in any medium which
 1851 may result in adverse effects to human health or the environment
 1852 or which creates an adverse nuisance, organoleptic, or aesthetic
 1853 condition in groundwater.

1854 (11) "Contaminated site" means any contiguous land,
 1855 sediment, surface water, or groundwater areas that contain
 1856 contaminants that may be harmful to human health or the

1857 environment.

1858 (12) "Department" means the Department of Environmental
1859 Protection.

1860 (13) "Discharge" includes, but is not limited to, any
1861 spilling, leaking, seeping, pouring, misapplying, emitting,
1862 emptying, releasing, or dumping of any pollutant or hazardous
1863 substance which occurs and which affects lands and the surface
1864 and ground waters of the state not regulated by ss. 376.011-
1865 376.21.

1866 (14) "Drycleaning facility" means a commercial
1867 establishment that operates or has at some time in the past
1868 operated for the primary purpose of drycleaning clothing and
1869 other fabrics utilizing a process that involves any use of
1870 drycleaning solvents. The term "drycleaning facility" includes
1871 laundry facilities that use drycleaning solvents as part of their
1872 cleaning process. The term does not include a facility that
1873 operates or has at some time in the past operated as a uniform
1874 rental company or a linen supply company regardless of whether
1875 the facility operates as or was previously operated as a
1876 drycleaning facility.

1877 (15) "Drycleaning solvents" means any and all nonaqueous
1878 solvents used in the cleaning of clothing and other fabrics and
1879 includes perchloroethylene (also known as tetrachloroethylene)
1880 and petroleum-based solvents, and their breakdown products. For
1881 purposes of this definition, "drycleaning solvents" only includes
1882 those drycleaning solvents originating from use at a drycleaning
1883 facility or by a wholesale supply facility.

1884 (16) "Dry drop-off facility" means any commercial retail
1885 store that receives from customers clothing and other fabrics for

1886 drycleaning or laundering at an offsite drycleaning facility and
 1887 that does not clean the clothing or fabrics at the store
 1888 utilizing drycleaning solvents.

1889 (17) "Engineering controls" means modifications to a site
 1890 to reduce or eliminate the potential for exposure to petroleum
 1891 products' chemicals of concern, drycleaning solvents, or other
 1892 contaminants. Such modifications may include, but are not
 1893 limited to, physical or hydraulic control measures, capping,
 1894 point of use treatments, or slurry walls.

1895 (18) "Wholesale supply facility" means a commercial
 1896 establishment that supplies drycleaning solvents to drycleaning
 1897 facilities.

1898 (19) "Facility" means a nonresidential location containing,
 1899 or which contained, any underground stationary tank or tanks
 1900 which contain hazardous substances or pollutants and have
 1901 individual storage capacities greater than 110 gallons, or any
 1902 aboveground stationary tank or tanks which contain pollutants
 1903 which are liquids at standard ambient temperature and pressure
 1904 and have individual storage capacities greater than 550 gallons.
 1905 This subsection shall not apply to facilities covered by chapter
 1906 377, or containers storing solid or gaseous pollutants, and
 1907 agricultural tanks having storage capacities of less than 550
 1908 gallons.

1909 (20) "Flow-through process tank" means an aboveground tank
 1910 that contains hazardous substances or specified mineral acids as
 1911 defined in s. 376.321 and that forms an integral part of a
 1912 production process through which there is a steady, variable,
 1913 recurring, or intermittent flow of materials during the operation
 1914 of the process. Flow-through process tanks include, but are not

1915 limited to, seal tanks, vapor recovery units, surge tanks, blend
 1916 tanks, feed tanks, check and delay tanks, batch tanks, oil-water
 1917 separators, or tanks in which mechanical, physical, or chemical
 1918 change of a material is accomplished.

1919 (21) "Hazardous substances" means those substances defined
 1920 as hazardous substances in the Comprehensive Environmental
 1921 Response, Compensation and Liability Act of 1980, Pub. L. No. 96-
 1922 510, 94 Stat. 2767, as amended by the Superfund Amendments and
 1923 Reauthorization Act of 1986.

1924 (22) "Institutional controls" means the restriction on use
 1925 or access to a site to eliminate or minimize exposure to
 1926 petroleum products' chemicals of concern, drycleaning solvents,
 1927 or other contaminants. Such restrictions may include, but are
 1928 not limited to, deed restrictions, restrictive covenants, or
 1929 conservation easements.

1930 (23) "Laundering on a wash, dry, and fold basis" means the
 1931 service provided by the owner or operator of a coin-operated
 1932 laundry to its customers whereby an employee of the laundry
 1933 washes, dries, and folds laundry for its customers.

1934 (24) "Marine fueling facility" means a commercial or
 1935 recreational coastal facility, excluding a bulk product facility,
 1936 providing fuel to vessels.

1937 (25) "Natural attenuation" means a verifiable approach to
 1938 site rehabilitation that allows natural processes to contain the
 1939 spread of contamination and reduce the concentrations of
 1940 contaminants in contaminated groundwater and soil. Natural
 1941 attenuation processes may include the following: sorption,
 1942 biodegradation, chemical reactions with subsurface materials,
 1943 diffusion, dispersion, and volatilization.

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1944 (26) "Operator" means any person operating a facility,
 1945 whether by lease, contract, or other form of agreement.

1946 (27) "Owner" means any person owning a facility.

1947 (28) "Person" means any individual, partner, joint venture,
 1948 or corporation; any group of the foregoing, organized or united
 1949 for a business purpose; or any governmental entity.

1950 (29) "Person in charge" means the person on the scene who
 1951 is in direct, responsible charge of a facility from which
 1952 pollutants are discharged, when the discharge occurs.

1953 (30) "Person responsible for conducting site
 1954 rehabilitation" means the site owner, operator, or the person
 1955 designated by the site owner or operator on the reimbursement
 1956 application. Mortgage holders and trust holders may be eligible
 1957 to participate in the reimbursement program pursuant to s.
 1958 376.3071(12).

1959 (31) "Person responsible for site rehabilitation" means the
 1960 person performing site rehabilitation pursuant to s. 376.3071(5),
 1961 s. 376.3078(4), s. 376.81, or s. 376.30701. Such person may
 1962 include, but is not limited to, any person who has legal
 1963 responsibility for site rehabilitation pursuant to this chapter
 1964 or chapter 403, the department when it conducts site
 1965 rehabilitation, a real property owner, a facility owner or
 1966 operator, any person responsible for brownfield site
 1967 rehabilitation, or any person who voluntarily rehabilitates a
 1968 site and seeks acknowledgment from the department for approval of
 1969 site rehabilitation program tasks.

1970 (32) "Petroleum" includes:

1971 (a) Oil, including crude petroleum oil and other
 1972 hydrocarbons, regardless of gravity, which are produced at the

1973 well in liquid form by ordinary methods and which are not the
 1974 result of condensation of gas after it leaves the reservoir; and

1975 (b) All natural gas, including casinghead gas, and all
 1976 other hydrocarbons not defined as oil in paragraph (a).

1977 (33) "Petroleum product" means any liquid fuel commodity
 1978 made from petroleum, including, but not limited to, all forms of
 1979 fuel known or sold as diesel fuel, kerosene, all forms of fuel
 1980 known or sold as gasoline, and fuels containing a mixture of
 1981 gasoline and other products, excluding liquefied petroleum gas
 1982 and American Society for Testing and Materials (ASTM) grades no.
 1983 5 and no. 6 residual oils, bunker C residual oils, intermediate
 1984 fuel oils (IFO) used for marine bunkering with a viscosity of 30
 1985 and higher, asphalt oils, and petrochemical feedstocks.

1986 (34) "Petroleum products' chemicals of concern" means the
 1987 constituents of petroleum products, including, but not limited
 1988 to, xylene, benzene, toluene, ethylbenzene, naphthalene, and
 1989 similar chemicals, and constituents in petroleum products,
 1990 including, but not limited to, methyl tert-butyl ether (MTBE),
 1991 lead, and similar chemicals found in additives, provided the
 1992 chemicals of concern are present as a result of a discharge of
 1993 petroleum products.

1994 (35) "Petroleum storage system" means a stationary tank not
 1995 covered under the provisions of chapter 377, together with any
 1996 onsite integral piping or dispensing system associated therewith,
 1997 which is used, or intended to be used, for the storage or supply
 1998 of any petroleum product. Petroleum storage systems may also
 1999 include oil/water separators, and other pollution control devices
 2000 installed at petroleum product terminals as defined in this
 2001 chapter and bulk product facilities pursuant to, or required by,

2002 permits or best management practices in an effort to control
 2003 surface discharge of pollutants. Nothing herein shall be
 2004 construed to allow a continuing discharge in violation of
 2005 department rules.

2006 (36) "Pollutants" includes any "product" as defined in s.
 2007 377.19(11), pesticides, ammonia, chlorine, and derivatives
 2008 thereof, excluding liquefied petroleum gas.

2009 (37) "Pollution" means the presence on the land or in the
 2010 waters of the state of pollutants in quantities which are or may
 2011 be potentially harmful or injurious to human health or welfare,
 2012 animal or plant life, or property or which may unreasonably
 2013 interfere with the enjoyment of life or property, including
 2014 outdoor recreation.

2015 (38) "Real property owner" means the individual or entity
 2016 that is vested with ownership, dominion, or legal or rightful
 2017 title to the real property, or which has a ground lease interest
 2018 in the real property, on which a drycleaning facility or
 2019 wholesale supply facility is or has ever been located.

2020 (39) "Response action" means any activity, including
 2021 evaluation, planning, design, engineering, construction, and
 2022 ancillary services, which is carried out in response to any
 2023 discharge, release, or threatened release of a hazardous
 2024 substance, pollutant, or other contaminant from a facility or
 2025 site identified by the department under the provisions of ss.
 2026 376.30-376.317 ~~376.30-376.319~~.

2027 (40) "Response action contractor" means a person who is
 2028 carrying out any response action, including a person retained or
 2029 hired by such person to provide services relating to a response
 2030 action.

2031 (41) "Risk reduction" means the lowering or elimination of
 2032 the level of risk posed to human health or the environment
 2033 through interim remedial actions, remedial action, or
 2034 institutional and, if appropriate, engineering controls.

2035 (42) "Secretary" means the Secretary of Environmental
 2036 Protection.

2037 (43) "Site rehabilitation" means the assessment of site
 2038 contamination and the remediation activities that reduce the
 2039 levels of contaminants at a site through accepted treatment
 2040 methods to meet the cleanup target levels established for that
 2041 site. For purposes of sites subject to the Resource Conservation
 2042 and Recovery Act, as amended, the term includes removal,
 2043 decontamination, and corrective action of releases of hazardous
 2044 substances.

2045 (44) "Source removal" means the removal of free product, or
 2046 the removal of contaminants from soil or sediment that has been
 2047 contaminated to the extent that leaching to groundwater or
 2048 surface water has occurred or is occurring.

2049 (45) "Storage system" means a stationary tank not covered
 2050 under the provisions of chapter 377, together with any onsite
 2051 integral piping or dispensing system associated therewith, which
 2052 is or has been used for the storage or supply of any petroleum
 2053 product, pollutant, or hazardous substance as defined herein, and
 2054 which is registered with the Department of Environmental
 2055 Protection under this chapter or any rule adopted pursuant
 2056 hereto.

2057 (46) "Synergistic effects" means a scientific principle
 2058 that the toxicity that occurs as a result of exposure is more
 2059 than the sum of the toxicities of the individual chemicals to

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2060 which the individual is exposed.

2061 (47) "Temporary point of compliance" means the boundary
 2062 represented by one or more designated monitoring wells at which
 2063 groundwater cleanup target levels may not be exceeded while site
 2064 rehabilitation is proceeding.

2065 (48) "Terminal facility" means any structure, group of
 2066 structures, motor vehicle, rolling stock, pipeline, equipment, or
 2067 related appurtenances which are used or capable of being used for
 2068 one or more of the following purposes: pumping, refining,
 2069 drilling for, producing, storing, handling, transferring, or
 2070 processing pollutants, provided such pollutants are transferred
 2071 over, under, or across any water, estuaries, tidal flats,
 2072 beaches, or waterfront lands, including, but not limited to, any
 2073 such facility and related appurtenances owned or operated by a
 2074 public utility or a governmental or quasi-governmental body. In
 2075 the event of a ship-to-ship transfer of pollutants, the vessel
 2076 going to or coming from the place of transfer and a terminal
 2077 facility shall also be considered a terminal facility. For the
 2078 purposes of ss. 376.30-376.317 ~~376.30-376.319~~, the term "terminal
 2079 facility" shall not be construed to include spill response
 2080 vessels engaged in response activities related to removal of
 2081 pollutants, or temporary storage facilities created to
 2082 temporarily store recovered pollutants and matter, or waterfront
 2083 facilities owned and operated by governmental entities acting as
 2084 agents of public convenience for persons engaged in the drilling
 2085 for or pumping, storing, handling, transferring, processing, or
 2086 refining of pollutants. However, each person engaged in the
 2087 drilling for or pumping, storing, handling, transferring,
 2088 processing, or refining of pollutants through a waterfront

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2089 facility owned and operated by such a governmental entity shall
 2090 be construed as a terminal facility.

2091 (49) "Transfer" or "transferred" includes unloading,
 2092 offloading, fueling, bunkering, lightering, removal of waste
 2093 pollutants, or other similar transfers, between terminal facility
 2094 and vessel or vessel and vessel.

2095 (50) "Nearby real property owner" means the individual or
 2096 entity that is vested with ownership, dominion, or legal or
 2097 rightful title to real property, or that has a ground lease in
 2098 real property, onto which drycleaning solvent has migrated
 2099 through soil or groundwater from a drycleaning facility or
 2100 wholesale supply facility eligible for site rehabilitation under
 2101 s. 376.3078(3) or from a drycleaning facility or wholesale supply
 2102 facility that is approved by the department for voluntary cleanup
 2103 under s. 376.3078(11).
 2104

2105 Reviser's note.--Amended to conform to the repeal of s.
 2106 376.319 by s. 18, ch. 99-4, Laws of Florida.
 2107

2108 Section 59. Paragraphs (a), (f), and (j) of subsection (1)
 2109 and subsection (2) of section 376.303, Florida Statutes, are
 2110 amended to read:

2111 376.303 Powers and duties of the Department of
 2112 Environmental Protection.--

2113 (1) The department has the power and the duty to:

2114 (a) Establish rules, including, but not limited to,
 2115 construction standards, permitting or registration of tanks,
 2116 maintenance and installation standards, and removal or disposal
 2117 standards, to implement the intent of ss. 376.30-376.317 ~~376.30-~~

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2118 | ~~376.319~~ and to regulate underground and aboveground facilities
 2119 | and their onsite integral piping systems. Such rules may
 2120 | establish standards for underground facilities which store
 2121 | hazardous substances or pollutants, and marine fueling facilities
 2122 | and aboveground facilities, not covered by chapter 377, which
 2123 | store pollutants. The department shall register bulk product
 2124 | facilities and shall issue annual renewals of such registrations.
 2125 | Requirements for facilities with underground storage tanks having
 2126 | storage capacities over 110 gallons that store hazardous
 2127 | substances became effective on January 1, 1991. The department
 2128 | shall maintain a compliance verification program for this
 2129 | section, which may include investigations or inspections to
 2130 | locate improperly abandoned tanks. The department may contract
 2131 | with other governmental agencies or private consultants to
 2132 | perform compliance verification activities. The contracts may
 2133 | provide for an advance of working capital to local governments to
 2134 | expedite the implementation of the compliance verification
 2135 | program. Counties with permit or registration fees for storage
 2136 | tanks or storage tank systems are not eligible for advance
 2137 | funding for the compliance verification program.

2138 | (f) Establish a requirement that any facility or terminal
 2139 | facility covered by this act be subject to complete and thorough
 2140 | inspections at reasonable times. Any facility or terminal
 2141 | facility which has discharged a pollutant in violation of the
 2142 | provisions of ss. 376.30-376.317 ~~376.30-376.319~~ shall be fully
 2143 | and carefully monitored by the department to ensure that such
 2144 | discharge does not continue to occur.

2145 | (j) Bring an action on behalf of the state to enforce the
 2146 | liabilities imposed by ss. 376.30-376.317 ~~376.30-376.319~~. The

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2147 provisions of ss. 403.121, 403.131, 403.141, and 403.161 apply to
 2148 enforcement under ss. 376.30-376.317 ~~376.30-376.319~~.

2149 (2) The powers and duties of the department under ss.
 2150 376.30-376.317 ~~376.30-376.319~~ shall extend to the boundaries of
 2151 the state described in s. 1, Art. II of the State Constitution.

2152
 2153 Reviser's note.--Amended to conform to the repeal of s.
 2154 376.319 by s. 18, ch. 99-4, Laws of Florida.

2155
 2156 Section 60. Subsections (1) and (5) of section 376.305,
 2157 Florida Statutes, are amended to read:

2158 376.305 Removal of prohibited discharges.--

2159 (1) Any person discharging a pollutant as prohibited by ss.
 2160 376.30-376.317 ~~376.30-376.319~~ shall immediately undertake to
 2161 contain, remove, and abate the discharge to the satisfaction of
 2162 the department. However, such an undertaking to contain, remove,
 2163 or abate a discharge shall not be deemed an admission of
 2164 responsibility for the discharge by the person taking such
 2165 action. Notwithstanding this requirement, the department may
 2166 undertake the removal of the discharge and may contract and
 2167 retain agents who shall operate under the direction of the
 2168 department.

2169 (5) Nothing in ss. 376.30-376.317 ~~376.30-376.319~~ shall
 2170 affect the right of any person to render assistance in containing
 2171 or removing any pollutant or any rights which that person may
 2172 have against any third party whose acts or omissions in any way
 2173 have caused or contributed to the discharge of the pollutant.

2174
 2175 Reviser's note.--Amended to conform to the repeal of s.

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2176 | 376.319 by s. 18, ch. 99-4, Laws of Florida.

2177 |

2178 | Section 61. Paragraph (a) of subsection (1) and paragraph
2179 | (c) of subsection (4) of section 376.307, Florida Statutes, are
2180 | amended to read:

2181 | 376.307 Water Quality Assurance Trust Fund.--

2182 | (1) The Water Quality Assurance Trust Fund is intended to
2183 | serve as a broad-based fund for use in responding to incidents of
2184 | contamination that pose a serious danger to the quality of
2185 | groundwater and surface water resources or otherwise pose a
2186 | serious danger to the public health, safety, or welfare. Moneys
2187 | in this fund may be used:

2188 | (a) To carry out the provisions of ss. 376.30-376.317
2189 | ~~376.30-376.319~~, relating to assessment, cleanup, restoration,
2190 | monitoring, and maintenance of any site involving spills,
2191 | discharges, or escapes of pollutants or hazardous substances
2192 | which occur as a result of procedures taken by private and
2193 | governmental entities involving the storage, transportation, and
2194 | disposal of such products.

2195 | (4) The trust fund shall be funded as follows:

2196 | (c) All penalties, judgments, recoveries, reimbursements,
2197 | and other fees and charges related to the enforcement of ss.
2198 | 376.30-376.317 ~~376.30-376.319~~, other than penalties, judgments,
2199 | and other fees and charges related to the enforcement of ss.
2200 | 376.3071 and 376.3073.

2201 |

2202 | Reviser's note.--Amended to conform to the repeal of s.
2203 | 376.319 by s. 18, ch. 99-4, Laws of Florida.

2204 |

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2205 Section 62. Paragraph (e) of subsection (1) and subsection
 2206 (4) of section 376.3071, Florida Statutes, are amended to read:
 2207 376.3071 Inland Protection Trust Fund; creation; purposes;
 2208 funding.--

2209 (1) FINDINGS.--In addition to the legislative findings set
 2210 forth in s. 376.30, the Legislature finds and declares:

2211 (e) That it is necessary to fulfill the intent and purposes
 2212 of ss. 376.30-376.317 ~~376.30-376.319~~, and further it is hereby
 2213 determined to be in the best interest of, and necessary for the
 2214 protection of the public health, safety, and general welfare of
 2215 the residents of this state, and therefore a paramount public
 2216 purpose, to provide for the creation of a nonprofit public
 2217 benefit corporation as an instrumentality of the state to assist
 2218 in financing the functions provided in ss. 376.30-376.317 ~~376.30-~~
 2219 ~~376.319~~ and to authorize the department to enter into one or more
 2220 service contracts with such corporation for the provision of
 2221 financing services related to such functions and to make payments
 2222 thereunder from the amount on deposit in the Inland Protection
 2223 Trust Fund, subject to annual appropriation by the Legislature.

2224 (4) USES.--Whenever, in its determination, incidents of
 2225 inland contamination related to the storage of petroleum or
 2226 petroleum products may pose a threat to the environment or the
 2227 public health, safety, or welfare, the department shall obligate
 2228 moneys available in the fund to provide for:

2229 (a) Prompt investigation and assessment of contamination
 2230 sites.

2231 (b) Expeditious restoration or replacement of potable water
 2232 supplies as provided in s. 376.30(3)(c)1.

2233 (c) Rehabilitation of contamination sites, which shall

2234 consist of cleanup of affected soil, groundwater, and inland
 2235 surface waters, using the most cost-effective alternative that is
 2236 technologically feasible and reliable and that provides adequate
 2237 protection of the public health, safety, and welfare and
 2238 minimizes environmental damage, in accordance with the site
 2239 selection and cleanup criteria established by the department
 2240 under subsection (5), except that nothing herein shall be
 2241 construed to authorize the department to obligate funds for
 2242 payment of costs which may be associated with, but are not
 2243 integral to, site rehabilitation, such as the cost for
 2244 retrofitting or replacing petroleum storage systems.

2245 (d) Maintenance and monitoring of contamination sites.

2246 (e) Inspection and supervision of activities described in
 2247 this subsection.

2248 (f) Payment of expenses incurred by the department in its
 2249 efforts to obtain from responsible parties the payment or
 2250 recovery of reasonable costs resulting from the activities
 2251 described in this subsection.

2252 (g) Payment of any other reasonable costs of
 2253 administration, including those administrative costs incurred by
 2254 the Department of Health in providing field and laboratory
 2255 services, toxicological risk assessment, and other assistance to
 2256 the department in the investigation of drinking water
 2257 contamination complaints and costs associated with public
 2258 information and education activities.

2259 (h) Establishment and implementation of the compliance
 2260 verification program as authorized in s. 376.303(1)(a), including
 2261 contracting with local governments or state agencies to provide
 2262 for the administration of such program through locally

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2263 administered programs, to minimize the potential for further
 2264 contamination sites.

2265 (i) Funding of the provisions of ss. 376.305(6) and
 2266 376.3072.

2267 (j) Activities related to removal and replacement of
 2268 petroleum storage systems, exclusive of costs of any tank,
 2269 piping, dispensing unit, or related hardware, if soil removal is
 2270 preapproved as a component of site rehabilitation and requires
 2271 removal of the tank where remediation is conducted under s.
 2272 376.30711 or if such activities were justified in an approved
 2273 remedial action plan performed pursuant to subsection (12).

2274 (k) Activities related to reimbursement application
 2275 preparation and activities related to reimbursement application
 2276 examination by a certified public accountant pursuant to
 2277 subsection (12).

2278 (l) Reasonable costs of restoring property as nearly as
 2279 practicable to the conditions which existed prior to activities
 2280 associated with contamination assessment or remedial action taken
 2281 under s. 376.303(4).

2282 (m) Repayment of loans to the fund.

2283 (n) Expenditure of sums from the fund to cover ineligible
 2284 sites or costs as set forth in subsection (13), if the department
 2285 in its discretion deems it necessary to do so. In such cases, the
 2286 department may seek recovery and reimbursement of costs in the
 2287 same manner and in accordance with the same procedures as are
 2288 established for recovery and reimbursement of sums otherwise owed
 2289 to or expended from the fund.

2290 (o) Payment of amounts payable under any service contract
 2291 entered into by the department pursuant to s. 376.3075, subject

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2292 to annual appropriation by the Legislature.

2293 (p) Petroleum remediation pursuant to s. 376.30711
 2294 throughout a state fiscal year. The department shall establish a
 2295 process to uniformly encumber appropriated funds throughout a
 2296 state fiscal year and shall allow for emergencies and imminent
 2297 threats to human health and the environment as provided in
 2298 paragraph (5)(a). This paragraph does not apply to appropriations
 2299 associated with the free product recovery initiative of paragraph
 2300 (5)(c) or the preapproved advanced cleanup program of s.
 2301 376.30713.

2302
 2303 The Inland Protection Trust Fund may only be used to fund the
 2304 activities in ss. 376.30-376.317 ~~376.30-376.319~~ except ss.
 2305 376.3078 and 376.3079. Amounts on deposit in the Inland
 2306 Protection Trust Fund in each fiscal year shall first be applied
 2307 or allocated for the payment of amounts payable by the department
 2308 pursuant to paragraph (o) under a service contract entered into
 2309 by the department pursuant to s. 376.3075 and appropriated in
 2310 each year by the Legislature prior to making or providing for
 2311 other disbursements from the fund. Nothing in this subsection
 2312 shall authorize the use of the Inland Protection Trust Fund for
 2313 cleanup of contamination caused primarily by a discharge of
 2314 solvents as defined in s. 206.9925(6), or polychlorinated
 2315 biphenyls when their presence causes them to be hazardous wastes,
 2316 except solvent contamination which is the result of chemical or
 2317 physical breakdown of petroleum products and is otherwise
 2318 eligible. Facilities used primarily for the storage of motor or
 2319 diesel fuels as defined in ss. 206.01 and 206.86 shall be
 2320 presumed not to be excluded from eligibility pursuant to this

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2321 section.

2322

2323 Reviser's note.--Amended to conform to the repeal of s.
2324 376.319 by s. 18, ch. 99-4, Laws of Florida.

2325

2326 Section 63. Subsections (1) and (4) of section 376.3075,
2327 Florida Statutes, are amended to read:

2328 376.3075 Inland Protection Financing Corporation.--

2329 (1) There is hereby created a nonprofit public benefit
2330 corporation to be known as the "Inland Protection Financing
2331 Corporation" for the purpose of financing the rehabilitation of
2332 petroleum contamination sites pursuant to ss. 376.30-376.317
2333 ~~376.30-376.319~~ and the payment, purchase, and settlement of
2334 reimbursement obligations of the department pursuant to s.
2335 376.3071(12), existing as of December 31, 1996. Such
2336 reimbursement obligations are referred to in this section as
2337 existing reimbursement obligations. The corporation shall
2338 terminate on July 1, 2025.

2339 (4) The corporation is authorized to enter into one or more
2340 service contracts with the department pursuant to which the
2341 corporation shall provide services to the department in
2342 connection with financing the functions and activities provided
2343 for in ss. 376.30-376.317 ~~376.30-376.319~~. The department may
2344 enter into one or more such service contracts with the
2345 corporation and to provide for payments under such contracts
2346 pursuant to s. 376.3071(4)(o), subject to annual appropriation by
2347 the Legislature. The proceeds from such service contracts may be
2348 used for the costs and expenses of administration of the
2349 corporation after payments as set forth in subsection (5). Each

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2350 service contract shall have a term not to exceed 10 years and
 2351 shall terminate no later than July 1, 2025. The aggregate amount
 2352 payable from the Inland Protection Trust Fund under all such
 2353 service contracts shall not exceed \$65 million in any state
 2354 fiscal year. Amounts annually appropriated and applied to make
 2355 payments under such service contracts shall not include any funds
 2356 derived from penalties or other payments received from any
 2357 property owner or private party, including payments received from
 2358 s. 376.3071(6)(b). In compliance with provisions of s. 287.0641
 2359 and other applicable provisions of law, the obligations of the
 2360 department under such service contracts shall not constitute a
 2361 general obligation of the state or a pledge of the faith and
 2362 credit or taxing power of the state nor shall such obligations be
 2363 construed in any manner as an obligation of the State Board of
 2364 Administration or entities for which it invests funds, other than
 2365 the department as provided in this section, but shall be payable
 2366 solely from amounts available in the Inland Protection Trust
 2367 Fund, subject to annual appropriation. In compliance with this
 2368 subsection and s. 287.0582, the service contract shall expressly
 2369 include the following statement: "The State of Florida's
 2370 performance and obligation to pay under this contract is
 2371 contingent upon an annual appropriation by the Legislature."

2372
 2373 Reviser's note.--Amended to conform to the repeal of s.
 2374 376.319 by s. 18, ch. 99-4, Laws of Florida.

2375
 2376 Section 64. Subsections (2) and (4) of section 376.30781,
 2377 Florida Statutes, are amended to read:
 2378 376.30781 Partial tax credits for rehabilitation of

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2379 drycleaning-solvent-contaminated sites and brownfield sites in
 2380 designated brownfield areas; application process; rulemaking
 2381 authority; revocation authority.--

2382 (2) Notwithstanding the requirements of paragraph (5)(a),
 2383 tax credits allowed pursuant to s. ss. 199.1055 and 220.1845 are
 2384 available for any site rehabilitation conducted during the
 2385 calendar year in which the applicable voluntary cleanup agreement
 2386 or brownfield site rehabilitation agreement is executed, even if
 2387 the site rehabilitation is conducted prior to the execution of
 2388 that agreement or the designation of the brownfield area.

2389 (4) The Department of Environmental Protection shall be
 2390 responsible for allocating the tax credits provided for in s.
 2391 220.1845, not to exceed a total of \$2 ~~\$5~~ million in tax credits
 2392 annually.

2393
 2394 Reviser's note.--Subsection (2) is amended to conform
 2395 to the repeal of s. 199.1055 by s. 1, ch. 2006-312,
 2396 Laws of Florida. Subsection (4) is amended to correct
 2397 an apparent error and facilitate correct
 2398 interpretation. The original bill and first engrossed
 2399 version of House Bill 7131 contained five changes of
 2400 the \$2 million tax credit amount to \$5 million in ss.
 2401 199.1055, 220.1845, and 376.30781. The second engrossed
 2402 version and final act, which became ch. 2006-291, Laws
 2403 of Florida, reverted the amount back to \$2 million in
 2404 all but this location.

2405
 2406 Section 65. Paragraph (a) of subsection (3) of section
 2407 376.3079, Florida Statutes, is amended to read:

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2408 376.3079 Third-party liability insurance.--
 2409 (3) For purposes of this section and s. 376.3078, the term:
 2410 (a) "Third-party liability" means the insured's liability,
 2411 other than for site rehabilitation costs and property damage as
 2412 applied to sites utilizing the provisions of s. 376.3078(3) and
 2413 (11) ~~378.3078(3) and (11)~~, for bodily injury caused by an
 2414 incident of contamination related to the operation of a
 2415 drycleaning facility or wholesale supply facility.

2416
 2417 Reviser's note.--Amended to correct an apparent error.
 2418 Section 378.3078 does not exist; s. 376.3078(3) and
 2419 (11) relate to rehabilitation liability and voluntary
 2420 cleanup regarding drycleaning facility restoration,
 2421 respectively.

2422
 2423 Section 66. Subsection (1) of section 376.308, Florida
 2424 Statutes, is amended to read:

2425 376.308 Liabilities and defenses of facilities.--

2426 (1) In any suit instituted by the department under ss.
 2427 376.30-376.317 ~~376.30-376.319~~, it is not necessary to plead or
 2428 prove negligence in any form or matter. The department need only
 2429 plead and prove that the prohibited discharge or other polluting
 2430 condition has occurred. The following persons shall be liable to
 2431 the department for any discharges or polluting condition:

2432 (a) Any person who caused a discharge or other polluting
 2433 condition or who owned or operated the facility, or the
 2434 stationary tanks or the nonresidential location which constituted
 2435 the facility, at the time the discharge occurred.

2436 (b) In the case of a discharge of hazardous substances, all

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2437 persons specified in s. 403.727(4).

2438 (c) In the case of a discharge of petroleum, petroleum
 2439 products, or drycleaning solvents, the owner of the facility, the
 2440 drycleaning facility, or the wholesale supply facility, unless
 2441 the owner can establish that he or she acquired title to property
 2442 contaminated by the activities of a previous owner or operator or
 2443 other third party, that he or she did not cause or contribute to
 2444 the discharge, and that he or she did not know of the polluting
 2445 condition at the time the owner acquired title. If the owner
 2446 acquired title subsequent to July 1, 1992, or, in the case of a
 2447 drycleaning facility or wholesale supply facility, subsequent to
 2448 July 1, 1994, he or she must also establish by a preponderance of
 2449 the evidence that he or she undertook, at the time of
 2450 acquisition, all appropriate inquiry into the previous ownership
 2451 and use of the property consistent with good commercial or
 2452 customary practice in an effort to minimize liability. The court
 2453 or hearing officer shall take into account any specialized
 2454 knowledge or experience on the part of the defendant, the
 2455 relationship of the purchase price to the value of the property
 2456 if uncontaminated, commonly known or reasonably ascertainable
 2457 information about the property, the obviousness of the presence
 2458 or likely presence of contamination at the property, and the
 2459 ability to detect such contamination by appropriate inspection.
 2460 In an action relating to a discharge of petroleum, petroleum
 2461 products, or drycleaning solvents under chapter 403, the defenses
 2462 and definitions set forth herein shall apply.

2463
 2464 Reviser's note.--Amended to conform to the repeal of s.
 2465 376.319 by s. 18, ch. 99-4, Laws of Florida.

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Section 67. Section 376.309, Florida Statutes, is amended to read:

376.309 Facilities, financial responsibility.--

(1) Each owner of a facility is required to establish and maintain evidence of financial responsibility. Such evidence of financial responsibility shall be the only evidence required by the department that such owner has the ability to meet the liabilities which may be incurred under ss. 376.30-376.317 ~~376.30-376.319~~.

(2) Any claim brought pursuant to ss. 376.30-376.317 ~~376.30-376.319~~ may be brought directly against the bond, the insurer, or any other person providing a facility with evidence of financial responsibility.

(3) Each owner of a facility subject to the provisions of ss. 376.30-376.317 ~~376.30-376.319~~ shall designate a person in the state as his or her legal agent for service of process under ss. 376.30-376.317 ~~376.30-376.319~~, and such designation shall be filed with the Department of State. In the absence of such designation, the Secretary of State shall be the designated agent for purposes of service of process under ss. 376.30-376.317 ~~376.30-376.319~~.

Reviser's note.--Amended to conform to the repeal of s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

Section 68. Section 376.313, Florida Statutes, is amended to read:

376.313 Nonexclusiveness of remedies and individual cause

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2495 of action for damages under ss. 376.30-376.317 ~~376.30-376.319~~.--

2496 (1) The remedies in ss. 376.30-376.317 ~~376.30-376.319~~ shall
 2497 be deemed to be cumulative and not exclusive.

2498 (2) Nothing in ss. 376.30-376.317 ~~376.30-376.319~~ requires
 2499 the pursuit of any claim against the Water Quality Assurance
 2500 Trust Fund or the Inland Protection Trust Fund as a condition
 2501 precedent to any other remedy.

2502 (3) Except as provided in s. 376.3078(3) and (11), nothing
 2503 contained in ss. 376.30-376.317 ~~376.30-376.319~~ prohibits any
 2504 person from bringing a cause of action in a court of competent
 2505 jurisdiction for all damages resulting from a discharge or other
 2506 condition of pollution covered by ss. 376.30-376.317 ~~376.30-~~
 2507 ~~376.319~~. Nothing in this chapter shall prohibit or diminish a
 2508 party's right to contribution from other parties jointly or
 2509 severally liable for a prohibited discharge of pollutants or
 2510 hazardous substances or other pollution conditions. Except as
 2511 otherwise provided in subsection (4) or subsection (5), in any
 2512 such suit, it is not necessary for such person to plead or prove
 2513 negligence in any form or manner. Such person need only plead and
 2514 prove the fact of the prohibited discharge or other pollutive
 2515 condition and that it has occurred. The only defenses to such
 2516 cause of action shall be those specified in s. 376.308.

2517 (4) In any civil action brought after July 1, 1986, against
 2518 the owner or operator of a petroleum storage system for damages
 2519 arising from a petroleum storage system discharge, the provisions
 2520 of subsection (3) shall not apply if it can be proven that, at
 2521 the time of the discharge:

2522 (a) The alleged damages resulted solely from a discharge
 2523 from a petroleum storage system which was installed, replaced, or

2524 retrofitted, and maintained, in a manner consistent with the
 2525 construction, operation, repair, and maintenance standards
 2526 established for such systems under chapter 62-761, Florida
 2527 Administrative Code, as that chapter may hereafter be amended.
 2528 The requirement of consistency with such standards may be
 2529 satisfied only by being in compliance with the standards at the
 2530 time of the discharge, regardless of the time specified for
 2531 compliance under the schedule provided in said chapter.

2532 (b) A leak detection system or systems or a monitoring well
 2533 or wells were installed and operating in a manner consistent with
 2534 technical requirements of chapter 62-761, Florida Administrative
 2535 Code, as that chapter may hereafter be amended; and

2536 (c) All inventory, recordkeeping, and reporting
 2537 requirements of chapter 62-761, Florida Administrative Code, as
 2538 that chapter may hereafter be amended, have been and are being
 2539 complied with.

2540
 2541 Any person bringing such an action must prove negligence to
 2542 recover damages under this subsection. For the purposes of this
 2543 subsection, noncompliance with this act, or any of the rules
 2544 promulgated pursuant hereto, as the same may hereafter be
 2545 amended, shall be prima facie evidence of negligence.

2546 (5) (a) In any civil action against the owner or operator of
 2547 a drycleaning facility or a wholesale supply facility, or the
 2548 owner of the real property on which such facility is located, if
 2549 such facility is not eligible under s. 376.3078(3) and is not
 2550 involved in voluntary cleanup under s. 376.3078(11), for damages
 2551 arising from the discharge of drycleaning solvents from a
 2552 drycleaning facility or wholesale supply facility, the provisions

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2553 of subsection (3) shall not apply if it can be proven that, at
 2554 the time of the discharge the alleged damages resulted solely
 2555 from a discharge from a drycleaning facility or wholesale supply
 2556 facility that was in compliance with department rules regulating
 2557 drycleaning facilities or wholesale supply facilities.

2558 (b) Any person bringing such an action must prove
 2559 negligence in order to recover damages under this subsection. For
 2560 the purposes of this subsection, noncompliance with s. 376.303 or
 2561 s. 376.3078, or any of the rules promulgated pursuant thereto, or
 2562 any applicable state or federal law or regulation, as the same
 2563 may hereafter be amended, shall be prima facie evidence of
 2564 negligence.

2565 (6) The court, in issuing any final judgment in any such
 2566 action, may award costs of litigation (including reasonable
 2567 attorney's and expert witness fees) to any party, whenever the
 2568 court determines such an award is in the public interest.

2569
 2570 Reviser's note.--Amended to conform to the repeal of s.
 2571 376.319 by s. 18, ch. 99-4, Laws of Florida.

2572
 2573 Section 69. Section 376.315, Florida Statutes, is amended
 2574 to read:

2575 376.315 Construction of ss. 376.30-376.317 ~~376.30-~~
 2576 ~~376.319~~.--Sections 376.30-376.317 ~~376.30-376.319~~, being necessary
 2577 for the general welfare and the public health and safety of the
 2578 state and its inhabitants, shall be liberally construed to effect
 2579 the purposes set forth under ss. 376.30-376.317 ~~376.30-376.319~~
 2580 and the Federal Water Pollution Control Act, as amended.

2581

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2582 Reviser's note.--Amended to conform to the repeal of s.
 2583 376.319 by s. 18, ch. 99-4, Laws of Florida.

2584
 2585 Section 70. Subsection (1) of section 376.317, Florida
 2586 Statutes, is amended to read:

2587 376.317 Superseded laws; state preemption.--

2588 (1) If any provision of ss. 376.30-376.317 ~~376.30-376.319~~
 2589 or of the rules developed pursuant to such sections, which
 2590 provision pertains to a facility maintained for the purpose of
 2591 the underground storage of petroleum products for use as fuel in
 2592 vehicles, including, but not limited to, those vehicles used on
 2593 and off roads, aircraft, watercraft, and rail, is in conflict
 2594 with any other provision, limitation, or restriction which is now
 2595 in effect under any law of this state or any ordinance of a local
 2596 government, political subdivision, or municipality, or any rule
 2597 or regulation adopted thereunder, the provision of ss. 376.30-
 2598 376.317 ~~376.30-376.319~~ shall control, except as provided in
 2599 subsection (3).

2600
 2601 Reviser's note.--Amended to conform to the repeal of s.
 2602 376.319 by s. 18, ch. 99-4, Laws of Florida.

2603
 2604 Section 71. Paragraph (d) of subsection (1) of section
 2605 376.82, Florida Statutes, is amended to read:

2606 376.82 Eligibility criteria and liability protection.--

2607 (1) ELIGIBILITY.--Any person who has not caused or
 2608 contributed to the contamination of a brownfield site on or after
 2609 July 1, 1997, is eligible to participate in the brownfield
 2610 program established in ss. 376.77-376.85, subject to the

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2611 following:

2612 (d) After July 1, 1997, petroleum and drycleaning
 2613 contamination sites shall not receive both restoration funding
 2614 assistance available for the discharge under this chapter and any
 2615 state assistance available under s. 288.107. Nothing in this act
 2616 shall affect the cleanup criteria, priority ranking, and other
 2617 rights and obligations inherent in petroleum contamination and
 2618 drycleaning contamination site rehabilitation under ss. 376.30-
 2619 376.317 ~~376.30-376.319~~, or the availability of economic
 2620 incentives otherwise provided for by law.

2621
 2622 Reviser's note.--Amended to conform to the repeal of s.
 2623 376.319 by s. 18, ch. 99-4, Laws of Florida.

2624
 2625 Section 72. Paragraph (d) of subsection (1) of section
 2626 376.84, Florida Statutes, is amended to read:

2627 376.84 Brownfield redevelopment economic incentives.--It is
 2628 the intent of the Legislature that brownfield redevelopment
 2629 activities be viewed as opportunities to significantly improve
 2630 the utilization, general condition, and appearance of these
 2631 sites. Different standards than those in place for new
 2632 development, as allowed under current state and local laws,
 2633 should be used to the fullest extent to encourage the
 2634 redevelopment of a brownfield. State and local governments are
 2635 encouraged to offer redevelopment incentives for this purpose, as
 2636 an ongoing public investment in infrastructure and services, to
 2637 help eliminate the public health and environmental hazards, and
 2638 to promote the creation of jobs in these areas. Such incentives
 2639 may include financial, regulatory, and technical assistance to

2640 persons and businesses involved in the redevelopment of the
 2641 brownfield pursuant to this act.

2642 (1) Financial incentives and local incentives for
 2643 redevelopment may include, but not be limited to:

2644 (d) Waiver, reduction, or limitation by line of business
 2645 with respect to business ~~occupational license~~ taxes pursuant to
 2646 chapter 205.

2647
 2648 Reviser's note.--Amended to conform to the
 2649 redesignation of occupational license taxes in chapter
 2650 205 as business taxes by ch. 2006-152, Laws of Florida.

2651
 2652 Section 73. Subsection (24) of section 380.06, Florida
 2653 Statutes, is amended to read:

2654 380.06 Developments of regional impact.--

2655 (24) STATUTORY EXEMPTIONS.--

2656 (a) Any proposed hospital is exempt from the provisions of
 2657 this section.

2658 (b) Any proposed electrical transmission line or electrical
 2659 power plant is exempt from the provisions of this section.

2660 (c) Any proposed addition to an existing sports facility
 2661 complex is exempt from the provisions of this section if the
 2662 addition meets the following characteristics:

2663 1. It would not operate concurrently with the scheduled
 2664 hours of operation of the existing facility.

2665 2. Its seating capacity would be no more than 75 percent of
 2666 the capacity of the existing facility.

2667 3. The sports facility complex property is owned by a
 2668 public body prior to July 1, 1983.

2669 |
 2670 | This exemption does not apply to any pari-mutuel facility.
 2671 | (d) Any proposed addition or cumulative additions
 2672 | subsequent to July 1, 1988, to an existing sports facility
 2673 | complex owned by a state university is exempt if the increased
 2674 | seating capacity of the complex is no more than 30 percent of the
 2675 | capacity of the existing facility.
 2676 | (e) Any addition of permanent seats or parking spaces for
 2677 | an existing sports facility located on property owned by a public
 2678 | body prior to July 1, 1973, is exempt from the provisions of this
 2679 | section if future additions do not expand existing permanent
 2680 | seating or parking capacity more than 15 percent annually in
 2681 | excess of the prior year's capacity.
 2682 | (f) Any increase in the seating capacity of an existing
 2683 | sports facility having a permanent seating capacity of at least
 2684 | 50,000 spectators is exempt from the provisions of this section,
 2685 | provided that such an increase does not increase permanent
 2686 | seating capacity by more than 5 percent per year and not to
 2687 | exceed a total of 10 percent in any 5-year period, and provided
 2688 | that the sports facility notifies the appropriate local
 2689 | government within which the facility is located of the increase
 2690 | at least 6 months prior to the initial use of the increased
 2691 | seating, in order to permit the appropriate local government to
 2692 | develop a traffic management plan for the traffic generated by
 2693 | the increase. Any traffic management plan shall be consistent
 2694 | with the local comprehensive plan, the regional policy plan, and
 2695 | the state comprehensive plan.
 2696 | (g) Any expansion in the permanent seating capacity or
 2697 | additional improved parking facilities of an existing sports

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2698 facility is exempt from the provisions of this section, if the
 2699 following conditions exist:

2700 1.a. The sports facility had a permanent seating capacity
 2701 on January 1, 1991, of at least 41,000 spectator seats;

2702 b. The sum of such expansions in permanent seating capacity
 2703 does not exceed a total of 10 percent in any 5-year period and
 2704 does not exceed a cumulative total of 20 percent for any such
 2705 expansions; or

2706 c. The increase in additional improved parking facilities
 2707 is a one-time addition and does not exceed 3,500 parking spaces
 2708 serving the sports facility; and

2709 2. The local government having jurisdiction of the sports
 2710 facility includes in the development order or development permit
 2711 approving such expansion under this paragraph a finding of fact
 2712 that the proposed expansion is consistent with the
 2713 transportation, water, sewer and stormwater drainage provisions
 2714 of the approved local comprehensive plan and local land
 2715 development regulations relating to those provisions.

2716
 2717 Any owner or developer who intends to rely on this statutory
 2718 exemption shall provide to the department a copy of the local
 2719 government application for a development permit. Within 45 days
 2720 of receipt of the application, the department shall render to the
 2721 local government an advisory and nonbinding opinion, in writing,
 2722 stating whether, in the department's opinion, the prescribed
 2723 conditions exist for an exemption under this paragraph. The local
 2724 government shall render the development order approving each such
 2725 expansion to the department. The owner, developer, or department
 2726 may appeal the local government development order pursuant to s.

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2727 380.07, within 45 days after the order is rendered. The scope of
2728 review shall be limited to the determination of whether the
2729 conditions prescribed in this paragraph exist. If any sports
2730 facility expansion undergoes development of regional impact
2731 review, all previous expansions which were exempt under this
2732 paragraph shall be included in the development of regional impact
2733 review.

2734 (h) Expansion to port harbors, spoil disposal sites,
2735 navigation channels, turning basins, harbor berths, and other
2736 related inwater harbor facilities of ports listed in s.
2737 403.021(9)(b), port transportation facilities and projects listed
2738 in s. 311.07(3)(b), and intermodal transportation facilities
2739 identified pursuant to s. 311.09(3) are exempt from the
2740 provisions of this section when such expansions, projects, or
2741 facilities are consistent with comprehensive master plans that
2742 are in compliance with the provisions of s. 163.3178.

2743 (i) Any proposed facility for the storage of any petroleum
2744 product or any expansion of an existing facility is exempt from
2745 the provisions of this section.

2746 (j) Any renovation or redevelopment within the same land
2747 parcel which does not change land use or increase density or
2748 intensity of use.

2749 (k) Waterport and marina development, including dry storage
2750 facilities, are exempt from the provisions of this section.

2751 (l) Any proposed development within an urban service
2752 boundary established under s. 163.3177(14) is exempt from the
2753 provisions of this section if the local government having
2754 jurisdiction over the area where the development is proposed has
2755 adopted the urban service boundary, has entered into a binding

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2756 | agreement with jurisdictions that would be impacted and with the
 2757 | Department of Transportation regarding the mitigation of impacts
 2758 | on state and regional transportation facilities, and has adopted
 2759 | a proportionate share methodology pursuant to s. 163.3180(16).

2760 | (m) Any proposed development within a rural land
 2761 | stewardship area created under s. 163.3177(11)(d) is exempt from
 2762 | the provisions of this section if the local government that has
 2763 | adopted the rural land stewardship area has entered into a
 2764 | binding agreement with jurisdictions that would be impacted and
 2765 | the Department of Transportation regarding the mitigation of
 2766 | impacts on state and regional transportation facilities, and has
 2767 | adopted a proportionate share methodology pursuant to s.
 2768 | 163.3180(16).

2769 | (n) Any proposed development or redevelopment within an
 2770 | area designated as an urban infill and redevelopment area under
 2771 | s. 163.2517 is exempt from this section if the local government
 2772 | has entered into a binding agreement with jurisdictions that
 2773 | would be impacted and the Department of Transportation regarding
 2774 | the mitigation of impacts on state and regional transportation
 2775 | facilities, and has adopted a proportionate share methodology
 2776 | pursuant to s. 163.3180(16).

2777 | (o) The establishment, relocation, or expansion of any
 2778 | military installation as defined in s. 163.3175, is exempt from
 2779 | this section.

2780 | (p) Any self-storage warehousing that does not allow retail
 2781 | or other services is exempt from this section.

2782 | (q) Any proposed nursing home or assisted living facility
 2783 | is exempt from this section.

2784 | (r) Any development identified in an airport master plan

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2785 and adopted into the comprehensive plan pursuant to s.
 2786 163.3177(6)(k) is exempt from this section.

2787 (s) Any development identified in a campus master plan and
 2788 adopted pursuant to s. 1013.30 is exempt from this section.

2789 (t) Any development in a specific area plan which is
 2790 prepared pursuant to s. 163.3245 and adopted into the
 2791 comprehensive plan is exempt from this section.

2792 (u) Any development within a county with a research and
 2793 education authority created by special act and that is also
 2794 within a research and development park that is operated or
 2795 managed by a research and development authority pursuant to part
 2796 V of chapter 159 is exempt from this section.

2797
 2798 If a use is exempt from review as a development of regional
 2799 impact under paragraphs (a)-(t), ~~except for paragraph (u)~~, but
 2800 will be part of a larger project that is subject to review as a
 2801 development of regional impact, the impact of the exempt use must
 2802 be included in the review of the larger project.

2803
 2804 Reviser's note.--Amended to improve clarity and
 2805 eliminate redundancy.

2806
 2807 Section 74. Paragraph (c) of subsection (3) of section
 2808 380.23, Florida Statutes, is amended to read:

2809 380.23 Federal consistency.--

2810 (3) Consistency review shall be limited to review of the
 2811 following activities, uses, and projects to ensure that such
 2812 activities, uses, and projects are conducted in accordance with
 2813 the state's coastal management program:

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2814 (c) Federally licensed or permitted activities affecting
 2815 land or water uses when such activities are in or seaward of the
 2816 jurisdiction of local governments required to develop a coastal
 2817 zone protection element as provided in s. 380.24 and when such
 2818 activities involve:

2819 1. Permits and licenses required under the Rivers and
 2820 Harbors Act of 1899, 33 U.S.C. ss. 401 et seq., as amended.

2821 2. Permits and licenses required under the Marine
 2822 Protection, Research and Sanctuaries Act of 1972, 33 U.S.C. ss.
 2823 1401-1445 and 16 U.S.C. ss. 1431-1445, as amended.

2824 3. Permits and licenses required under the Federal Water
 2825 Pollution Control Act of 1972, 33 U.S.C. ss. 1251 et seq., as
 2826 amended, unless such permitting activities have been delegated to
 2827 the state pursuant to said act.

2828 4. Permits and licenses relating to the transportation of
 2829 hazardous substance materials or transportation and dumping which
 2830 are issued pursuant to the Hazardous Materials Transportation
 2831 Act, 49 U.S.C. ss. 1501 et seq., as amended, or 33 U.S.C. s.
 2832 1321, as amended.

2833 5. Permits and licenses required under 15 U.S.C. ss. 717-
 2834 717w, 3301-3432, 42 U.S.C. ss. 7101-7352, and 43 U.S.C. ss. 1331-
 2835 1356 for construction and operation of interstate gas pipelines
 2836 and storage facilities.

2837 6. Permits and licenses required for the siting and
 2838 construction of any new electrical power plants as defined in s.
 2839 403.503(13) ~~403.503(12)~~, as amended, and the licensing and
 2840 relicensing of hydroelectric power plants under the Federal Power
 2841 Act, 16 U.S.C. ss. 791a et seq., as amended.

2842 7. Permits and licenses required under the Mining Law of

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2843 1872, 30 U.S.C. ss. 21 et seq., as amended; the Mineral Lands
 2844 Leasing Act, 30 U.S.C. ss. 181 et seq., as amended; the Mineral
 2845 Leasing Act for Acquired Lands, 30 U.S.C. ss. 351 et seq., as
 2846 amended; the Federal Land Policy and Management Act, 43 U.S.C.
 2847 ss. 1701 et seq., as amended; the Mining in the Parks Act, 16
 2848 U.S.C. ss. 1901 et seq., as amended; and the OCS Lands Act, 43
 2849 U.S.C. ss. 1331 et seq., as amended, for drilling, mining,
 2850 pipelines, geological and geophysical activities, or rights-of-
 2851 way on public lands and permits and licenses required under the
 2852 Indian Mineral Development Act, 25 U.S.C. ss. 2101 et seq., as
 2853 amended.

2854 8. Permits and licenses for areas leased under the OCS
 2855 Lands Act, 43 U.S.C. ss. 1331 et seq., as amended, including
 2856 leases and approvals of exploration, development, and production
 2857 plans.

2858 9. Permits and licenses required under the Deepwater Port
 2859 Act of 1974, 33 U.S.C. ss. 1501 et seq., as amended.

2860 10. Permits required for the taking of marine mammals under
 2861 the Marine Mammal Protection Act of 1972, as amended, 16 U.S.C.
 2862 s. 1374.

2863
 2864 Reviser's note.--Amended to conform to the
 2865 redesignation of s. 403.503(12) as s. 403.503(13) by s.
 2866 20, ch. 2006-230, Laws of Florida.

2867
 2868 Section 75. Paragraph (i) of subsection (3) of section
 2869 381.028, Florida Statutes, is amended to read:

2870 381.028 Adverse medical incidents.--

2871 (3) DEFINITIONS.--As used in s. 25, Art. X of the State

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2872 Constitution and this act, the term:

2873 (i) "Privacy restrictions imposed by federal law" means the
 2874 provisions relating to the disclosure of patient privacy
 2875 information under federal law, including, but not limited to, the
 2876 Health Insurance Portability and Accountability Act of 1996
 2877 (HIPAA), Pub. L. No. 104-191 ~~104-91~~, and its implementing
 2878 regulations, the Federal Privacy Act, 5 U.S.C. s. 552(a), and its
 2879 implementing regulations, and any other federal law, including,
 2880 but not limited to, federal common law and decisional law, that
 2881 would prohibit the disclosure of patient privacy information.

2882
 2883 Reviser's note.--Amended to conform to context. The
 2884 Health Insurance Portability and Accountability Act of
 2885 1996 is Pub. L. No. 104-191.

2886
 2887 Section 76. Subsection (4) of section 400.0073, Florida
 2888 Statutes, is amended to read:

2889 400.0073 State and local ombudsman council
 2890 investigations.--

2891 (4) If the ombudsman or any state or local council member
 2892 is not allowed to enter a long-term care facility, the
 2893 administrator of the facility shall be considered to have
 2894 interfered with a representative of the office, the state
 2895 council, or the local council in the performance of official
 2896 duties as described in s. 400.0083(1) and to have committed a
 2897 violation of this part. The ombudsman shall report a facility's
 2898 refusal to allow entry to the agency, and the agency shall record
 2899 the report and take it into consideration when determining
 2900 actions allowable under s. 400.102, s. 400.121, s. 429.14

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2901 ~~400.414~~, s. 429.19 ~~400.419~~, s. 429.69 ~~400.6194~~, or s. 429.71
 2902 ~~400.6196~~.

2903
 2904 Reviser's note.--Amended to conform to the transfer of
 2905 sections comprising parts III and VII of chapter 400 to
 2906 parts I and II of chapter 429 by ss. 2, 3, ch. 2006-
 2907 197, Laws of Florida.

2908
 2909 Section 77. Paragraph (a) of subsection (2) and subsection
 2910 (4) of section 400.0074, Florida Statutes, are amended to read:
 2911 400.0074 Local ombudsman council onsite administrative
 2912 assessments.--

2913 (2) An onsite administrative assessment conducted by a
 2914 local council shall be subject to the following conditions:

2915 (a) To the extent possible and reasonable, the
 2916 administrative assessments shall not duplicate the efforts of the
 2917 agency surveys and inspections conducted under part ~~parts~~ II,
 2918 ~~III, and VII~~ of this chapter and parts I and II of chapter 429.

2919 (4) An onsite administrative assessment may not be
 2920 accomplished by forcible entry. However, if the ombudsman or a
 2921 state or local council member is not allowed to enter a long-term
 2922 care facility, the administrator of the facility shall be
 2923 considered to have interfered with a representative of the
 2924 office, the state council, or the local council in the
 2925 performance of official duties as described in s. 400.0083(1) and
 2926 to have committed a violation of this part. The ombudsman shall
 2927 report the refusal by a facility to allow entry to the agency,
 2928 and the agency shall record the report and take it into
 2929 consideration when determining actions allowable under s.

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2930 400.102, s. 400.121, s. 429.14 ~~400.414~~, s. 429.19 ~~400.419~~, s.
 2931 429.69 ~~400.6194~~, or s. 429.71 ~~400.6196~~.

2932
 2933 Reviser's note.--Amended to conform to the transfer of
 2934 sections comprising parts III and VII of chapter 400 to
 2935 parts I and II of chapter 429 by ss. 2, 3, ch. 2006-
 2936 197, Laws of Florida.

2937
 2938 Section 78. Paragraph (a) of subsection (2) of section
 2939 400.0075, Florida Statutes, is amended to read:

2940 400.0075 Complaint notification and resolution
 2941 procedures.--

2942 (2) (a) Upon referral from a local council, the state
 2943 council shall assume the responsibility for the disposition of
 2944 the complaint. If a long-term care facility fails to take action
 2945 on a complaint by the state council, the state council may, after
 2946 obtaining approval from the ombudsman and a majority of the state
 2947 council members:

2948 1. In accordance with s. 400.0077, publicize the complaint,
 2949 the recommendations of the local or state council, and the
 2950 response of the long-term care facility.

2951 2. Recommend to the department and the agency a series of
 2952 facility reviews pursuant to s. 400.19, s. 429.34 ~~400.434~~, or s.
 2953 429.67 ~~400.619~~ to ensure correction and nonrecurrence of
 2954 conditions that give rise to complaints against a long-term care
 2955 facility.

2956 3. Recommend to the department and the agency that the
 2957 long-term care facility no longer receive payments under any
 2958 state assistance program, including Medicaid.

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2959 4. Recommend to the department and the agency that
 2960 procedures be initiated for revocation of the long-term care
 2961 facility's license in accordance with chapter 120.

2962
 2963 Reviser's note.--Amended to conform to the transfer of
 2964 sections comprising parts III and VII of chapter 400 to
 2965 parts I and II of chapter 429 by ss. 2, 3, ch. 2006-
 2966 197, Laws of Florida.

2967
 2968 Section 79. Subsection (16) of section 400.506, Florida
 2969 Statutes, is amended to read:

2970 400.506 Licensure of nurse registries; requirements;
 2971 penalties.--

2972 (16) Each nurse registry shall prepare and maintain a
 2973 comprehensive emergency management plan that is consistent with
 2974 the criteria in this subsection and with the local special needs
 2975 plan. The plan shall be updated annually. The plan shall include
 2976 the means by which the nurse registry will continue to provide
 2977 the same type and quantity of services to its patients who
 2978 evacuate to special needs shelters which were being provided to
 2979 those patients prior to evacuation. The plan shall specify how
 2980 the nurse registry shall facilitate the provision of continuous
 2981 care by persons referred for contract to persons who are
 2982 registered pursuant to s. 252.355 during an emergency that
 2983 interrupts the provision of care or services in private
 2984 residences ~~residencies~~. Nurse registries may establish links to
 2985 local emergency operations centers to determine a mechanism by
 2986 which to approach specific areas within a disaster area in order
 2987 for a provider to reach its clients. Nurse registries shall

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2988 demonstrate a good faith effort to comply with the requirements
2989 of this subsection by documenting attempts of staff to follow
2990 procedures outlined in the nurse registry's comprehensive
2991 emergency management plan which support a finding that the
2992 provision of continuing care has been attempted for patients
2993 identified as needing care by the nurse registry and registered
2994 under s. 252.355 in the event of an emergency under subsection
2995 (1).

2996 (a) All persons referred for contract who care for persons
2997 registered pursuant to s. 252.355 must include in the patient
2998 record a description of how care will be continued during a
2999 disaster or emergency that interrupts the provision of care in
3000 the patient's home. It shall be the responsibility of the person
3001 referred for contract to ensure that continuous care is provided.

3002 (b) Each nurse registry shall maintain a current
3003 prioritized list of patients in private residences who are
3004 registered pursuant to s. 252.355 and are under the care of
3005 persons referred for contract and who need continued services
3006 during an emergency. This list shall indicate, for each patient,
3007 if the client is to be transported to a special needs shelter and
3008 if the patient is receiving skilled nursing services. Nurse
3009 registries shall make this list available to county health
3010 departments and to local emergency management agencies upon
3011 request.

3012 (c) Each person referred for contract who is caring for a
3013 patient who is registered pursuant to s. 252.355 shall provide a
3014 list of the patient's medication and equipment needs to the nurse
3015 registry. Each person referred for contract shall make this
3016 information available to county health departments and to local

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3017 emergency management agencies upon request.

3018 (d) Each person referred for contract shall not be required
 3019 to continue to provide care to patients in emergency situations
 3020 that are beyond the person's control and that make it impossible
 3021 to provide services, such as when roads are impassable or when
 3022 patients do not go to the location specified in their patient
 3023 records.

3024 (e) The comprehensive emergency management plan required by
 3025 this subsection is subject to review and approval by the county
 3026 health department. During its review, the county health
 3027 department shall contact state and local health and medical
 3028 stakeholders when necessary. The county health department shall
 3029 complete its review to ensure that the plan complies with the
 3030 criteria in the Agency for Health Care Administration rules
 3031 within 90 days after receipt of the plan and shall either approve
 3032 the plan or advise the nurse registry of necessary revisions. If
 3033 a nurse registry fails to submit a plan or fails to submit
 3034 requested information or revisions to the county health
 3035 department within 30 days after written notification from the
 3036 county health department, the county health department shall
 3037 notify the Agency for Health Care Administration. The agency
 3038 shall notify the nurse registry that its failure constitutes a
 3039 deficiency, subject to a fine of \$5,000 per occurrence. If the
 3040 plan is not submitted, information is not provided, or revisions
 3041 are not made as requested, the agency may impose the fine.

3042 (f) The Agency for Health Care Administration shall adopt
 3043 rules establishing minimum criteria for the comprehensive
 3044 emergency management plan and plan updates required by this
 3045 subsection, with the concurrence of the Department of Health and

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3046 | in consultation with the Department of Community Affairs.

3047

3048 | Reviser's note.--Amended to improve clarity and conform
3049 | to context.

3050

3051 | Section 80. Paragraph (b) of subsection (2) of section
3052 | 402.164, Florida Statutes, is amended to read:

3053 | 402.164 Legislative intent; definitions.--

3054 | (2) As used in ss. 402.164-402.167, the term:

3055 | (b) "Client" means a client of the Agency for Persons with
3056 | Disabilities, the Agency for Health Care Administration, the
3057 | Department of Children and Family Services, or the Department of
3058 | Elderly Affairs, as defined in s. 393.063, s. 394.67, s. 397.311,
3059 | or s. 400.960, a forensic client or client as defined in s.
3060 | 916.106, a child or youth as defined in s. 39.01, a child as
3061 | defined in s. 827.01, a family as defined in s. 414.0252, a
3062 | participant as defined in s. 429.901 ~~400.551~~, a resident as
3063 | defined in s. 429.02, a Medicaid recipient or recipient as
3064 | defined in s. 409.901, a child receiving child care as defined in
3065 | s. 402.302, a disabled adult as defined in s. 410.032 or s.
3066 | 410.603, or a victim as defined in s. 39.01 or s. 415.102 as each
3067 | definition applies within its respective chapter.

3068

3069 | Reviser's note.--Amended to confirm the substitution by
3070 | the editors of a reference to s. 429.901 for a
3071 | reference to s. 400.551, which was transferred by s. 4,
3072 | ch. 2006-197, Laws of Florida.

3073

3074 | Section 81. Paragraphs (a) and (b) of subsection (1) and

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3075 paragraph (b) of subsection (3) of section 403.091, Florida
 3076 Statutes, are amended to read:

3077 403.091 Inspections.--

3078 (1)(a) Any duly authorized representative of the department
 3079 may at any reasonable time enter and inspect, for the purpose of
 3080 ascertaining the state of compliance with the law or rules and
 3081 regulations of the department, any property, premises, or place,
 3082 except a building which is used exclusively for a private
 3083 residence, on or at which:

3084 1. A hazardous waste generator, transporter, or facility or
 3085 other air or water contaminant source;

3086 2. A discharger, including any nondomestic discharger which
 3087 introduces any pollutant into a publicly owned treatment works;

3088 3. Any facility, as defined in s. 376.301; or

3089 4. A resource recovery and management facility

3090
 3091 is located or is being constructed or installed or where records
 3092 which are required under this chapter, ss. 376.30-376.317 ~~376.30-~~
 3093 ~~376.319~~, or department rule are kept.

3094 (b) Any duly authorized representative may at reasonable
 3095 times have access to and copy any records required under this
 3096 chapter or ss. 376.30-376.317 ~~376.30-376.319~~; inspect any
 3097 monitoring equipment or method; sample for any pollutants as
 3098 defined in s. 376.301, effluents, or wastes which the owner or
 3099 operator of such source may be discharging or which may otherwise
 3100 be located on or underlying the owner's or operator's property;
 3101 and obtain any other information necessary to determine
 3102 compliance with permit conditions or other requirements of this
 3103 chapter, ss. 376.30-376.317 ~~376.30-376.319~~, or department rules.

3104 (3)
 3105 (b) Upon proper affidavit being made, an inspection warrant
 3106 may be issued under the provisions of this chapter or ss. 376.30-
 3107 376.317 ~~376.30-376.319~~:

3108 1. When it appears that the properties to be inspected may
 3109 be connected with or contain evidence of the violation of any of
 3110 the provisions of this chapter or ss. 376.30-376.317 ~~376.30-~~
 3111 ~~376.319~~ or any rule properly promulgated thereunder; or

3112 2. When the inspection sought is an integral part of a
 3113 larger scheme of systematic routine inspections which are
 3114 necessary to, and consistent with, the continuing efforts of the
 3115 department to ensure compliance with the provisions of this
 3116 chapter or ss. 376.30-376.317 ~~376.30-376.319~~ and any rules
 3117 adopted thereunder.

3118
 3119 Reviser's note.--Amended to conform to the repeal of s.
 3120 376.319 by s. 18, ch. 99-4, Laws of Florida.

3121
 3122 Section 82. Subsection (1) of section 403.5175, Florida
 3123 Statutes, is amended to read:

3124 403.5175 Existing electrical power plant site
 3125 certification.--

3126 (1) An electric utility that owns or operates an existing
 3127 electrical power plant as defined in s. 403.503(13) ~~403.503(12)~~
 3128 may apply for certification of an existing power plant and its
 3129 site in order to obtain all agency licenses necessary to ensure
 3130 compliance with federal or state environmental laws and
 3131 regulation using the centrally coordinated, one-stop licensing
 3132 process established by this part. An application for site

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3133 certification under this section must be in the form prescribed
 3134 by department rule. Applications must be reviewed and processed
 3135 using the same procedural steps and notices as for an application
 3136 for a new facility, except that a determination of need by the
 3137 Public Service Commission is not required.

3138
 3139 Reviser's note.--Amended to conform to the
 3140 redesignation of s. 403.503(12) as s. 403.503(13) by s.
 3141 20, ch. 2006-230, Laws of Florida.

3142
 3143 Section 83. Paragraph (d) of subsection (2) of section
 3144 403.526, Florida Statutes, is amended to read:

3145 403.526 Preliminary statements of issues, reports, and
 3146 project analyses; studies.--

3147 (2)

3148 (d) When an agency whose agency head is a collegial body,
 3149 such as a commission, board, or council, is required to submit a
 3150 report pursuant to this section and is required by its own
 3151 internal procedures to have the report reviewed by its agency
 3152 head prior to finalization, the agency may submit to the
 3153 department a draft version of the report by the deadline
 3154 indicated in paragraph (a), and shall submit a final version of
 3155 the report after review by the agency head, ~~and~~ no later than 15
 3156 days after the deadline indicated in paragraph (a).

3157
 3158 Reviser's note.--Amended to confirm the deletion by the
 3159 editors of the word "and" following the word "head" to
 3160 improve clarity.

3161

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3162 Section 84. Paragraph (h) of subsection (1) of section
 3163 403.5271, Florida Statutes, is amended to read:

3164 403.5271 Alternate corridors.--

3165 (1) No later than 45 days before the originally scheduled
 3166 certification hearing, any party may propose alternate
 3167 transmission line corridor routes for consideration under the
 3168 provisions of this act.

3169 (h) When an agency whose agency head is a collegial body,
 3170 such as a commission, board, or council, is required to submit a
 3171 report pursuant to this section and is required by its own
 3172 internal procedures to have the report reviewed by its agency
 3173 head prior to finalization, the agency may submit to the
 3174 department a draft version of the report by the deadline
 3175 indicated in paragraph (f), and shall submit a final version of
 3176 the report after review by the agency head ~~and~~ no later than 7
 3177 days after the deadline indicated in paragraph (f).

3178
 3179 Reviser's note.--Amended to confirm the deletion by the
 3180 editors of the word "and" following the word "head" to
 3181 improve clarity.

3182
 3183 Section 85. Subsection (2) of section 403.528, Florida
 3184 Statutes, is amended to read:

3185 403.528 Alteration of time limits.--

3186 (2) A comprehensive application encompassing more than one
 3187 proposed transmission line may be good cause for alteration
 3188 ~~alternation~~ of time limits.

3189
 3190 Reviser's note.--Amended to confirm the substitution by

3191 the editors of the word "alteration" for the word
 3192 "alternation" to conform to context.

3193
 3194 Section 86. Subsections (2), (3), and (5) of section
 3195 403.7043, Florida Statutes, are amended to read:

3196 403.7043 Compost standards and applications.--

3197 (2) ~~Within 6 months after October 1, 1988,~~ The department
 3198 shall ~~initiate rulemaking to~~ establish standards for the
 3199 production of compost ~~and shall complete and promulgate those~~
 3200 ~~rules within 12 months after initiating the process of~~
 3201 ~~rulemaking,~~ including rules establishing:

3202 (a) Requirements necessary to produce hygienically safe
 3203 compost products for varying applications.

3204 (b) A classification scheme for compost based on: the
 3205 types of waste composted, including at least one type containing
 3206 only yard trash; the maturity of the compost, including at least
 3207 three degrees of decomposition for fresh, semimature, and mature;
 3208 and the levels of organic and inorganic constituents in the
 3209 compost. This scheme shall address:

- 3210 1. Methods for measurement of the compost maturity.
- 3211 2. Particle sizes.
- 3212 3. Moisture content.
- 3213 4. Average levels of organic and inorganic constituents,
 3214 including heavy metals, for such classes of compost as the
 3215 department establishes, and the analytical methods to determine
 3216 those levels.

3217 (3) The department's rules ~~Within 6 months after October 1,~~
 3218 ~~1988,~~ the department shall ~~initiate rulemaking to~~ prescribe the
 3219 allowable uses and application rates of compost ~~and shall~~

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3220 ~~complete and promulgate these rules within 12 months after~~
 3221 ~~initiating the process of rulemaking,~~ based on the following
 3222 criteria:

3223 (a) The total quantity of organic and inorganic
 3224 constituents, including heavy metals, allowed to be applied
 3225 through the addition of compost to the soil per acre per year.

3226 (b) The allowable uses of compost based on maturity and
 3227 type of compost.

3228 (5) The provisions of s. 403.706 shall not prohibit any
 3229 county or municipality which had ~~has~~ in place a memorandum of
 3230 understanding or other written agreement as of October 1, 1988,
 3231 from proceeding with plans to build a compost facility.

3232
 3233 Reviser's note.--Subsections (2) and (3), which relate
 3234 to initial rulemaking, are amended to delete provisions
 3235 that have served their purpose. Subsection (5) is
 3236 amended to conform to context.

3237
 3238 Section 87. Subsection (13) of section 403.708, Florida
 3239 Statutes, is amended to read:

3240 403.708 Prohibition; penalty.--

3241 (13) ~~In accordance with the following schedule,~~ No person
 3242 who knows or who should know of the nature of the following ~~such~~
 3243 solid waste shall dispose of such solid waste in landfills:

3244 (a) Lead-acid batteries, ~~after January 1, 1989.~~ Lead-acid
 3245 batteries also shall not be disposed of in any waste-to-energy
 3246 facility ~~after January 1, 1989.~~ To encourage proper collection
 3247 and recycling, all persons who sell lead-acid batteries at retail
 3248 shall accept used lead-acid batteries as trade-ins for new lead-

3249 acid batteries.

3250 (b) Used oil, ~~after October 1, 1988.~~

3251 (c) Yard trash, ~~after January 1, 1992,~~ except in unlined
 3252 landfills classified by department rule. Yard trash that is
 3253 source separated from solid waste may be accepted at a solid
 3254 waste disposal area where the area provides and maintains
 3255 separate yard trash composting facilities. The department
 3256 recognizes that incidental amounts of yard trash may be disposed
 3257 of in lined landfills. In any enforcement action taken pursuant
 3258 to this paragraph, the department shall consider the difficulty
 3259 of removing incidental amounts of yard trash from a mixed solid
 3260 waste stream.

3261 (d) White goods, ~~after January 1, 1990.~~

3262
 3263 ~~Prior to the effective dates specified in paragraphs (a) (d), the~~
 3264 ~~department shall identify and assist in developing alternative~~
 3265 ~~disposal, processing, or recycling options for the solid wastes~~
 3266 ~~identified in paragraphs (a) (d).~~

3267
 3268 Reviser's note.--Amended to delete provisions that have
 3269 served their purpose.

3270
 3271 Section 88. Paragraph (f) of subsection (3) of section
 3272 408.036, Florida Statutes, is amended to read:

3273 408.036 Projects subject to review; exemptions.--

3274 (3) EXEMPTIONS.--Upon request, the following projects are
 3275 subject to exemption from the provisions of subsection (1):

3276 (f) For the creation of a single nursing home within a
 3277 district by combining licensed beds from two or more licensed

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3278 nursing homes within such district, regardless of subdistrict
 3279 boundaries, if 50 percent of the beds in the created nursing home
 3280 are transferred from the only nursing home in a county and its
 3281 utilization data demonstrate that it had an occupancy rate of
 3282 less than 75 percent for the 12-month period ending 90 days
 3283 before the request for the exemption. This paragraph is repealed
 3284 upon the expiration of the moratorium established in s.
 3285 408.0435(1) ~~651.1185(1)~~.

3286
 3287 Reviser's note.--Amended to conform to the
 3288 redesignation of s. 651.1185 as s. 408.0435 by s. 1,
 3289 ch. 2006-161, Laws of Florida.

3290
 3291 Section 89. Section 408.802, Florida Statutes, is amended
 3292 to read:

3293 408.802 Applicability.--The provisions of this part apply
 3294 to the provision of services that require licensure as defined in
 3295 this part and to the following entities licensed, registered, or
 3296 certified by the agency, as described in chapters 112, 383, 390,
 3297 394, 395, 400, 429, 440, 483, and 765:

3298 (1) Laboratories authorized to perform testing under the
 3299 Drug-Free Workplace Act, as provided under ss. 112.0455 and
 3300 440.102.

3301 (2) Birth centers, as provided under chapter 383.

3302 (3) Abortion clinics, as provided under chapter 390.

3303 (4) Crisis stabilization units, as provided under parts I
 3304 and IV of chapter 394.

3305 (5) Short-term residential treatment facilities, as
 3306 provided under parts I and IV of chapter 394.

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- 3307 (6) Residential treatment facilities, as provided under
- 3308 part IV of chapter 394.
- 3309 (7) Residential treatment centers for children and
- 3310 adolescents, as provided under part IV of chapter 394.
- 3311 (8) Hospitals, as provided under part I of chapter 395.
- 3312 (9) Ambulatory surgical centers, as provided under part I
- 3313 of chapter 395.
- 3314 (10) Mobile surgical facilities, as provided under part I
- 3315 of chapter 395.
- 3316 (11) Private review agents, as provided under part I of
- 3317 chapter 395.
- 3318 (12) Health care risk managers, as provided under part I of
- 3319 chapter 395.
- 3320 (13) Nursing homes, as provided under part II of chapter
- 3321 400.
- 3322 (14) Assisted living facilities, as provided under part I
- 3323 ~~III~~ of chapter 429 ~~400~~.
- 3324 (15) Home health agencies, as provided under part III ~~IV~~ of
- 3325 chapter 400.
- 3326 (16) Nurse registries, as provided under part III ~~IV~~ of
- 3327 chapter 400.
- 3328 (17) Companion services or homemaker services providers, as
- 3329 provided under part III ~~IV~~ of chapter 400.
- 3330 (18) Adult day care centers, as provided under part III ~~V~~
- 3331 of chapter 429 ~~400~~.
- 3332 (19) Hospices, as provided under part IV ~~VI~~ of chapter 400.
- 3333 (20) Adult family-care homes, as provided under part II ~~VII~~
- 3334 of chapter 429 ~~400~~.
- 3335 (21) Homes for special services, as provided under part V

- 3336 ~~VIII~~ of chapter 400.
- 3337 (22) Transitional living facilities, as provided under part
- 3338 V ~~VIII~~ of chapter 400.
- 3339 (23) Prescribed pediatric extended care centers, as
- 3340 provided under part VI ~~IX~~ of chapter 400.
- 3341 (24) Home medical equipment providers, as provided under
- 3342 part VII ~~X~~ of chapter 400.
- 3343 (25) Intermediate care facilities for persons with
- 3344 developmental disabilities, as provided under part VIII ~~XI~~ of
- 3345 chapter 400.
- 3346 (26) Health care services pools, as provided under part IX
- 3347 ~~XII~~ of chapter 400.
- 3348 (27) Health care clinics, as provided under part X ~~XIII~~ of
- 3349 chapter 400.
- 3350 (28) Clinical laboratories, as provided under part I of
- 3351 chapter 483.
- 3352 (29) Multiphasic health testing centers, as provided under
- 3353 part II of chapter 483.
- 3354 (30) Organ and tissue procurement agencies, as provided
- 3355 under chapter 765.

3356

3357 Reviser's note.--Amended to conform to the

3358 redesignation of former parts III, V, and VII of

3359 chapter 400 as parts I, III, and II of chapter 429,

3360 respectively, by ss. 2, 3, 4, ch. 2006-197, Laws of

3361 Florida.

3362

3363 Section 90. Subsection (3) of section 408.803, Florida

3364 Statutes, is amended to read:

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3365 408.803 Definitions.--As used in this part, the term:
 3366 (3) "Authorizing statute" means the statute authorizing the
 3367 licensed operation of a provider listed in s. 408.802 and
 3368 includes chapters 112, 383, 390, 394, 395, 400, 429, 440, 483,
 3369 and 765.

3370
 3371 Reviser's note.--Amended to conform to the
 3372 redesignation of former parts III, V, and VII of
 3373 chapter 400 as chapter 429 by ch. 2006-197, Laws of
 3374 Florida.

3375
 3376 Section 91. Paragraph (b) of subsection (7) of section
 3377 408.806, Florida Statutes, is amended to read:

3378 408.806 License application process.--
 3379 (7)

3380 (b) An initial inspection is not required for companion
 3381 services or homemaker services providers, as provided under part
 3382 III ~~IV~~ of chapter 400, or for health care services pools, as
 3383 provided under part IX ~~XII~~ of chapter 400.

3384
 3385 Reviser's note.--Amended to conform to the
 3386 redesignation of parts within chapter 400 necessitated
 3387 by the redesignation of former parts III, V, and VIII
 3388 as chapter 429 by ch. 2006-197, Laws of Florida.

3389
 3390 Section 92. Subsections (14), (15), (16), (17), (18), (19),
 3391 (20), (21), (22), (23), (24), (25), and (26) of section 408.820,
 3392 Florida Statutes, are amended to read:

3393 408.820 Exemptions.--Except as prescribed in authorizing

3394 statutes, the following exemptions shall apply to specified
 3395 requirements of this part:

3396 (14) Assisted living facilities, as provided under part I
 3397 ~~III~~ of chapter 429 ~~400~~, are exempt from s. 408.810(10).

3398 (15) Home health agencies, as provided under part III ~~IV~~ of
 3399 chapter 400, are exempt from s. 408.810(10).

3400 (16) Nurse registries, as provided under part III ~~IV~~ of
 3401 chapter 400, are exempt from s. 408.810(6) and (10).

3402 (17) Companion services or homemaker services providers, as
 3403 provided under part III ~~IV~~ of chapter 400, are exempt from s.
 3404 408.810(6)-(10).

3405 (18) Adult day care centers, as provided under part III ~~V~~
 3406 of chapter 429 ~~400~~, are exempt from s. 408.810(10).

3407 (19) Adult family-care homes, as provided under part II ~~VII~~
 3408 of chapter 429 ~~400~~, are exempt from s. 408.810(7)-(10).

3409 (20) Homes for special services, as provided under part V
 3410 ~~VIII~~ of chapter 400, are exempt from s. 408.810(7)-(10).

3411 (21) Transitional living facilities, as provided under part
 3412 V ~~VIII~~ of chapter 400, are exempt from s. 408.810(7)-(10).

3413 (22) Prescribed pediatric extended care centers, as
 3414 provided under part VI ~~IX~~ of chapter 400, are exempt from s.
 3415 408.810(10).

3416 (23) Home medical equipment providers, as provided under
 3417 part VII ~~X~~ of chapter 400, are exempt from s. 408.810(10).

3418 (24) Intermediate care facilities for persons with
 3419 developmental disabilities, as provided under part VIII ~~XI~~ of
 3420 chapter 400, are exempt from s. 408.810(7).

3421 (25) Health care services pools, as provided under part IX
 3422 ~~XII~~ of chapter 400, are exempt from s. 408.810(6)-(10).

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3423 (26) Health care clinics, as provided under part X ~~XIII~~ of
 3424 chapter 400, are exempt from ss. 408.809 and 408.810(1), (6),
 3425 (7), and (10).

3426
 3427 Reviser's note.--Amended to conform to the
 3428 redesignation of former parts III, V, and VII of
 3429 chapter 400 as parts I, III, and II of chapter 429,
 3430 respectively, by ss. 2, 3, 4, ch. 2006-197, Laws of
 3431 Florida.

3432
 3433 Section 93. Section 408.832, Florida Statutes, is amended
 3434 to read:

3435 408.832 Conflicts.--In case of conflict between the
 3436 provisions of part II of chapter 408 and the authorizing statutes
 3437 governing the licensure of health care providers by the Agency
 3438 for Health Care Administration found in s. 112.0455 and chapters
 3439 383, 390, 394, 395, 400, 429, 440, 483, and 765, the provisions
 3440 of part II of chapter 408 shall prevail.

3441
 3442 Reviser's note.--Amended to conform to the
 3443 redesignation of former parts III, V, and VII of
 3444 chapter 400 as chapter 429 pursuant to ch. 2006-197,
 3445 Laws of Florida.

3446
 3447 Section 94. Paragraph (a) of subsection (3) of section
 3448 409.1685, Florida Statutes, is amended to read:

3449 409.1685 Children in foster care; annual report to
 3450 Legislature.--The Department of Children and Family Services
 3451 shall submit a written report to the substantive committees of

3452 the Legislature concerning the status of children in foster care
 3453 and concerning the judicial review mandated by part X of chapter
 3454 39. This report shall be submitted by March 1 of each year and
 3455 shall include the following information for the prior calendar
 3456 year:

3457 (3) The number of termination of parental rights
 3458 proceedings instituted during that period which shall include:

3459 (a) The number of termination of parental rights
 3460 proceedings initiated pursuant to former s. 39.703; and

3461
 3462 Reviser's note.--Amended to clarify the status of
 3463 referenced s. 39.703, which was repealed by s. 35, ch.
 3464 2006-86, Laws of Florida.

3465
 3466 Section 95. Paragraph (e) of subsection (4) of section
 3467 409.221, Florida Statutes, is amended to read:

3468 409.221 Consumer-directed care program.--

3469 (4) CONSUMER-DIRECTED CARE.--

3470 (e) Services.--Consumers shall use the budget allowance
 3471 only to pay for home and community-based services that meet the
 3472 consumer's long-term care needs and are a cost-efficient use of
 3473 funds. Such services may include, but are not limited to, the
 3474 following:

3475 1. Personal care.

3476 2. Homemaking and chores, including housework, meals,
 3477 shopping, and transportation.

3478 3. Home modifications and assistive devices which may
 3479 increase the consumer's independence or make it possible to avoid
 3480 institutional placement.

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3481 4. Assistance in taking self-administered medication.
 3482 5. Day care and respite care services, including those
 3483 provided by nursing home facilities pursuant to s. 400.141(6) or
 3484 by adult day care facilities licensed pursuant to s. 429.907
 3485 ~~400.554~~.

3486 6. Personal care and support services provided in an
 3487 assisted living facility.
 3488

3489 Reviser's note.--Amended to conform to the transfer of
 3490 s. 400.554 to s. 429.907 by s. 4, ch. 2006-197, Laws of
 3491 Florida.
 3492

3493 Section 96. Paragraph (a) of subsection (2) of section
 3494 409.908, Florida Statutes, is amended to read:

3495 409.908 Reimbursement of Medicaid providers.--Subject to
 3496 specific appropriations, the agency shall reimburse Medicaid
 3497 providers, in accordance with state and federal law, according to
 3498 methodologies set forth in the rules of the agency and in policy
 3499 manuals and handbooks incorporated by reference therein. These
 3500 methodologies may include fee schedules, reimbursement methods
 3501 based on cost reporting, negotiated fees, competitive bidding
 3502 pursuant to s. 287.057, and other mechanisms the agency considers
 3503 efficient and effective for purchasing services or goods on
 3504 behalf of recipients. If a provider is reimbursed based on cost
 3505 reporting and submits a cost report late and that cost report
 3506 would have been used to set a lower reimbursement rate for a rate
 3507 semester, then the provider's rate for that semester shall be
 3508 retroactively calculated using the new cost report, and full
 3509 payment at the recalculated rate shall be effected retroactively.

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3510 Medicare-granted extensions for filing cost reports, if
 3511 applicable, shall also apply to Medicaid cost reports. Payment
 3512 for Medicaid compensable services made on behalf of Medicaid
 3513 eligible persons is subject to the availability of moneys and any
 3514 limitations or directions provided for in the General
 3515 Appropriations Act or chapter 216. Further, nothing in this
 3516 section shall be construed to prevent or limit the agency from
 3517 adjusting fees, reimbursement rates, lengths of stay, number of
 3518 visits, or number of services, or making any other adjustments
 3519 necessary to comply with the availability of moneys and any
 3520 limitations or directions provided for in the General
 3521 Appropriations Act, provided the adjustment is consistent with
 3522 legislative intent.

3523 (2)(a)1. Reimbursement to nursing homes licensed under part
 3524 II of chapter 400 and state-owned-and-operated intermediate care
 3525 facilities for the developmentally disabled licensed under part
 3526 VIII ~~XI~~ of chapter 400 must be made prospectively.

3527 2. Unless otherwise limited or directed in the General
 3528 Appropriations Act, reimbursement to hospitals licensed under
 3529 part I of chapter 395 for the provision of swing-bed nursing home
 3530 services must be made on the basis of the average statewide
 3531 nursing home payment, and reimbursement to a hospital licensed
 3532 under part I of chapter 395 for the provision of skilled nursing
 3533 services must be made on the basis of the average nursing home
 3534 payment for those services in the county in which the hospital is
 3535 located. When a hospital is located in a county that does not
 3536 have any community nursing homes, reimbursement shall be
 3537 determined by averaging the nursing home payments in counties
 3538 that surround the county in which the hospital is located.

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3539 Reimbursement to hospitals, including Medicaid payment of
 3540 Medicare copayments, for skilled nursing services shall be
 3541 limited to 30 days, unless a prior authorization has been
 3542 obtained from the agency. Medicaid reimbursement may be extended
 3543 by the agency beyond 30 days, and approval must be based upon
 3544 verification by the patient's physician that the patient requires
 3545 short-term rehabilitative and recuperative services only, in
 3546 which case an extension of no more than 15 days may be approved.
 3547 Reimbursement to a hospital licensed under part I of chapter 395
 3548 for the temporary provision of skilled nursing services to
 3549 nursing home residents who have been displaced as the result of a
 3550 natural disaster or other emergency may not exceed the average
 3551 county nursing home payment for those services in the county in
 3552 which the hospital is located and is limited to the period of
 3553 time which the agency considers necessary for continued placement
 3554 of the nursing home residents in the hospital.

3555
 3556 Reviser's note.--Amended to conform to the transfer of
 3557 sections comprising parts III, V, and VII of chapter
 3558 400 to chapter 429 by ss. 2, 3, and 4, ch. 2006-197,
 3559 Laws of Florida.

3560
 3561 Section 97. Paragraph (b) of subsection (4) of section
 3562 409.912, Florida Statutes, is amended to read:

3563 409.912 Cost-effective purchasing of health care.--The
 3564 agency shall purchase goods and services for Medicaid recipients
 3565 in the most cost-effective manner consistent with the delivery of
 3566 quality medical care. To ensure that medical services are
 3567 effectively utilized, the agency may, in any case, require a

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3568 confirmation or second physician's opinion of the correct
 3569 diagnosis for purposes of authorizing future services under the
 3570 Medicaid program. This section does not restrict access to
 3571 emergency services or poststabilization care services as defined
 3572 in 42 C.F.R. part 438.114. Such confirmation or second opinion
 3573 shall be rendered in a manner approved by the agency. The agency
 3574 shall maximize the use of prepaid per capita and prepaid
 3575 aggregate fixed-sum basis services when appropriate and other
 3576 alternative service delivery and reimbursement methodologies,
 3577 including competitive bidding pursuant to s. 287.057, designed to
 3578 facilitate the cost-effective purchase of a case-managed
 3579 continuum of care. The agency shall also require providers to
 3580 minimize the exposure of recipients to the need for acute
 3581 inpatient, custodial, and other institutional care and the
 3582 inappropriate or unnecessary use of high-cost services. The
 3583 agency shall contract with a vendor to monitor and evaluate the
 3584 clinical practice patterns of providers in order to identify
 3585 trends that are outside the normal practice patterns of a
 3586 provider's professional peers or the national guidelines of a
 3587 provider's professional association. The vendor must be able to
 3588 provide information and counseling to a provider whose practice
 3589 patterns are outside the norms, in consultation with the agency,
 3590 to improve patient care and reduce inappropriate utilization. The
 3591 agency may mandate prior authorization, drug therapy management,
 3592 or disease management participation for certain populations of
 3593 Medicaid beneficiaries, certain drug classes, or particular drugs
 3594 to prevent fraud, abuse, overuse, and possible dangerous drug
 3595 interactions. The Pharmaceutical and Therapeutics Committee shall
 3596 make recommendations to the agency on drugs for which prior

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3597 authorization is required. The agency shall inform the
 3598 Pharmaceutical and Therapeutics Committee of its decisions
 3599 regarding drugs subject to prior authorization. The agency is
 3600 authorized to limit the entities it contracts with or enrolls as
 3601 Medicaid providers by developing a provider network through
 3602 provider credentialing. The agency may competitively bid single-
 3603 source-provider contracts if procurement of goods or services
 3604 results in demonstrated cost savings to the state without
 3605 limiting access to care. The agency may limit its network based
 3606 on the assessment of beneficiary access to care, provider
 3607 availability, provider quality standards, time and distance
 3608 standards for access to care, the cultural competence of the
 3609 provider network, demographic characteristics of Medicaid
 3610 beneficiaries, practice and provider-to-beneficiary standards,
 3611 appointment wait times, beneficiary use of services, provider
 3612 turnover, provider profiling, provider licensure history,
 3613 previous program integrity investigations and findings, peer
 3614 review, provider Medicaid policy and billing compliance records,
 3615 clinical and medical record audits, and other factors. Providers
 3616 shall not be entitled to enrollment in the Medicaid provider
 3617 network. The agency shall determine instances in which allowing
 3618 Medicaid beneficiaries to purchase durable medical equipment and
 3619 other goods is less expensive to the Medicaid program than long-
 3620 term rental of the equipment or goods. The agency may establish
 3621 rules to facilitate purchases in lieu of long-term rentals in
 3622 order to protect against fraud and abuse in the Medicaid program
 3623 as defined in s. 409.913. The agency may seek federal waivers
 3624 necessary to administer these policies.

3625 (4) The agency may contract with:

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3626 (b) An entity that is providing comprehensive behavioral
 3627 health care services to certain Medicaid recipients through a
 3628 capitated, prepaid arrangement pursuant to the federal waiver
 3629 provided for by s. 409.905(5). Such an entity must be licensed
 3630 under chapter 624, chapter 636, or chapter 641 and must possess
 3631 the clinical systems and operational competence to manage risk
 3632 and provide comprehensive behavioral health care to Medicaid
 3633 recipients. As used in this paragraph, the term "comprehensive
 3634 behavioral health care services" means covered mental health and
 3635 substance abuse treatment services that are available to Medicaid
 3636 recipients. The secretary of the Department of Children and
 3637 Family Services shall approve provisions of procurements related
 3638 to children in the department's care or custody prior to
 3639 enrolling such children in a prepaid behavioral health plan. Any
 3640 contract awarded under this paragraph must be competitively
 3641 procured. In developing the behavioral health care prepaid plan
 3642 procurement document, the agency shall ensure that the
 3643 procurement document requires the contractor to develop and
 3644 implement a plan to ensure compliance with s. 394.4574 related to
 3645 services provided to residents of licensed assisted living
 3646 facilities that hold a limited mental health license. Except as
 3647 provided in subparagraph 8., and except in counties where the
 3648 Medicaid managed care pilot program is authorized pursuant to s.
 3649 409.91211, the agency shall seek federal approval to contract
 3650 with a single entity meeting these requirements to provide
 3651 comprehensive behavioral health care services to all Medicaid
 3652 recipients not enrolled in a Medicaid managed care plan
 3653 authorized under s. 409.91211 or a Medicaid health maintenance
 3654 organization in an AHCA area. In an AHCA area where the Medicaid

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3655 managed care pilot program is authorized pursuant to s. 409.91211
 3656 in one or more counties, the agency may procure a contract with a
 3657 single entity to serve the remaining counties as an AHCA area or
 3658 the remaining counties may be included with an adjacent AHCA area
 3659 and shall be subject to this paragraph. Each entity must offer
 3660 sufficient choice of providers in its network to ensure recipient
 3661 access to care and the opportunity to select a provider with whom
 3662 they are satisfied. The network shall include all public mental
 3663 health hospitals. To ensure unimpaired access to behavioral
 3664 health care services by Medicaid recipients, all contracts issued
 3665 pursuant to this paragraph shall require 80 percent of the
 3666 capitation paid to the managed care plan, including health
 3667 maintenance organizations, to be expended for the provision of
 3668 behavioral health care services. In the event the managed care
 3669 plan expends less than 80 percent of the capitation paid pursuant
 3670 to this paragraph for the provision of behavioral health care
 3671 services, the difference shall be returned to the agency. The
 3672 agency shall provide the managed care plan with a certification
 3673 letter indicating the amount of capitation paid during each
 3674 calendar year for the provision of behavioral health care
 3675 services pursuant to this section. The agency may reimburse for
 3676 substance abuse treatment services on a fee-for-service basis
 3677 until the agency finds that adequate funds are available for
 3678 capitated, prepaid arrangements.

3679 1. By January 1, 2001, the agency shall modify the
 3680 contracts with the entities providing comprehensive inpatient and
 3681 outpatient mental health care services to Medicaid recipients in
 3682 Hillsborough, Highlands, Hardee, Manatee, and Polk Counties, to
 3683 include substance abuse treatment services.

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3684 2. By July 1, 2003, the agency and the Department of
 3685 Children and Family Services shall execute a written agreement
 3686 that requires collaboration and joint development of all policy,
 3687 budgets, procurement documents, contracts, and monitoring plans
 3688 that have an impact on the state and Medicaid community mental
 3689 health and targeted case management programs.

3690 3. Except as provided in subparagraph 8., by July 1, 2006,
 3691 the agency and the Department of Children and Family Services
 3692 shall contract with managed care entities in each AHCA area
 3693 except area 6 or arrange to provide comprehensive inpatient and
 3694 outpatient mental health and substance abuse services through
 3695 capitated prepaid arrangements to all Medicaid recipients who are
 3696 eligible to participate in such plans under federal law and
 3697 regulation. In AHCA areas where eligible individuals number less
 3698 than 150,000, the agency shall contract with a single managed
 3699 care plan to provide comprehensive behavioral health services to
 3700 all recipients who are not enrolled in a Medicaid health
 3701 maintenance organization or a Medicaid capitated managed care
 3702 plan authorized under s. 409.91211. The agency may contract with
 3703 more than one comprehensive behavioral health provider to provide
 3704 care to recipients who are not enrolled in a Medicaid capitated
 3705 managed care plan authorized under s. 409.91211 or a Medicaid
 3706 health maintenance organization in AHCA areas where the eligible
 3707 population exceeds 150,000. In an AHCA area where the Medicaid
 3708 managed care pilot program is authorized pursuant to s. 409.91211
 3709 in one or more counties, the agency may procure a contract with a
 3710 single entity to serve the remaining counties as an AHCA area or
 3711 the remaining counties may be included with an adjacent AHCA area
 3712 and shall be subject to this paragraph. Contracts for

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3713 comprehensive behavioral health providers awarded pursuant to
3714 this section shall be competitively procured. Both for-profit and
3715 not-for-profit corporations shall be eligible to compete. Managed
3716 care plans contracting with the agency under subsection (3) shall
3717 provide and receive payment for the same comprehensive behavioral
3718 health benefits as provided in AHCA rules, including handbooks
3719 incorporated by reference. In AHCA area 11, the agency shall
3720 contract with at least two comprehensive behavioral health care
3721 providers to provide behavioral health care to recipients in that
3722 area who are enrolled in, or assigned to, the MediPass program.
3723 One of the behavioral health care contracts shall be with the
3724 existing provider service network pilot project, as described in
3725 paragraph (d), for the purpose of demonstrating the cost-
3726 effectiveness of the provision of quality mental health services
3727 through a public hospital-operated managed care model. Payment
3728 shall be at an agreed-upon capitated rate to ensure cost savings.
3729 Of the recipients in area 11 who are assigned to MediPass under
3730 the provisions of s. 409.9122(2)(k), a minimum of 50,000 of those
3731 MediPass-enrolled recipients shall be assigned to the existing
3732 provider service network in area 11 for their behavioral care.

3733 4. By October 1, 2003, the agency and the department shall
3734 submit a plan to the Governor, the President of the Senate, and
3735 the Speaker of the House of Representatives which provides for
3736 the full implementation of capitated prepaid behavioral health
3737 care in all areas of the state.

3738 a. Implementation shall begin in 2003 in those AHCA areas
3739 of the state where the agency is able to establish sufficient
3740 capitation rates.

3741 b. If the agency determines that the proposed capitation

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3742 rate in any area is insufficient to provide appropriate services,
3743 the agency may adjust the capitation rate to ensure that care
3744 will be available. The agency and the department may use existing
3745 general revenue to address any additional required match but may
3746 not over-obligate existing funds on an annualized basis.

3747 c. Subject to any limitations provided for in the General
3748 Appropriations Act, the agency, in compliance with appropriate
3749 federal authorization, shall develop policies and procedures that
3750 allow for certification of local and state funds.

3751 5. Children residing in a statewide inpatient psychiatric
3752 program, or in a Department of Juvenile Justice or a Department
3753 of Children and Family Services residential program approved as a
3754 Medicaid behavioral health overlay services provider shall not be
3755 included in a behavioral health care prepaid health plan or any
3756 other Medicaid managed care plan pursuant to this paragraph.

3757 6. In converting to a prepaid system of delivery, the
3758 agency shall in its procurement document require an entity
3759 providing only comprehensive behavioral health care services to
3760 prevent the displacement of indigent care patients by enrollees
3761 in the Medicaid prepaid health plan providing behavioral health
3762 care services from facilities receiving state funding to provide
3763 indigent behavioral health care, to facilities licensed under
3764 chapter 395 which do not receive state funding for indigent
3765 behavioral health care, or reimburse the unsubsidized facility
3766 for the cost of behavioral health care provided to the displaced
3767 indigent care patient.

3768 7. Traditional community mental health providers under
3769 contract with the Department of Children and Family Services
3770 pursuant to part IV of chapter 394, child welfare providers under

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3771 contract with the Department of Children and Family Services in
3772 areas 1 and 6, and inpatient mental health providers licensed
3773 pursuant to chapter 395 must be offered an opportunity to accept
3774 or decline a contract to participate in any provider network for
3775 prepaid behavioral health services.

3776 8. For fiscal year 2004-2005, all Medicaid eligible
3777 children, except children in areas 1 and 6, whose cases are open
3778 for child welfare services in the HomeSafeNet system, shall be
3779 enrolled in MediPass or in Medicaid fee-for-service and all their
3780 behavioral health care services including inpatient, outpatient
3781 psychiatric, community mental health, and case management shall
3782 be reimbursed on a fee-for-service basis. Beginning July 1, 2005,
3783 such children, who are open for child welfare services in the
3784 HomeSafeNet system, shall receive their behavioral health care
3785 services through a specialty prepaid plan operated by community-
3786 based lead agencies either through a single agency or formal
3787 agreements among several agencies. The specialty prepaid plan
3788 must result in savings to the state comparable to savings
3789 achieved in other Medicaid managed care and prepaid programs.
3790 Such plan must provide mechanisms to maximize state and local
3791 revenues. The specialty prepaid plan shall be developed by the
3792 agency and the Department of Children and Family Services. The
3793 agency is authorized to seek any federal waivers to implement
3794 this initiative.

3795
3796 Reviser's note.--Amended to confirm the insertion by
3797 the editors of the word "to" following the word
3798 "pursuant" to improve clarity.

3799

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3800 Section 98. Paragraph (e) of subsection (4) of section
 3801 409.91211, Florida Statutes, is amended to read:
 3802 409.91211 Medicaid managed care pilot program.--
 3803 (4)
 3804 (e) After a recipient has made a selection or has been
 3805 enrolled in a capitated managed care network, the recipient shall
 3806 have 90 days in which to voluntarily disenroll and select another
 3807 capitated managed care network. After 90 days, no further changes
 3808 may be made except for cause. Cause shall include, but not be
 3809 limited to, poor quality of care, lack of access to necessary
 3810 specialty services, an unreasonable delay or denial of service,
 3811 inordinate or inappropriate changes of primary care providers,
 3812 service access impairments due to significant changes in the
 3813 geographic location of services, or fraudulent enrollment. The
 3814 agency may require a recipient to use the capitated managed care
 3815 network's grievance process as specified in paragraph (3)(q)
 3816 ~~(3)(g)~~ prior to the agency's determination of cause, except in
 3817 cases in which immediate risk of permanent damage to the
 3818 recipient's health is alleged. The grievance process, when used,
 3819 must be completed in time to permit the recipient to disenroll no
 3820 later than the first day of the second month after the month the
 3821 disenrollment request was made. If the capitated managed care
 3822 network, as a result of the grievance process, approves an
 3823 enrollee's request to disenroll, the agency is not required to
 3824 make a determination in the case. The agency must make a
 3825 determination and take final action on a recipient's request so
 3826 that disenrollment occurs no later than the first day of the
 3827 second month after the month the request was made. If the agency
 3828 fails to act within the specified timeframe, the recipient's

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3829 request to disenroll is deemed to be approved as of the date
 3830 agency action was required. Recipients who disagree with the
 3831 agency's finding that cause does not exist for disenrollment
 3832 shall be advised of their right to pursue a Medicaid fair hearing
 3833 to dispute the agency's finding.

3834
 3835 Reviser's note.--Amended to substitute a reference to
 3836 paragraph (3)(q), relating to grievance procedures, for
 3837 a reference to paragraph (3)(g), relating to a process
 3838 for validating the growth of per-member costs.

3839
 3840 Section 99. Paragraph (d) of subsection (1) of section
 3841 419.001, Florida Statutes, is amended to read:

3842 419.001 Site selection of community residential homes.--

3843 (1) For the purposes of this section, the following
 3844 definitions shall apply:

3845 (d) "Resident" means any of the following: a frail elder as
 3846 defined in s. 429.65 ~~400.618~~; a physically disabled or
 3847 handicapped person as defined in s. 760.22(7)(a); a
 3848 developmentally disabled person as defined in s. 393.063; a
 3849 nondangerous mentally ill person as defined in s. 394.455(18); or
 3850 a child who is found to be dependent or a child in need of
 3851 services as defined in s. 39.01(14), s. 984.03(9) or (12), or s.
 3852 985.03.

3853
 3854 Reviser's note.--Amended to conform to the
 3855 redesignation of s. 400.618 as s. 429.65 by s. 3, ch.
 3856 2006-197, Laws of Florida.

3857

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3858 Section 100. Section 421.49, Florida Statutes, is amended
3859 to read:

3860 421.49 Area of operation of housing authorities for defense
3861 housing.--In the development or the administration of projects,
3862 under ss. 421.46-421.48 ~~421.37-421.48~~, to assure the availability
3863 of safe and sanitary dwellings for persons engaged in national
3864 defense activities or in otherwise carrying out the purposes of
3865 such law, or in the administration of such projects in accordance
3866 with the provisions of the housing authorities law, a housing
3867 authority of a city may exercise its powers within the
3868 territorial boundaries of said city and an area within 10 miles
3869 from said boundaries, excluding the area within the territorial
3870 boundaries of any other city which has heretofore established a
3871 housing authority.

3872
3873 Reviser's note.--Amended to conform to the repeal of
3874 ss. 421.37-421.45 by s. 60, ch. 2001-62, Laws of
3875 Florida.

3876
3877 Section 101. Paragraph (b) of subsection (3) of section
3878 429.07, Florida Statutes, is amended to read:

3879 429.07 License required; fee, display.--

3880 (3) Any license granted by the agency must state the
3881 maximum resident capacity of the facility, the type of care for
3882 which the license is granted, the date the license is issued, the
3883 expiration date of the license, and any other information deemed
3884 necessary by the agency. Licenses shall be issued for one or more
3885 of the following categories of care: standard, extended
3886 congregate care, limited nursing services, or limited mental

3887 health.
 3888 (b) An extended congregate care license shall be issued to
 3889 facilities providing, directly or through contract, services
 3890 beyond those authorized in paragraph (a), including acts
 3891 performed pursuant to part I of chapter 464 by persons licensed
 3892 thereunder, and supportive services defined by rule to persons
 3893 who otherwise would be disqualified from continued residence in a
 3894 facility licensed under this part.

3895 1. In order for extended congregate care services to be
 3896 provided in a facility licensed under this part, the agency must
 3897 first determine that all requirements established in law and rule
 3898 are met and must specifically designate, on the facility's
 3899 license, that such services may be provided and whether the
 3900 designation applies to all or part of a facility. Such
 3901 designation may be made at the time of initial licensure or
 3902 relicensure, or upon request in writing by a licensee under this
 3903 part. Notification of approval or denial of such request shall be
 3904 made within 90 days after receipt of such request and all
 3905 necessary documentation. Existing facilities qualifying to
 3906 provide extended congregate care services must have maintained a
 3907 standard license and may not have been subject to administrative
 3908 sanctions during the previous 2 years, or since initial licensure
 3909 if the facility has been licensed for less than 2 years, for any
 3910 of the following reasons:

- 3911 a. A class I or class II violation;
- 3912 b. Three or more repeat or recurring class III violations
- 3913 of identical or similar resident care standards as specified in
- 3914 rule from which a pattern of noncompliance is found by the
- 3915 agency;

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3916 c. Three or more class III violations that were not
 3917 corrected in accordance with the corrective action plan approved
 3918 by the agency;

3919 d. Violation of resident care standards resulting in a
 3920 requirement to employ the services of a consultant pharmacist or
 3921 consultant dietitian;

3922 e. Denial, suspension, or revocation of a license for
 3923 another facility under this part in which the applicant for an
 3924 extended congregate care license has at least 25 percent
 3925 ownership interest; or

3926 f. Imposition of a moratorium on admissions or initiation
 3927 of injunctive proceedings.

3928 2. Facilities that are licensed to provide extended
 3929 congregate care services shall maintain a written progress report
 3930 on each person who receives such services, which report describes
 3931 the type, amount, duration, scope, and outcome of services that
 3932 are rendered and the general status of the resident's health. A
 3933 registered nurse, or appropriate designee, representing the
 3934 agency shall visit such facilities at least quarterly to monitor
 3935 residents who are receiving extended congregate care services and
 3936 to determine if the facility is in compliance with this part and
 3937 with rules that relate to extended congregate care. One of these
 3938 visits may be in conjunction with the regular survey. The
 3939 monitoring visits may be provided through contractual
 3940 arrangements with appropriate community agencies. A registered
 3941 nurse shall serve as part of the team that inspects such
 3942 facility. The agency may waive one of the required yearly
 3943 monitoring visits for a facility that has been licensed for at
 3944 least 24 months to provide extended congregate care services, if,

3945 during the inspection, the registered nurse determines that
 3946 extended congregate care services are being provided
 3947 appropriately, and if the facility has no class I or class II
 3948 violations and no uncorrected class III violations. Before such
 3949 decision is made, the agency shall consult with the long-term
 3950 care ombudsman council for the area in which the facility is
 3951 located to determine if any complaints have been made and
 3952 substantiated about the quality of services or care. The agency
 3953 may not waive one of the required yearly monitoring visits if
 3954 complaints have been made and substantiated.

3955 3. Facilities that are licensed to provide extended
 3956 congregate care services shall:

3957 a. Demonstrate the capability to meet unanticipated
 3958 resident service needs.

3959 b. Offer a physical environment that promotes a homelike
 3960 setting, provides for resident privacy, promotes resident
 3961 independence, and allows sufficient congregate space as defined
 3962 by rule.

3963 c. Have sufficient staff available, taking into account the
 3964 physical plant and firesafety features of the building, to assist
 3965 with the evacuation of residents in an emergency, as necessary.

3966 d. Adopt and follow policies and procedures that maximize
 3967 resident independence, dignity, choice, and decisionmaking to
 3968 permit residents to age in place to the extent possible, so that
 3969 moves due to changes in functional status are minimized or
 3970 avoided.

3971 e. Allow residents or, if applicable, a resident's
 3972 representative, designee, surrogate, guardian, or attorney in
 3973 fact to make a variety of personal choices, participate in

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3974 developing service plans, and share responsibility in
 3975 decisionmaking.
 3976 f. Implement the concept of managed risk.
 3977 g. Provide, either directly or through contract, the
 3978 services of a person licensed pursuant to part I of chapter 464.
 3979 h. In addition to the training mandated in s. 429.52,
 3980 provide specialized training as defined by rule for facility
 3981 staff.
 3982 4. Facilities licensed to provide extended congregate care
 3983 services are exempt from the criteria for continued residency as
 3984 set forth in rules adopted under s. 429.41. Facilities so
 3985 licensed shall adopt their own requirements within guidelines for
 3986 continued residency set forth by the department in rule. However,
 3987 such facilities may not serve residents who require 24-hour
 3988 nursing supervision. Facilities licensed to provide extended
 3989 congregate care services shall provide each resident with a
 3990 written copy of facility policies governing admission and
 3991 retention.
 3992 5. The primary purpose of extended congregate care services
 3993 is to allow residents, as they become more impaired, the option
 3994 of remaining in a familiar setting from which they would
 3995 otherwise be disqualified for continued residency. A facility
 3996 licensed to provide extended congregate care services may also
 3997 admit an individual who exceeds the admission criteria for a
 3998 facility with a standard license, if the individual is determined
 3999 appropriate for admission to the extended congregate care
 4000 facility.
 4001 6. Before admission of an individual to a facility licensed
 4002 to provide extended congregate care services, the individual must

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4003 undergo a medical examination as provided in s. 429.26(4)
 4004 ~~400.26(4)~~ and the facility must develop a preliminary service
 4005 plan for the individual.

4006 7. When a facility can no longer provide or arrange for
 4007 services in accordance with the resident's service plan and needs
 4008 and the facility's policy, the facility shall make arrangements
 4009 for relocating the person in accordance with s. 429.28(1)(k).

4010 8. Failure to provide extended congregate care services may
 4011 result in denial of extended congregate care license renewal.

4012 9. No later than January 1 of each year, the department, in
 4013 consultation with the agency, shall prepare and submit to the
 4014 Governor, the President of the Senate, the Speaker of the House
 4015 of Representatives, and the chairs of appropriate legislative
 4016 committees, a report on the status of, and recommendations
 4017 related to, extended congregate care services. The status report
 4018 must include, but need not be limited to, the following
 4019 information:

4020 a. A description of the facilities licensed to provide such
 4021 services, including total number of beds licensed under this
 4022 part.

4023 b. The number and characteristics of residents receiving
 4024 such services.

4025 c. The types of services rendered that could not be
 4026 provided through a standard license.

4027 d. An analysis of deficiencies cited during licensure
 4028 inspections.

4029 e. The number of residents who required extended congregate
 4030 care services at admission and the source of admission.

4031 f. Recommendations for statutory or regulatory changes.

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4032 g. The availability of extended congregate care to state
 4033 clients residing in facilities licensed under this part and in
 4034 need of additional services, and recommendations for
 4035 appropriations to subsidize extended congregate care services for
 4036 such persons.

4037 h. Such other information as the department considers
 4038 appropriate.

4039

4040 Reviser's note.--Amended to confirm the substitution by
 4041 the editors of a reference to s. 429.26(4) for a
 4042 reference to s. 400.26(4) to correct an apparent error.
 4043 Section 400.26 was repealed in 1970; s. 429.26(4)
 4044 relates to medical examinations.

4045

4046 Section 102. Subsection (2) of section 429.35, Florida
 4047 Statutes, is amended to read:

4048 429.35 Maintenance of records; reports.--

4049 (2) Within 60 days after the date of the biennial
 4050 inspection visit or within 30 days after the date of any interim
 4051 visit, the agency shall forward the results of the inspection to
 4052 the local ombudsman council in whose planning and service area,
 4053 as defined in part II of chapter 400, the facility is located; to
 4054 at least one public library or, in the absence of a public
 4055 library, the county seat in the county in which the inspected
 4056 assisted living facility is located; and, when appropriate, to
 4057 the district Adult Services and Mental Health Program Offices.

4058

4059 Reviser's note.--Amended to confirm the insertion by
 4060 the editors of the words "of chapter 400" following the

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4061 cite to "part II" to improve clarity; planning and
 4062 service areas are defined in s. 400.021(15) within part
 4063 II of chapter 400.

4064
 4065 Section 103. Subsection (1) of section 429.69, Florida
 4066 Statutes, is amended to read:

4067 429.69 Denial, revocation, or suspension of a license.--The
 4068 agency may deny, suspend, or revoke a license for any of the
 4069 following reasons:

4070 (1) Failure of any of the persons required to undergo
 4071 background screening under s. 429.67 ~~400.619~~ to meet the level 1
 4072 screening standards of s. 435.03, unless an exemption from
 4073 disqualification has been provided by the agency.

4074
 4075 Reviser's note.--Amended to confirm the substitution by
 4076 the editors of a reference to s. 429.67 for a reference
 4077 to s. 400.619 to conform to the transfer of s. 400.619
 4078 to s. 429.67 by s. 3, ch. 2006-197, Laws of Florida.

4079
 4080 Section 104. Paragraph (h) of subsection (1) of section
 4081 429.73, Florida Statutes, is amended to read:

4082 429.73 Rules and standards relating to adult family-care
 4083 homes.--

4084 (1) The department, in consultation with the Department of
 4085 Health, the Department of Children and Family Services, and the
 4086 agency shall, by rule, establish minimum standards to ensure the
 4087 health, safety, and well-being of each resident in the adult
 4088 family-care home. The rules must address:

4089 (h) Procedures to protect the residents' rights as provided

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4090 in s. 429.85 ~~400.628~~.

4091

4092 Reviser's note.--Amended to confirm the substitution by
 4093 the editors of a reference to s. 429.85 for a reference
 4094 to s. 400.628 to conform to the transfer of s. 400.628
 4095 to s. 429.85 by s. 3, ch. 2006-197, Laws of Florida.

4096

4097 Section 105. Section 429.903, Florida Statutes, is amended
 4098 to read:

4099 429.903 Applicability.--Any facility that comes within the
 4100 definition of an adult day care center which is not exempt under
 4101 s. 429.905 ~~400.553~~ must be licensed by the agency as an adult day
 4102 care center.

4103

4104 Reviser's note.--Amended to confirm the substitution by
 4105 the editors of a reference to s. 429.905 for a
 4106 reference to s. 400.553 to conform to the transfer of
 4107 s. 400.553 to s. 429.905 by s. 4, ch. 2006-197, Laws of
 4108 Florida.

4109

4110 Section 106. Subsection (1) and paragraph (d) of subsection
 4111 (2) of section 429.909, Florida Statutes, are amended to read:

4112 429.909 Application for license.--

4113 (1) An application for a license to operate an adult day
 4114 care center must be made to the agency on forms furnished by the
 4115 agency and must be accompanied by the appropriate license fee
 4116 unless the applicant is exempt from payment of the fee as
 4117 provided in s. 429.907(4) ~~400.554(4)~~.

4118 (2) The applicant for licensure must furnish:

4119 (d) Proof of compliance with level 2 background screening
 4120 as required under s. 429.919 ~~400.5572~~.

4121
 4122 Reviser's note.--Subsection (1) is amended to confirm
 4123 the substitution by the editors of a reference to s.
 4124 429.907(4) for a reference to s. 400.554(4) to conform
 4125 to the transfer of s. 400.554 to s. 429.907 by s. 4,
 4126 ch. 2006-197, Laws of Florida. Paragraph (2)(d) is
 4127 amended to confirm the substitution by the editors of a
 4128 reference to s. 429.919 for a reference to s. 400.5572
 4129 to conform to the transfer of s. 400.5572 to s. 429.919
 4130 by s. 4, ch. 2006-197.

4131
 4132 Section 107. Subsection (1) of section 429.915, Florida
 4133 Statutes, is amended to read:

4134 429.915 Expiration of license; renewal; conditional license
 4135 or permit.--

4136 (1) A license issued for the operation of an adult day care
 4137 center, unless sooner suspended or revoked, expires 2 years after
 4138 the date of issuance. The agency shall notify a licensee at least
 4139 120 days before the expiration date that license renewal is
 4140 required to continue operation. The notification must be provided
 4141 electronically or by mail delivery. At least 90 days prior to the
 4142 expiration date, an application for renewal must be submitted to
 4143 the agency. A license shall be renewed, upon the filing of an
 4144 application on forms furnished by the agency, if the applicant
 4145 has first met the requirements of this part and of the rules
 4146 adopted under this part. The applicant must file with the
 4147 application satisfactory proof of financial ability to operate

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4148 | the center in accordance with the requirements of this part and
 4149 | in accordance with the needs of the participants to be served and
 4150 | an affidavit of compliance with the background screening
 4151 | requirements of s. 429.919 ~~400.5572~~.

4152 |
 4153 | Reviser's note.--Amended to confirm the substitution by
 4154 | the editors of a reference to s. 429.919 for a
 4155 | reference to s. 400.5572 to conform to the transfer of
 4156 | s. 400.5572 to s. 429.919 by s. 4, ch. 2006-197, Laws
 4157 | of Florida.

4158 |
 4159 | Section 108. Paragraph (c) of subsection (2) of section
 4160 | 429.919, Florida Statutes, is amended to read:

4161 | 429.919 Background screening.--

4162 | (2) The owner or administrator of an adult day care center
 4163 | must conduct level 1 background screening as set forth in chapter
 4164 | 435 on all employees hired on or after October 1, 1998, who
 4165 | provide basic services or supportive and optional services to the
 4166 | participants. Such persons satisfy this requirement if:

4167 | (c) The person required to be screened is employed by a
 4168 | corporation or business entity or related corporation or business
 4169 | entity that owns, operates, or manages more than one facility or
 4170 | agency licensed under chapter 400 or this chapter ~~this chapter or~~
 4171 | ~~chapter 429~~, and for whom a level 1 screening was conducted by
 4172 | the corporation or business entity as a condition of initial or
 4173 | continued employment.

4174 |
 4175 | Reviser's note.--Amended to confirm the substitution by
 4176 | the editors of the words "chapter 400 or this chapter"

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4177 | for a reference to "this chapter or chapter 429" to
 4178 | conform to the transfer of some material in chapter 400
 4179 | to chapter 429 by ch. 2006-197, Laws of Florida, and to
 4180 | correct an apparent error.

4181 |
 4182 | Section 109. Paragraph (ff) of subsection (2) of section
 4183 | 435.03, Florida Statutes, is amended to read:

4184 | 435.03 Level 1 screening standards.--

4185 | (2) Any person for whom employment screening is required by
 4186 | statute must not have been found guilty of, regardless of
 4187 | adjudication, or entered a plea of nolo contendere or guilty to,
 4188 | any offense prohibited under any of the following provisions of
 4189 | the Florida Statutes or under any similar statute of another
 4190 | jurisdiction:

4191 | (ff) Section 916.1075 ~~916.0175~~, relating to sexual
 4192 | misconduct with certain forensic clients and reporting of such
 4193 | sexual misconduct.

4194 |
 4195 | Reviser's note.--Amended to correct an apparent error
 4196 | and facilitate correct interpretation. The cited
 4197 | section does not exist; s. 916.1075 relates to
 4198 | prohibition of sexual misconduct with forensic clients.

4199 |
 4200 | Section 110. Paragraph (pp) of subsection (2) of section
 4201 | 435.04, Florida Statutes, is amended to read:

4202 | 435.04 Level 2 screening standards.--

4203 | (2) The security background investigations under this
 4204 | section must ensure that no persons subject to the provisions of
 4205 | this section have been found guilty of, regardless of

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4206 adjudication, or entered a plea of nolo contendere or guilty to,
 4207 any offense prohibited under any of the following provisions of
 4208 the Florida Statutes or under any similar statute of another
 4209 jurisdiction:

4210 (pp) Section 916.1075 ~~916.0175~~, relating to sexual
 4211 misconduct with certain forensic clients and reporting of such
 4212 sexual misconduct.

4213
 4214 Reviser's note.--Amended to correct an apparent error
 4215 and facilitate correct interpretation. The cited
 4216 section does not exist; s. 916.1075 relates to
 4217 prohibition of sexual misconduct with forensic clients.

4218
 4219 Section 111. Paragraph (t) of subsection (1) and subsection
 4220 (4) of section 456.072, Florida Statutes, are amended to read:

4221 456.072 Grounds for discipline; penalties; enforcement.--

4222 (1) The following acts shall constitute grounds for which
 4223 the disciplinary actions specified in subsection (2) may be
 4224 taken:

4225 (t) Failing to identify through written notice, which may
 4226 include the wearing of a name tag, or orally to a patient the
 4227 type of license under which the practitioner is practicing. Any
 4228 advertisement for health care services naming the practitioner
 4229 must identify the type of license the practitioner holds. This
 4230 paragraph does not apply to a practitioner while the practitioner
 4231 is providing services in a facility licensed under chapter 394,
 4232 chapter 395, ~~or~~ chapter 400, or chapter 429. Each board, or the
 4233 department where there is no board, is authorized by rule to
 4234 determine how its practitioners may comply with this disclosure

4235 requirement.

4236 (4) In addition to any other discipline imposed through
 4237 final order, or citation, entered on or after July 1, 2001, under
 4238 this section or discipline imposed through final order, or
 4239 citation, entered on or after July 1, 2001, for a violation of
 4240 any practice act, the board, or the department when there is no
 4241 board, shall assess costs related to the investigation and
 4242 prosecution of the case. The costs related to the investigation
 4243 and prosecution include, but are not limited to, salaries and
 4244 benefits of personnel, costs related to the time spent by the
 4245 attorney and other personnel working on the case, and any other
 4246 expenses incurred by the department for the case. The board, or
 4247 the department when there is ~~in~~ no board, shall determine the
 4248 amount of costs to be assessed after its consideration of an
 4249 affidavit of itemized costs and any written objections thereto.
 4250 In any case where the board or the department imposes a fine or
 4251 assessment and the fine or assessment is not paid within a
 4252 reasonable time, the reasonable time to be prescribed in the
 4253 rules of the board, or the department when there is no board, or
 4254 in the order assessing the fines or costs, the department or the
 4255 Department of Legal Affairs may contract for the collection of,
 4256 or bring a civil action to recover, the fine or assessment.

4257
 4258 Reviser's note.--Paragraph (1)(t) is amended to conform
 4259 to the fact that chapter 400 was split into chapters
 4260 400 and 429 by ss. 2, 3, and 4, ch. 2006-197, Laws of
 4261 Florida. Subsection (4) is amended to confirm the
 4262 editorial substitution of the word "is" for the word
 4263 "in" to correct an apparent error and facilitate

4264 correct interpretation.

4265

4266 Section 112. Paragraph (e) of subsection (4) of section
4267 458.348, Florida Statutes, is amended to read:

4268 458.348 Formal supervisory relationships, standing orders,
4269 and established protocols; notice; standards.--

4270 (4) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE

4271 SETTINGS.--A physician who supervises an advanced registered
4272 nurse practitioner or physician assistant at a medical office
4273 other than the physician's primary practice location, where the
4274 advanced registered nurse practitioner or physician assistant is
4275 not under the onsite supervision of a supervising physician, must
4276 comply with the standards set forth in this subsection. For the
4277 purpose of this subsection, a physician's "primary practice
4278 location" means the address reflected on the physician's profile
4279 published pursuant to s. 456.041.

4280 (e) This subsection does not apply to health care services
4281 provided in facilities licensed under chapter 395 or in
4282 conjunction with a college of medicine, a college of nursing, an
4283 accredited graduate medical program, or a nursing education
4284 program; offices where the only service being performed is hair
4285 removal by an advanced registered nurse practitioner or physician
4286 assistant; not-for-profit, family-planning clinics that are not
4287 licensed pursuant to chapter 390; rural and federally qualified
4288 health centers; health care services provided in a nursing home
4289 licensed under part II of chapter 400, an assisted living
4290 facility licensed under part I ~~III~~ of chapter 429 ~~400~~, a
4291 continuing care facility licensed under chapter 651, or a
4292 retirement community consisting of independent living units and a

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4293 licensed nursing home or assisted living facility; anesthesia
 4294 services provided in accordance with law; health care services
 4295 provided in a designated rural health clinic; health care
 4296 services provided to persons enrolled in a program designed to
 4297 maintain elderly persons and persons with disabilities in a home
 4298 or community-based setting; university primary care student
 4299 health centers; school health clinics; or health care services
 4300 provided in federal, state, or local government facilities.

4301
 4302 Reviser's note.--Amended to conform to the
 4303 redesignation of part III of chapter 400 as part I of
 4304 chapter 429 by s. 2, ch. 2006-197, Laws of Florida.

4305
 4306 Section 113. Subsection (3) of section 458.3485, Florida
 4307 Statutes, is amended to read:
 4308 458.3485 Medical assistant.--
 4309 (3) CERTIFICATION.--Medical assistants may be certified by
 4310 the American Association of Medical Assistants or as a Registered
 4311 Medical Assistant by the American ~~Society~~ of Medical
 4312 Technologists.

4313
 4314 Reviser's note.--Amended to correct the name of the
 4315 credentialing organization.

4316
 4317 Section 114. Paragraph (e) of subsection (3) of section
 4318 459.025, Florida Statutes, is amended to read:
 4319 459.025 Formal supervisory relationships, standing orders,
 4320 and established protocols; notice; standards.--
 4321 (3) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE

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4322 SETTINGS.--An osteopathic physician who supervises an advanced
 4323 registered nurse practitioner or physician assistant at a medical
 4324 office other than the osteopathic physician's primary practice
 4325 location, where the advanced registered nurse practitioner or
 4326 physician assistant is not under the onsite supervision of a
 4327 supervising osteopathic physician, must comply with the standards
 4328 set forth in this subsection. For the purpose of this subsection,
 4329 an osteopathic physician's "primary practice location" means the
 4330 address reflected on the physician's profile published pursuant
 4331 to s. 456.041.

4332 (e) This subsection does not apply to health care services
 4333 provided in facilities licensed under chapter 395 or in
 4334 conjunction with a college of medicine or college of nursing or
 4335 an accredited graduate medical or nursing education program;
 4336 offices where the only service being performed is hair removal by
 4337 an advanced registered nurse practitioner or physician assistant;
 4338 not-for-profit, family-planning clinics that are not licensed
 4339 pursuant to chapter 390; rural and federally qualified health
 4340 centers; health care services provided in a nursing home licensed
 4341 under part II of chapter 400, an assisted living facility
 4342 licensed under part I ~~III~~ of chapter 429 ~~400~~, a continuing care
 4343 facility licensed under chapter 651, or a retirement community
 4344 consisting of independent living units and either a licensed
 4345 nursing home or assisted living facility; anesthesia services
 4346 provided in accordance with law; health care services provided in
 4347 a designated rural health clinic; health care services provided
 4348 to persons enrolled in a program designed to maintain elderly
 4349 persons and persons with disabilities in a home or community-
 4350 based setting; university primary care student health centers;

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4351 school health clinics; or health care services provided in
 4352 federal, state, or local government facilities.

4353
 4354 Reviser's note.--Amended to conform to the
 4355 redesignation of part III of chapter 400 as part I of
 4356 chapter 429 by s. 2, ch. 2006-197, Laws of Florida.

4357
 4358 Section 115. Paragraph (a) of subsection (1) of section
 4359 482.242, Florida Statutes, is amended to read:

4360 482.242 Preemption.--

4361 (1) This chapter is intended as comprehensive and exclusive
 4362 regulation of pest control in this state. The provisions of this
 4363 chapter preempt to the state all regulation of the activities and
 4364 operations of pest control services, including the pesticides
 4365 used pursuant to labeling and registration approved under part I
 4366 of chapter 487. No local government or political subdivision of
 4367 the state may enact or enforce an ordinance that regulates pest
 4368 control, except that the preemption in this section does not
 4369 prohibit a local government or political subdivision from
 4370 enacting an ordinance regarding any of the following:

4371 (a) Local business taxes ~~occupational licenses~~ adopted
 4372 pursuant to chapter 205.

4373
 4374 Reviser's note.--Amended to conform to the
 4375 redesignation of occupational license taxes in chapter
 4376 205 as business taxes by ch. 2006-152, Laws of Florida.

4377
 4378 Section 116. Subsection (5) of section 483.285, Florida
 4379 Statutes, is amended to read:

4380 483.285 Application of part; exemptions.--This part applies
 4381 to all multiphasic health testing centers within the state, but
 4382 does not apply to:

4383 (5) A home health agency licensed under part III ~~IV~~ of
 4384 chapter 400.

4385
 4386 Reviser's note.--Amended to conform to the transfer of
 4387 sections comprising former part III of chapter 400 to
 4388 chapter 429 by s. 2, ch. 2006-197, Laws of Florida.

4389
 4390 Section 117. Subsection (1) of section 489.127, Florida
 4391 Statutes, is amended to read:

4392 489.127 Prohibitions; penalties.--

4393 (1) No person shall:

4394 (a) Falsely hold himself or herself or a business
 4395 organization out as a licensee, certificateholder, or registrant;

4396 (b) Falsely impersonate a certificateholder or registrant;

4397 (c) Present as his or her own the certificate,
 4398 registration, or certificate of authority of another;

4399 (d) Knowingly give false or forged evidence to the board or
 4400 a member thereof;

4401 (e) Use or attempt to use a certificate, registration, or
 4402 certificate of authority which has been suspended or revoked;

4403 (f) Engage in the business or act in the capacity of a
 4404 contractor or advertise himself or herself or a business
 4405 organization as available to engage in the business or act in the
 4406 capacity of a contractor without being duly registered or
 4407 certified or having a certificate of authority;

4408 (g) Operate a business organization engaged in contracting

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4409 after 60 days following the termination of its only qualifying
 4410 agent without designating another primary qualifying agent,
 4411 except as provided in ss. 489.119 and 489.1195;

4412 (h) Commence or perform work for which a building permit is
 4413 required pursuant to part VII of chapter 553 without such
 4414 building permit being in effect; or

4415 (i) Willfully or deliberately disregard or violate any
 4416 municipal or county ordinance relating to uncertified or
 4417 unregistered contractors.

4418

4419 For purposes of this subsection, a person or business
 4420 organization operating on an inactive or suspended certificate,
 4421 registration, or certificate of authority is not duly certified
 4422 or registered and is considered unlicensed. A business tax
 4423 receipt ~~An occupational license certificate~~ issued under the
 4424 authority of chapter 205 is not a license for purposes of this
 4425 part.

4426

4427 Reviser's note.--Amended to conform to the
 4428 redesignation of occupational license taxes in chapter
 4429 205 as business taxes by ch. 2006-152, Laws of Florida.

4430

4431 Section 118. Paragraph (b) of subsection (1) of section
 4432 489.128, Florida Statutes, is amended to read:

4433 489.128 Contracts entered into by unlicensed contractors
 4434 unenforceable.--

4435 (1) As a matter of public policy, contracts entered into on
 4436 or after October 1, 1990, by an unlicensed contractor shall be
 4437 unenforceable in law or in equity by the unlicensed contractor.

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4438 (b) For purposes of this section, an individual or business
 4439 organization may not be considered unlicensed for failing to have
 4440 a business tax receipt ~~an occupational license certificate~~ issued
 4441 under the authority of chapter 205. A business organization may
 4442 not be considered unlicensed for failing to have a certificate of
 4443 authority as required by ss. 489.119 and 489.127. For purposes of
 4444 this section, a business organization entering into the contract
 4445 may not be considered unlicensed if, before the date established
 4446 by paragraph (c), an individual possessing a license required by
 4447 this part concerning the scope of the work to be performed under
 4448 the contract has submitted an application for a certificate of
 4449 authority designating that individual as a qualifying agent for
 4450 the business organization entering into the contract, and the
 4451 application was not acted upon by the department or applicable
 4452 board within the time limitations imposed by s. 120.60.

4453
 4454 Reviser's note.--Amended to conform to the
 4455 redesignation of occupational license taxes in chapter
 4456 205 as business taxes by ch. 2006-152, Laws of Florida.

4457
 4458 Section 119. Paragraph (c) of subsection (3) of section
 4459 489.131, Florida Statutes, is amended to read:

4460 489.131 Applicability.--

4461 (3) Nothing in this part limits the power of a municipality
 4462 or county:

4463 (c) To collect business ~~occupational license~~ taxes, subject
 4464 to s. 205.065, and inspection fees for engaging in contracting or
 4465 examination fees from persons who are registered with the board
 4466 pursuant to local examination requirements and issue business

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4467 ~~occupational license tax receipts certificates~~. However, nothing
 4468 in this part shall be construed to require general contractors,
 4469 building contractors, or residential contractors to obtain
 4470 additional business ~~occupational license tax receipts~~
 4471 ~~certificates~~ for specialty work when such specialty work is
 4472 performed by employees of such contractors on projects for which
 4473 they have substantially full responsibility and such contractors
 4474 do not hold themselves out to the public as being specialty
 4475 contractors.

4476
 4477 Reviser's note.--Amended to conform to the
 4478 redesignation of occupational license taxes in chapter
 4479 205 as business taxes by ch. 2006-152, Laws of Florida.

4480
 4481 Section 120. Paragraph (b) of subsection (1) of section
 4482 489.532, Florida Statutes, is amended to read:

4483 489.532 Contracts entered into by unlicensed contractors
 4484 unenforceable.--

4485 (1) As a matter of public policy, contracts entered into on
 4486 or after October 1, 1990, by an unlicensed contractor shall be
 4487 unenforceable in law or in equity by the unlicensed contractor.

4488 (b) For purposes of this section, an individual or business
 4489 organization shall not be considered unlicensed for failing to
 4490 have a business tax receipt ~~an occupational license certificate~~
 4491 issued under the authority of chapter 205.

4492
 4493 Reviser's note.--Amended to conform to the
 4494 redesignation of occupational license taxes in chapter
 4495 205 as business taxes by ch. 2006-152, Laws of Florida.

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Section 121. Subsection (1) of section 497.461, Florida Statutes, is amended to read:

497.461 Surety bonding as alternative to trust deposit.--

(1) In lieu of depositing funds into a trust as required by s. 497.458(1) ~~497.548(1)~~ or s. 497.464, a preneed licensee may elect annually, at its discretion, to comply with this section by filing annually a written request with, and receiving annual approval from, the licensing authority.

Reviser's note.--Amended to correct an apparent error and facilitate correct interpretation. The cited section does not exist; s. 497.458(1) relates to trust funds for preneed contracts for funeral services or burial services.

Section 122. Paragraphs (g) and (h) of subsection (3) of section 499.029, Florida Statutes, are amended to read:

499.029 Cancer Drug Donation Program.--

(3) As used in this section:

(g) "Health care clinic" means a health care clinic licensed under part X ~~XIII~~ of chapter 400.

(h) "Hospice" means a corporation licensed under part IV ~~VI~~ of chapter 400.

Reviser's note.--Amended to conform to the redesignation of part XIII of chapter 400 as part X and part VI as part IV incident to the transfer of former parts III, V, and VII to new chapter 429 by ch. 2006-

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4525 | 197, Laws of Florida.

4526

4527 | Section 123. Subsection (3) of section 500.511, Florida
4528 | Statutes, is amended to read:

4529 | 500.511 Fees; enforcement; preemption.--

4530 | (3) PREEMPTION OF AUTHORITY TO REGULATE.--Regulation of
4531 | bottled water plants, water vending machines, water vending
4532 | machine operators, and packaged ice plants is preempted by the
4533 | state. No county or municipality may adopt or enforce any
4534 | ordinance that regulates the licensure or operation of bottled
4535 | water plants, water vending machines, or packaged ice plants,
4536 | unless it is determined that unique conditions exist within the
4537 | county which require the county to regulate such entities in
4538 | order to protect the public health. This subsection does not
4539 | prohibit a county or municipality from requiring a business an
4540 | ~~occupational license~~ tax pursuant to chapter 205.

4541

4542 | Reviser's note.--Amended to conform to the
4543 | redesignation of occupational license taxes as business
4544 | taxes in chapter 205 by ch. 2006-152, Laws of Florida.

4545

4546 | Section 124. Subsection (1) of section 501.016, Florida
4547 | Statutes, is amended to read:

4548 | 501.016 Health studios; security requirements.--Each health
4549 | studio that sells contracts for health studio services shall meet
4550 | the following requirements:

4551 | (1) Each health studio shall maintain for each separate
4552 | business location a bond issued by a surety company admitted to
4553 | do business in this state. The principal sum of the bond shall be

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4554 \$50,000, and the bond, when required, shall be obtained before a
 4555 business tax receipt ~~an occupational license~~ may be issued under
 4556 chapter 205. Upon issuance of a business tax receipt ~~an~~
 4557 ~~occupational license~~, the licensing authority shall immediately
 4558 notify the department of such issuance in a manner established by
 4559 the department by rule. The bond shall be in favor of the state
 4560 for the benefit of any person injured as a result of a violation
 4561 of ss. 501.012-501.019. The aggregate liability of the surety to
 4562 all persons for all breaches of the conditions of the bonds
 4563 provided herein shall in no event exceed the amount of the bond.
 4564 The original surety bond required by this section shall be filed
 4565 with the department.

4566
 4567 Reviser's note.--Amended to conform to the
 4568 redesignation of occupational licenses as business tax
 4569 receipts in chapter 205 by ch. 2006-152, Laws of
 4570 Florida.

4571
 4572 Section 125. Paragraph (b) of subsection (3) of section
 4573 501.143, Florida Statutes, is amended to read:

4574 501.143 Dance Studio Act.--

4575 (3) REGISTRATION OF BALLROOM DANCE STUDIOS.--

4576 (b) Any person applying for or renewing a local business
 4577 tax receipt ~~occupational license~~ to engage in business as a
 4578 ballroom dance studio must exhibit an active registration
 4579 certificate from the department before the local business tax
 4580 receipt ~~occupational license~~ may be issued or reissued under
 4581 chapter 205.

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4583 Reviser's note.--Amended to conform to the
 4584 redesignation of occupational licenses as business tax
 4585 receipts in chapter 205 by ch. 2006-152, Laws of
 4586 Florida.

4587
 4588 Section 126. Subsection (9) of section 501.160, Florida
 4589 Statutes, is amended to read:

4590 501.160 Rental or sale of essential commodities during a
 4591 declared state of emergency; prohibition against unconscionable
 4592 prices.--

4593 (9) Upon a declaration of a state of emergency by the
 4594 Governor, in order to protect the health, safety, and welfare of
 4595 residents, any person who offers goods and services for sale to
 4596 the public during the duration of the emergency and who does not
 4597 possess a business tax receipt ~~an occupational license~~ under s.
 4598 205.032 or s. 205.042 commits a misdemeanor of the second degree,
 4599 punishable as provided in s. 775.082 or s. 775.083. During a
 4600 declared emergency, this subsection does not apply to religious,
 4601 charitable, fraternal, civic, educational, or social
 4602 organizations. During a declared emergency and when there is an
 4603 allegation of price gouging against the person, failure to
 4604 possess a license constitutes reasonable cause to detain the
 4605 person, provided that the detention shall only be made in a
 4606 reasonable manner and only for a reasonable period of time
 4607 sufficient for an inquiry into the circumstances surrounding the
 4608 failure to possess a license.

4609
 4610 Reviser's note.--Amended to conform to the
 4611 redesignation of occupational licenses as business tax

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4612 receipts in chapter 205 by ch. 2006-152, Laws of
 4613 Florida.

4614
 4615 Section 127. Paragraph (c) of subsection (4) of section
 4616 509.233, Florida Statutes, is amended to read:

4617 509.233 Public food service establishment requirements;
 4618 local exemption for dogs in designated outdoor portions; pilot
 4619 program.--

4620 (4) LIMITATIONS ON EXEMPTION; PERMIT REQUIREMENTS.--

4621 (c) In order to protect the health, safety, and general
 4622 welfare of the public, the local exemption ordinance shall
 4623 include such regulations and limitations as deemed necessary by
 4624 the participating local government and shall include, but not be
 4625 limited to, the following requirements:

4626 1. All public food service establishment employees shall
 4627 wash their hands promptly after touching, petting, or otherwise
 4628 handling dogs. Employees shall be prohibited from touching,
 4629 petting, or otherwise handling dogs while serving food or
 4630 beverages or handling tableware or before entering other parts of
 4631 the public food service establishment.

4632 2. Patrons in a designated outdoor area shall be advised
 4633 that they should wash their hands before eating. Waterless hand
 4634 sanitizer shall be provided at all tables in the designated
 4635 outdoor area.

4636 3. Employees and patrons shall be instructed that they
 4637 shall not allow dogs to come into contact with serving dishes,
 4638 utensils, tableware, linens, paper products, or any other items
 4639 involved in food service operations.

4640 4. Patrons shall keep their dogs on a leash at all times

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4641 and shall keep their dogs under reasonable control.

4642 5. Dogs shall not be allowed on chairs, tables, or other
4643 furnishings.

4644 6. All table and chair surfaces shall be cleaned and
4645 sanitized with an approved product between seating of patrons.
4646 Spilled food and drink shall be removed from the floor or ground
4647 between seating of patrons.

4648 7. Accidents involving dog waste shall be cleaned
4649 immediately and the area sanitized with an approved product. A
4650 kit with the appropriate materials for this purpose shall be kept
4651 near the designated outdoor area.

4652 8. A sign or signs reminding employees of the applicable
4653 rules shall be posted on premises in a manner and place as
4654 determined by the local permitting authority.

4655 9. A sign or signs reminding patrons of the applicable
4656 rules shall be posted on premises in a manner and place as
4657 determined by the local permitting authority.

4658 10. A sign or signs shall be posted in a manner and place
4659 as determined by the local permitting authority that places the
4660 public on notice that the designated outdoor area is available
4661 for the use of patrons and patrons' dogs.

4662 11. Dogs shall not be permitted to travel through indoor or
4663 nondesignated outdoor portions of the public food service
4664 establishment, and ingress and egress to the designated outdoor
4665 portions of the public food service establishment must not
4666 require entrance into or passage through any indoor area of the
4667 food establishment.

4668
4669 Reviser's note.--Amended to improve clarity and

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4670 facilitate correct interpretation.

4671

4672 Section 128. Subsection (9) of section 516.05, Florida
4673 Statutes, is amended to read:

4674 516.05 License.--

4675 (9) A licensee who ~~that~~ is the subject of a voluntary or
4676 involuntary bankruptcy filing must report such filing to the
4677 office within 7 business days after the filing date.

4678

4679 Reviser's note.--Amended to improve clarity and
4680 facilitate correct interpretation.

4681

4682 Section 129. Section 551.101, Florida Statutes, is amended
4683 to read:

4684 551.101 Slot machine gaming authorized.--Any licensed pari-
4685 mutuel facility located in Miami-Dade County or Broward County
4686 existing at the time of adoption of s. 23, Art. X of the State
4687 Constitution that has conducted live racing or games during
4688 calendar years 2002 and 2003 may possess slot machines and
4689 conduct slot machine gaming at the location where the pari-mutuel
4690 permitholder is authorized to conduct pari-mutuel wagering
4691 activities pursuant to such permitholder's valid pari-mutuel
4692 permit provided that a majority of voters in a countywide
4693 referendum have approved slot machines at such facility in the
4694 respective county. Notwithstanding any other provision of law, it
4695 is not a crime for a person to participate in slot machine gaming
4696 at a pari-mutuel facility licensed to possess slot machines and
4697 conduct slot machine gaming or to participate in slot machine
4698 gaming described in this chapter.

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Reviser's note.--Amended to improve clarity and facilitate correct interpretation.

Section 130. Section 559.939, Florida Statutes, is amended to read:

559.939 State preemption.--No municipality or county or other political subdivision of this state shall have authority to levy or collect any registration fee or tax, as a regulatory measure, or to require the registration or bonding in any manner of any seller of travel who is registered or complies with all applicable provisions of this part, unless that authority is provided for by special or general act of the Legislature. Any ordinance, resolution, or regulation of any municipality or county or other political subdivision of this state which is in conflict with any provision of this part is preempted by this part. The provisions of this section do not apply to any local business ~~occupational~~ tax levied pursuant to chapter 205.

Reviser's note.--Amended to conform to the redesignation of local occupational taxes as local business taxes in chapter 205 by ch. 2006-152, Laws of Florida.

Section 131. Subsection (3) of section 607.0130, Florida Statutes, is amended to read:

607.0130 Powers of Department of State.--

(3) The Department of State may, based upon its findings hereunder or as provided in s. 213.053(15) ~~215.053(15)~~, bring an

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4728 | action in circuit court to collect any penalties, fees, or taxes
 4729 | determined to be due and owing the state and to compel any
 4730 | filing, qualification, or registration required by law. In
 4731 | connection with such proceeding the department may, without prior
 4732 | approval by the court, file a lis pendens against any property
 4733 | owned by the corporation and may further certify any findings to
 4734 | the Department of Legal Affairs for the initiation of any action
 4735 | permitted pursuant to s. 607.0505 which the Department of Legal
 4736 | Affairs may deem appropriate.

4737 |
 4738 | Reviser's note.--Amended to improve clarity and
 4739 | facilitate correct interpretation. Section 215.053(15)
 4740 | does not exist; section 213.053(15) provides for
 4741 | recovery of fees and penalties due and owing the state.

4742 |
 4743 | Section 132. Subsection (1) and paragraph (a) of subsection
 4744 | (2) of section 607.193, Florida Statutes, are amended to read:

4745 | 607.193 Supplemental corporate fee.--

4746 | (1) In addition to any other taxes imposed by law, an
 4747 | annual supplemental corporate fee of \$88.75 is imposed on each
 4748 | business entity that is authorized to transact business in this
 4749 | state and is required to file an annual report with the
 4750 | Department of State under s. 607.1622, s. 608.4511 ~~608.452~~, or s.
 4751 | 620.1210.

4752 | (2)(a) The business entity shall remit the supplemental
 4753 | corporate fee to the Department of State at the time it files the
 4754 | annual report required by s. 607.1622, s. 608.4511 ~~608.452~~, or s.
 4755 | 620.1210.

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4757 Reviser's note.--Amended to improve clarity and
 4758 facilitate correct interpretation. Section 608.4511
 4759 references the annual report for the Department of
 4760 State, and s. 608.452 references fees.

4761
 4762 Section 133. Subsection (5) of section 620.2113, Florida
 4763 Statutes, is amended to read:

4764 620.2113 Appraisal rights; definitions.--The following
 4765 definitions apply to this section and ss. 620.2114-620.2124:

4766 (5) "Interest" means interest from the effective date of
 4767 the appraisal event to which the limited partner objects until
 4768 the date of payment, at the rate of interest described in s.
 4769 620.1107(2) ~~620.107(2)~~, determined as of the effective date of
 4770 the appraisal event.

4771
 4772 Reviser's note.--Amended to improve clarity and
 4773 facilitate correct interpretation. Section 620.107 was
 4774 repealed by s. 25, ch. 2005-267, Laws of Florida, and
 4775 did not reference interest rates; s. 620.1107(2) does
 4776 relate to interest rates.

4777
 4778 Section 134. Paragraph (c) of subsection (2) of section
 4779 620.2118, Florida Statutes, is amended to read:

4780 620.2118 Appraisal notice and form.--

4781 (2) The appraisal notice must be sent no earlier than the
 4782 date the appraisal event became effective and no later than 10
 4783 days after such date and must:

4784 (c) Be accompanied by:

4785 1. Financial statements of the limited partnership that

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4786 | issued the limited partner interests to be appraised, consisting
 4787 | of a balance sheet as of the end of the fiscal year ending not
 4788 | more than 15 months prior to the date of the limited
 4789 | partnership's appraisal notice, an income statement for that
 4790 | year, a cash flow statement for that year, and the latest
 4791 | available interim financial statements, if any.

4792 | 2. A copy of ss. 620.2113-620.2124 ~~620.2213-620.2224~~.

4793 |
 4794 | Reviser's note.--Amended to improve clarity and
 4795 | facilitate correct interpretation. Sections 620.2213-
 4796 | 620.2224 do not exist. Limited partner appraisals are
 4797 | referenced in ss. 620.2113-620.2124.

4798 |
 4799 | Section 135. Subsection (3) of section 620.8911, Florida
 4800 | Statutes, is amended to read:

4801 | 620.8911 Definitions.--As used in this section and ss.
 4802 | 620.8912-620.8923:

4803 | (3) "Converted organization" means the organization into
 4804 | which a converting organization converts pursuant to ss.
 4805 | 620.8912-620.8915 ~~620.8902-620.8905~~.

4806 |
 4807 | Reviser's note.--Amended to improve clarity and
 4808 | facilitate correct interpretation. Sections 620.8902-
 4809 | 620.8905 were repealed by s. 25, ch. 2005-267, Laws of
 4810 | Florida. Sections 620.8912-620.8915 were created by s.
 4811 | 22, ch. 2005-267, and cover conversion organizations.

4812 |
 4813 | Section 136. Paragraph (c) of subsection (1) of section
 4814 | 624.5105, Florida Statutes, is amended to read:

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4815 624.5105 Community contribution tax credit; authorization;
 4816 limitations; eligibility and application requirements;
 4817 administration; definitions; expiration.--

4818 (1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.--

4819 (c) The total amount of tax credit which may be granted for
 4820 all programs approved under this section and ss. 212.08(5)(p)
 4821 ~~212.08(5)(q)~~ and 220.183 is \$10.5 million annually for projects
 4822 that provide homeownership opportunities for low-income or very-
 4823 low-income households as defined in s. 420.9071(19) and (28) and
 4824 \$3.5 million annually for all other projects.

4825
 4826 Reviser's note.--Amended to conform to the repeal of
 4827 former s. 212.08(5)(p) by s. 2, ch. 2006-2, Laws of
 4828 Florida, and the subsequent redesignation of
 4829 paragraphs.

4830
 4831 Section 137. Paragraph (a) of subsection (1) of section
 4832 626.022, Florida Statutes, is amended to read:

4833 626.022 Scope of part.--

4834 (1) This part applies as to insurance agents, service
 4835 representatives, adjusters, and insurance agencies; as to any and
 4836 all kinds of insurance; and as to stock insurers, mutual
 4837 insurers, reciprocal insurers, and all other types of insurers,
 4838 except that:

4839 (a) It does not apply as to reinsurance, except that ss.
 4840 626.011-626.022 ~~626.011-626.031~~, ss. 626.112-626.181 ~~626.102-~~
 4841 ~~626.181~~, ss. 626.191-626.211, ss. 626.291-626.301, s. 626.331,
 4842 ss. 626.342-626.521, ss. 626.541-626.591, and ss. 626.601-626.711
 4843 shall apply as to reinsurance intermediaries as defined in s.

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4844 626.7492.

4845

4846 Reviser's note.--Amended to conform to the repeal of
 4847 ss. 626.031, 626.102, and others in the cited range of
 4848 sections by s. 72, ch. 2002-206, Laws of Florida.

4849

4850 Section 138. Subsection (4) of section 626.171, Florida
 4851 Statutes, is amended to read:

4852 626.171 Application for license as an agent, customer
 4853 representative, adjuster, service representative, managing
 4854 general agent, or reinsurance intermediary.--

4855 (4) An applicant for a license as an agent, customer
 4856 representative, adjuster, service representative, managing
 4857 general agent, or reinsurance intermediary must submit a set of
 4858 the individual applicant's fingerprints, or, if the applicant is
 4859 not an individual, ~~by~~ a set of the fingerprints of the sole
 4860 proprietor, majority owner, partners, officers, and directors, to
 4861 the department and must pay the fingerprint processing fee set
 4862 forth in s. 624.501. Fingerprints shall be used to investigate
 4863 the applicant's qualifications pursuant to s. 626.201. The
 4864 fingerprints shall be taken by a law enforcement agency,
 4865 designated examination center, or other department-approved
 4866 entity. The department shall require all designated examination
 4867 centers to have fingerprinting equipment and to take fingerprints
 4868 from any applicant or prospective applicant who pays the
 4869 applicable fee. The department may not approve an application for
 4870 licensure as an agent, customer service representative, adjuster,
 4871 service representative, managing general agent, or reinsurance
 4872 intermediary if fingerprints have not been submitted.

4873
 4874 Reviser's note.--Amended to confirm the editorial
 4875 deletion of the word "by" preceding the word "a" to
 4876 improve clarity and facilitate correct interpretation.

4877
 4878 Section 139. Paragraph (j) of subsection (1) of section
 4879 626.935, Florida Statutes, is amended to read:

4880 626.935 Suspension, revocation, or refusal of surplus lines
 4881 agent's license.--

4882 (1) The department shall deny an application for, suspend,
 4883 revoke, or refuse to renew the appointment of a surplus lines
 4884 agent and all other licenses and appointments held by the
 4885 licensee under this code, upon any of the following grounds:

4886 (j) For any other applicable cause for which the license of
 4887 a general lines agent could be suspended, revoked, or refused
 4888 under s. 626.611 or s. 626.621 ~~616.621~~.

4889
 4890 Reviser's note.--Amended to improve clarity and
 4891 facilitate correct interpretation. Section 616.621 does
 4892 not exist. Section 626.621 references grounds for
 4893 discretionary refusal, suspension, or revocation of an
 4894 agent's license.

4895
 4896 Section 140. Paragraph (g) of subsection (3) of section
 4897 626.9912, Florida Statutes, is amended to read:

4898 626.9912 Viatical settlement provider license required;
 4899 application for license.--

4900 (3) In the application, the applicant must provide all of
 4901 the following:

4902 (g) A general description of the method the viatical
 4903 settlement provider will use in determining life expectancies,
 4904 including a description of the applicant's intended receipt of
 4905 life expectancies ~~the applicant's intended receipt of life~~
 4906 ~~expectancies~~, the applicant's intended use of life expectancy
 4907 providers, and the written plan or plans of policies and
 4908 procedures used to determine life expectancies.

4909

4910 Reviser's note.--Amended to improve clarity and
 4911 facilitate correct interpretation.

4912

4913 Section 141. Paragraph (b) of subsection (2) and paragraphs
 4914 (c), (d), (n), and (v) of subsection (6) of section 627.351,
 4915 Florida Statutes, as amended by section 21 of chapter 2007-1,
 4916 Laws of Florida, are amended to read:

4917 627.351 Insurance risk apportionment plans.--

4918 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--

4919 (b) The department shall require all insurers holding a
 4920 certificate of authority to transact property insurance on a
 4921 direct basis in this state, other than joint underwriting
 4922 associations and other entities formed pursuant to this section,
 4923 to provide windstorm coverage to applicants from areas determined
 4924 to be eligible pursuant to paragraph (c) who in good faith are
 4925 entitled to, but are unable to procure, such coverage through
 4926 ordinary means; or it shall adopt a reasonable plan or plans for
 4927 the equitable apportionment or sharing among such insurers of
 4928 windstorm coverage, which may include formation of an association
 4929 for this purpose. As used in this subsection, the term "property
 4930 insurance" means insurance on real or personal property, as

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4931 defined in s. 624.604, including insurance for fire, industrial
 4932 fire, allied lines, farmowners multiperil, homeowners'
 4933 multiperil, commercial multiperil, and mobile homes, and
 4934 including liability coverages on all such insurance, but
 4935 excluding inland marine as defined in s. 624.607(3) and excluding
 4936 vehicle insurance as defined in s. 624.605(1)(a) other than
 4937 insurance on mobile homes used as permanent dwellings. The
 4938 department shall adopt rules that provide a formula for the
 4939 recovery and repayment of any deferred assessments.

4940 1. For the purpose of this section, properties eligible for
 4941 such windstorm coverage are defined as dwellings, buildings, and
 4942 other structures, including mobile homes which are used as
 4943 dwellings and which are tied down in compliance with mobile home
 4944 tie-down requirements prescribed by the Department of Highway
 4945 Safety and Motor Vehicles pursuant to s. 320.8325, and the
 4946 contents of all such properties. An applicant or policyholder is
 4947 eligible for coverage only if an offer of coverage cannot be
 4948 obtained by or for the applicant or policyholder from an admitted
 4949 insurer at approved rates.

4950 2.a.(I) All insurers required to be members of such
 4951 association shall participate in its writings, expenses, and
 4952 losses. Surplus of the association shall be retained for the
 4953 payment of claims and shall not be distributed to the member
 4954 insurers. Such participation by member insurers shall be in the
 4955 proportion that the net direct premiums of each member insurer
 4956 written for property insurance in this state during the preceding
 4957 calendar year bear to the aggregate net direct premiums for
 4958 property insurance of all member insurers, as reduced by any
 4959 credits for voluntary writings, in this state during the

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4960 preceding calendar year. For the purposes of this subsection, the
 4961 term "net direct premiums" means direct written premiums for
 4962 property insurance, reduced by premium for liability coverage and
 4963 for the following if included in allied lines: rain and hail on
 4964 growing crops; livestock; association direct premiums booked;
 4965 National Flood Insurance Program direct premiums; and similar
 4966 deductions specifically authorized by the plan of operation and
 4967 approved by the department. A member's participation shall begin
 4968 on the first day of the calendar year following the year in which
 4969 it is issued a certificate of authority to transact property
 4970 insurance in the state and shall terminate 1 year after the end
 4971 of the calendar year during which it no longer holds a
 4972 certificate of authority to transact property insurance in the
 4973 state. The commissioner, after review of annual statements, other
 4974 reports, and any other statistics that the commissioner deems
 4975 necessary, shall certify to the association the aggregate direct
 4976 premiums written for property insurance in this state by all
 4977 member insurers.

4978 (II) Effective July 1, 2002, the association shall operate
 4979 subject to the supervision and approval of a board of governors
 4980 who are the same individuals that have been appointed by the
 4981 Treasurer to serve on the board of governors of the Citizens
 4982 Property Insurance Corporation.

4983 (III) The plan of operation shall provide a formula whereby
 4984 a company voluntarily providing windstorm coverage in affected
 4985 areas will be relieved wholly or partially from apportionment of
 4986 a regular assessment pursuant to sub-sub-subparagraph d.(I) or
 4987 sub-sub-subparagraph d.(II).

4988 (IV) A company which is a member of a group of companies

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4989 | under common management may elect to have its credits applied on
 4990 | a group basis, and any company or group may elect to have its
 4991 | credits applied to any other company or group.

4992 | (V) There shall be no credits or relief from apportionment
 4993 | to a company for emergency assessments collected from its
 4994 | policyholders under sub-sub-subparagraph d.(III).

4995 | (VI) The plan of operation may also provide for the award
 4996 | of credits, for a period not to exceed 3 years, from a regular
 4997 | assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-
 4998 | subparagraph d.(II) as an incentive for taking policies out of
 4999 | the Residential Property and Casualty Joint Underwriting
 5000 | Association. In order to qualify for the exemption under this
 5001 | sub-sub-subparagraph, the take-out plan must provide that at
 5002 | least 40 percent of the policies removed from the Residential
 5003 | Property and Casualty Joint Underwriting Association cover risks
 5004 | located in Dade, Broward, and Palm Beach Counties or at least 30
 5005 | percent of the policies so removed cover risks located in Dade,
 5006 | Broward, and Palm Beach Counties and an additional 50 percent of
 5007 | the policies so removed cover risks located in other coastal
 5008 | counties, and must also provide that no more than 15 percent of
 5009 | the policies so removed may exclude windstorm coverage. With the
 5010 | approval of the department, the association may waive these
 5011 | geographic criteria for a take-out plan that removes at least the
 5012 | lesser of 100,000 Residential Property and Casualty Joint
 5013 | Underwriting Association policies or 15 percent of the total
 5014 | number of Residential Property and Casualty Joint Underwriting
 5015 | Association policies, provided the governing board of the
 5016 | Residential Property and Casualty Joint Underwriting Association
 5017 | certifies that the take-out plan will materially reduce the

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5018 Residential Property and Casualty Joint Underwriting
 5019 Association's 100-year probable maximum loss from hurricanes.
 5020 With the approval of the department, the board may extend such
 5021 credits for an additional year if the insurer guarantees an
 5022 additional year of renewability for all policies removed from the
 5023 Residential Property and Casualty Joint Underwriting Association,
 5024 or for 2 additional years if the insurer guarantees 2 additional
 5025 years of renewability for all policies removed from the
 5026 Residential Property and Casualty Joint Underwriting Association.

5027 b. Assessments to pay deficits in the association under
 5028 this subparagraph shall be included as an appropriate factor in
 5029 the making of rates as provided in s. 627.3512.

5030 c. The Legislature finds that the potential for unlimited
 5031 deficit assessments under this subparagraph may induce insurers
 5032 to attempt to reduce their writings in the voluntary market, and
 5033 that such actions would worsen the availability problems that the
 5034 association was created to remedy. It is the intent of the
 5035 Legislature that insurers remain fully responsible for paying
 5036 regular assessments and collecting emergency assessments for any
 5037 deficits of the association; however, it is also the intent of
 5038 the Legislature to provide a means by which assessment
 5039 liabilities may be amortized over a period of years.

5040 d.(I) When the deficit incurred in a particular calendar
 5041 year is 10 percent or less of the aggregate statewide direct
 5042 written premium for property insurance for the prior calendar
 5043 year for all member insurers, the association shall levy an
 5044 assessment on member insurers in an amount equal to the deficit.

5045 (II) When the deficit incurred in a particular calendar
 5046 year exceeds 10 percent of the aggregate statewide direct written

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5047 premium for property insurance for the prior calendar year for
 5048 all member insurers, the association shall levy an assessment on
 5049 member insurers in an amount equal to the greater of 10 percent
 5050 of the deficit or 10 percent of the aggregate statewide direct
 5051 written premium for property insurance for the prior calendar
 5052 year for member insurers. Any remaining deficit shall be
 5053 recovered through emergency assessments under sub-sub-
 5054 subparagraph (III).

5055 (III) Upon a determination by the board of directors that a
 5056 deficit exceeds the amount that will be recovered through regular
 5057 assessments on member insurers, pursuant to sub-sub-subparagraph
 5058 (I) or sub-sub-subparagraph (II), the board shall levy, after
 5059 verification by the department, emergency assessments to be
 5060 collected by member insurers and by underwriting associations
 5061 created pursuant to this section which write property insurance,
 5062 upon issuance or renewal of property insurance policies other
 5063 than National Flood Insurance policies in the year or years
 5064 following levy of the regular assessments. The amount of the
 5065 emergency assessment collected in a particular year shall be a
 5066 uniform percentage of that year's direct written premium for
 5067 property insurance for all member insurers and underwriting
 5068 associations, excluding National Flood Insurance policy premiums,
 5069 as annually determined by the board and verified by the
 5070 department. The department shall verify the arithmetic
 5071 calculations involved in the board's determination within 30 days
 5072 after receipt of the information on which the determination was
 5073 based. Notwithstanding any other provision of law, each member
 5074 insurer and each underwriting association created pursuant to
 5075 this section shall collect emergency assessments from its

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5076 | policyholders without such obligation being affected by any
 5077 | credit, limitation, exemption, or deferment. The emergency
 5078 | assessments so collected shall be transferred directly to the
 5079 | association on a periodic basis as determined by the association.
 5080 | The aggregate amount of emergency assessments levied under this
 5081 | sub-sub-subparagraph in any calendar year may not exceed the
 5082 | greater of 10 percent of the amount needed to cover the original
 5083 | deficit, plus interest, fees, commissions, required reserves, and
 5084 | other costs associated with financing of the original deficit, or
 5085 | 10 percent of the aggregate statewide direct written premium for
 5086 | property insurance written by member insurers and underwriting
 5087 | associations for the prior year, plus interest, fees,
 5088 | commissions, required reserves, and other costs associated with
 5089 | financing the original deficit. The board may pledge the proceeds
 5090 | of the emergency assessments under this sub-sub-subparagraph as
 5091 | the source of revenue for bonds, to retire any other debt
 5092 | incurred as a result of the deficit or events giving rise to the
 5093 | deficit, or in any other way that the board determines will
 5094 | efficiently recover the deficit. The emergency assessments under
 5095 | this sub-sub-subparagraph shall continue as long as any bonds
 5096 | issued or other indebtedness incurred with respect to a deficit
 5097 | for which the assessment was imposed remain outstanding, unless
 5098 | adequate provision has been made for the payment of such bonds or
 5099 | other indebtedness pursuant to the document governing such bonds
 5100 | or other indebtedness. Emergency assessments collected under this
 5101 | sub-sub-subparagraph are not part of an insurer's rates, are not
 5102 | premium, and are not subject to premium tax, fees, or
 5103 | commissions; however, failure to pay the emergency assessment
 5104 | shall be treated as failure to pay premium.

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5105 (IV) Each member insurer's share of the total regular
 5106 assessments under sub-sub-subparagraph (I) or sub-sub-
 5107 subparagraph (II) shall be in the proportion that the insurer's
 5108 net direct premium for property insurance in this state, for the
 5109 year preceding the assessment bears to the aggregate statewide
 5110 net direct premium for property insurance of all member insurers,
 5111 as reduced by any credits for voluntary writings for that year.

5112 (V) If regular deficit assessments are made under sub-sub-
 5113 subparagraph (I) or sub-sub-subparagraph (II), or by the
 5114 Residential Property and Casualty Joint Underwriting Association
 5115 under sub-subparagraph (6)(b)3.a. or sub-subparagraph (6)(b)3.b.,
 5116 the association shall levy upon the association's policyholders,
 5117 as part of its next rate filing, or by a separate rate filing
 5118 solely for this purpose, a market equalization surcharge in a
 5119 percentage equal to the total amount of such regular assessments
 5120 divided by the aggregate statewide direct written premium for
 5121 property insurance for member insurers for the prior calendar
 5122 year. Market equalization surcharges under this sub-sub-
 5123 subparagraph are not considered premium and are not subject to
 5124 commissions, fees, or premium taxes; however, failure to pay a
 5125 market equalization surcharge shall be treated as failure to pay
 5126 premium.

5127 e. The governing body of any unit of local government, any
 5128 residents of which are insured under the plan, may issue bonds as
 5129 defined in s. 125.013 or s. 166.101 to fund an assistance
 5130 program, in conjunction with the association, for the purpose of
 5131 defraying deficits of the association. In order to avoid needless
 5132 and indiscriminate proliferation, duplication, and fragmentation
 5133 of such assistance programs, any unit of local government, any

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5134 residents of which are insured by the association, may provide
 5135 for the payment of losses, regardless of whether or not the
 5136 losses occurred within or outside of the territorial jurisdiction
 5137 of the local government. Revenue bonds may not be issued until
 5138 validated pursuant to chapter 75, unless a state of emergency is
 5139 declared by executive order or proclamation of the Governor
 5140 pursuant to s. 252.36 making such findings as are necessary to
 5141 determine that it is in the best interests of, and necessary for,
 5142 the protection of the public health, safety, and general welfare
 5143 of residents of this state and the protection and preservation of
 5144 the economic stability of insurers operating in this state, and
 5145 declaring it an essential public purpose to permit certain
 5146 municipalities or counties to issue bonds as will provide relief
 5147 to claimants and policyholders of the association and insurers
 5148 responsible for apportionment of plan losses. Any such unit of
 5149 local government may enter into such contracts with the
 5150 association and with any other entity created pursuant to this
 5151 subsection as are necessary to carry out this paragraph. Any
 5152 bonds issued under this sub-subparagraph shall be payable from
 5153 and secured by moneys received by the association from
 5154 assessments under this subparagraph, and assigned and pledged to
 5155 or on behalf of the unit of local government for the benefit of
 5156 the holders of such bonds. The funds, credit, property, and
 5157 taxing power of the state or of the unit of local government
 5158 shall not be pledged for the payment of such bonds. If any of the
 5159 bonds remain unsold 60 days after issuance, the department shall
 5160 require all insurers subject to assessment to purchase the bonds,
 5161 which shall be treated as admitted assets; each insurer shall be
 5162 required to purchase that percentage of the unsold portion of the

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5163 bond issue that equals the insurer's relative share of assessment
5164 liability under this subsection. An insurer shall not be required
5165 to purchase the bonds to the extent that the department
5166 determines that the purchase would endanger or impair the
5167 solvency of the insurer. The authority granted by this sub-
5168 subparagraph is additional to any bonding authority granted by
5169 subparagraph 6.

5170 3. The plan shall also provide that any member with a
5171 surplus as to policyholders of \$20 million or less writing 25
5172 percent or more of its total countrywide property insurance
5173 premiums in this state may petition the department, within the
5174 first 90 days of each calendar year, to qualify as a limited
5175 apportionment company. The apportionment of such a member company
5176 in any calendar year for which it is qualified shall not exceed
5177 its gross participation, which shall not be affected by the
5178 formula for voluntary writings. In no event shall a limited
5179 apportionment company be required to participate in any
5180 apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)
5181 or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds
5182 \$50 million after payment of available plan funds in any calendar
5183 year. However, a limited apportionment company shall collect from
5184 its policyholders any emergency assessment imposed under sub-sub-
5185 subparagraph 2.d.(III). The plan shall provide that, if the
5186 department determines that any regular assessment will result in
5187 an impairment of the surplus of a limited apportionment company,
5188 the department may direct that all or part of such assessment be
5189 deferred. However, there shall be no limitation or deferment of
5190 an emergency assessment to be collected from policyholders under
5191 sub-sub-subparagraph 2.d.(III).

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5192 4. The plan shall provide for the deferment, in whole or in
 5193 part, of a regular assessment of a member insurer under sub-sub-
 5194 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but not
 5195 for an emergency assessment collected from policyholders under
 5196 sub-sub-subparagraph 2.d.(III), if, in the opinion of the
 5197 commissioner, payment of such regular assessment would endanger
 5198 or impair the solvency of the member insurer. In the event a
 5199 regular assessment against a member insurer is deferred in whole
 5200 or in part, the amount by which such assessment is deferred may
 5201 be assessed against the other member insurers in a manner
 5202 consistent with the basis for assessments set forth in sub-sub-
 5203 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

5204 5.a. The plan of operation may include deductibles and
 5205 rules for classification of risks and rate modifications
 5206 consistent with the objective of providing and maintaining funds
 5207 sufficient to pay catastrophe losses.

5208 b. The association may require arbitration of a rate filing
 5209 under s. 627.062(6). It is the intent of the Legislature that the
 5210 rates for coverage provided by the association be actuarially
 5211 sound and not competitive with approved rates charged in the
 5212 admitted voluntary market such that the association functions as
 5213 a residual market mechanism to provide insurance only when the
 5214 insurance cannot be procured in the voluntary market. The plan
 5215 of operation shall provide a mechanism to assure that, beginning
 5216 no later than January 1, 1999, the rates charged by the
 5217 association for each line of business are reflective of approved
 5218 rates in the voluntary market for hurricane coverage for each
 5219 line of business in the various areas eligible for association
 5220 coverage.

5221 c. The association shall provide for windstorm coverage on
 5222 residential properties in limits up to \$10 million for commercial
 5223 lines residential risks and up to \$1 million for personal lines
 5224 residential risks. If coverage with the association is sought for
 5225 a residential risk valued in excess of these limits, coverage
 5226 shall be available to the risk up to the replacement cost or
 5227 actual cash value of the property, at the option of the insured,
 5228 if coverage for the risk cannot be located in the authorized
 5229 market. The association must accept a commercial lines
 5230 residential risk with limits above \$10 million or a personal
 5231 lines residential risk with limits above \$1 million if coverage
 5232 is not available in the authorized market. The association may
 5233 write coverage above the limits specified in this subparagraph
 5234 with or without facultative or other reinsurance coverage, as the
 5235 association determines appropriate.

5236 d. The plan of operation must provide objective criteria
 5237 and procedures, approved by the department, to be uniformly
 5238 applied for all applicants in determining whether an individual
 5239 risk is so hazardous as to be uninsurable. In making this
 5240 determination and in establishing the criteria and procedures,
 5241 the following shall be considered:

5242 (I) Whether the likelihood of a loss for the individual
 5243 risk is substantially higher than for other risks of the same
 5244 class; and

5245 (II) Whether the uncertainty associated with the individual
 5246 risk is such that an appropriate premium cannot be determined.

5247
 5248 The acceptance or rejection of a risk by the association pursuant
 5249 to such criteria and procedures must be construed as the private

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5250 placement of insurance, and the provisions of chapter 120 do not
 5251 apply.

5252 e. If the risk accepts an offer of coverage through the
 5253 market assistance program or through a mechanism established by
 5254 the association, either before the policy is issued by the
 5255 association or during the first 30 days of coverage by the
 5256 association, and the producing agent who submitted the
 5257 application to the association is not currently appointed by the
 5258 insurer, the insurer shall:

5259 (I) Pay to the producing agent of record of the policy, for
 5260 the first year, an amount that is the greater of the insurer's
 5261 usual and customary commission for the type of policy written or
 5262 a fee equal to the usual and customary commission of the
 5263 association; or

5264 (II) Offer to allow the producing agent of record of the
 5265 policy to continue servicing the policy for a period of not less
 5266 than 1 year and offer to pay the agent the greater of the
 5267 insurer's or the association's usual and customary commission for
 5268 the type of policy written.

5269
 5270 If the producing agent is unwilling or unable to accept
 5271 appointment, the new insurer shall pay the agent in accordance
 5272 with sub-sub-subparagraph (I). Subject to the provisions of s.
 5273 627.3517, the policies issued by the association must provide
 5274 that if the association obtains an offer from an authorized
 5275 insurer to cover the risk at its approved rates under either a
 5276 standard policy including wind coverage or, if consistent with
 5277 the insurer's underwriting rules as filed with the department, a
 5278 basic policy including wind coverage, the risk is no longer

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5279 eligible for coverage through the association. Upon termination
 5280 of eligibility, the association shall provide written notice to
 5281 the policyholder and agent of record stating that the association
 5282 policy must be canceled as of 60 days after the date of the
 5283 notice because of the offer of coverage from an authorized
 5284 insurer. Other provisions of the insurance code relating to
 5285 cancellation and notice of cancellation do not apply to actions
 5286 under this sub-subparagraph.

5287 f. When the association enters into a contractual agreement
 5288 for a take-out plan, the producing agent of record of the
 5289 association policy is entitled to retain any unearned commission
 5290 on the policy, and the insurer shall:

5291 (I) Pay to the producing agent of record of the association
 5292 policy, for the first year, an amount that is the greater of the
 5293 insurer's usual and customary commission for the type of policy
 5294 written or a fee equal to the usual and customary commission of
 5295 the association; or

5296 (II) Offer to allow the producing agent of record of the
 5297 association policy to continue servicing the policy for a period
 5298 of not less than 1 year and offer to pay the agent the greater
 5299 of the insurer's or the association's usual and customary
 5300 commission for the type of policy written.

5301
 5302 If the producing agent is unwilling or unable to accept
 5303 appointment, the new insurer shall pay the agent in accordance
 5304 with sub-sub-subparagraph (I).

5305 6.a. The plan of operation may authorize the formation of a
 5306 private nonprofit corporation, a private nonprofit unincorporated
 5307 association, a partnership, a trust, a limited liability company,

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5308 or a nonprofit mutual company which may be empowered, among other
 5309 things, to borrow money by issuing bonds or by incurring other
 5310 indebtedness and to accumulate reserves or funds to be used for
 5311 the payment of insured catastrophe losses. The plan may authorize
 5312 all actions necessary to facilitate the issuance of bonds,
 5313 including the pledging of assessments or other revenues.

5314 b. Any entity created under this subsection, or any entity
 5315 formed for the purposes of this subsection, may sue and be sued,
 5316 may borrow money; issue bonds, notes, or debt instruments; pledge
 5317 or sell assessments, market equalization surcharges and other
 5318 surcharges, rights, premiums, contractual rights, projected
 5319 recoveries from the Florida Hurricane Catastrophe Fund, other
 5320 reinsurance recoverables, and other assets as security for such
 5321 bonds, notes, or debt instruments; enter into any contracts or
 5322 agreements necessary or proper to accomplish such borrowings; and
 5323 take other actions necessary to carry out the purposes of this
 5324 subsection. The association may issue bonds or incur other
 5325 indebtedness, or have bonds issued on its behalf by a unit of
 5326 local government pursuant to subparagraph (6)(p)2. ~~(6)(g)2.~~, in
 5327 the absence of a hurricane or other weather-related event, upon a
 5328 determination by the association subject to approval by the
 5329 department that such action would enable it to efficiently meet
 5330 the financial obligations of the association and that such
 5331 financings are reasonably necessary to effectuate the
 5332 requirements of this subsection. Any such entity may accumulate
 5333 reserves and retain surpluses as of the end of any association
 5334 year to provide for the payment of losses incurred by the
 5335 association during that year or any future year. The association
 5336 shall incorporate and continue the plan of operation and articles

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5337 | of agreement in effect on the effective date of chapter 76-96,
 5338 | Laws of Florida, to the extent that it is not inconsistent with
 5339 | chapter 76-96, and as subsequently modified consistent with
 5340 | chapter 76-96. The board of directors and officers currently
 5341 | serving shall continue to serve until their successors are duly
 5342 | qualified as provided under the plan. The assets and obligations
 5343 | of the plan in effect immediately prior to the effective date of
 5344 | chapter 76-96 shall be construed to be the assets and obligations
 5345 | of the successor plan created herein.

5346 | c. In recognition of s. 10, Art. I of the State
 5347 | Constitution, prohibiting the impairment of obligations of
 5348 | contracts, it is the intent of the Legislature that no action be
 5349 | taken whose purpose is to impair any bond indenture or financing
 5350 | agreement or any revenue source committed by contract to such
 5351 | bond or other indebtedness issued or incurred by the association
 5352 | or any other entity created under this subsection.

5353 | 7. On such coverage, an agent's remuneration shall be that
 5354 | amount of money payable to the agent by the terms of his or her
 5355 | contract with the company with which the business is placed.
 5356 | However, no commission will be paid on that portion of the
 5357 | premium which is in excess of the standard premium of that
 5358 | company.

5359 | 8. Subject to approval by the department, the association
 5360 | may establish different eligibility requirements and operational
 5361 | procedures for any line or type of coverage for any specified
 5362 | eligible area or portion of an eligible area if the board
 5363 | determines that such changes to the eligibility requirements and
 5364 | operational procedures are justified due to the voluntary market
 5365 | being sufficiently stable and competitive in such area or for

5366 | such line or type of coverage and that consumers who, in good
 5367 | faith, are unable to obtain insurance through the voluntary
 5368 | market through ordinary methods would continue to have access to
 5369 | coverage from the association. When coverage is sought in
 5370 | connection with a real property transfer, such requirements and
 5371 | procedures shall not provide for an effective date of coverage
 5372 | later than the date of the closing of the transfer as established
 5373 | by the transferor, the transferee, and, if applicable, the
 5374 | lender.

5375 | 9. Notwithstanding any other provision of law:

5376 | a. The pledge or sale of, the lien upon, and the security
 5377 | interest in any rights, revenues, or other assets of the
 5378 | association created or purported to be created pursuant to any
 5379 | financing documents to secure any bonds or other indebtedness of
 5380 | the association shall be and remain valid and enforceable,
 5381 | notwithstanding the commencement of and during the continuation
 5382 | of, and after, any rehabilitation, insolvency, liquidation,
 5383 | bankruptcy, receivership, conservatorship, reorganization, or
 5384 | similar proceeding against the association under the laws of this
 5385 | state or any other applicable laws.

5386 | b. No such proceeding shall relieve the association of its
 5387 | obligation, or otherwise affect its ability to perform its
 5388 | obligation, to continue to collect, or levy and collect,
 5389 | assessments, market equalization or other surcharges, projected
 5390 | recoveries from the Florida Hurricane Catastrophe Fund,
 5391 | reinsurance recoverables, or any other rights, revenues, or other
 5392 | assets of the association pledged.

5393 | c. Each such pledge or sale of, lien upon, and security
 5394 | interest in, including the priority of such pledge, lien, or

5395 security interest, any such assessments, emergency assessments,
 5396 market equalization or renewal surcharges, projected recoveries
 5397 from the Florida Hurricane Catastrophe Fund, reinsurance
 5398 recoverables, or other rights, revenues, or other assets which
 5399 are collected, or levied and collected, after the commencement of
 5400 and during the pendency of or after any such proceeding shall
 5401 continue unaffected by such proceeding.

5402 d. As used in this subsection, the term "financing
 5403 documents" means any agreement, instrument, or other document now
 5404 existing or hereafter created evidencing any bonds or other
 5405 indebtedness of the association or pursuant to which any such
 5406 bonds or other indebtedness has been or may be issued and
 5407 pursuant to which any rights, revenues, or other assets of the
 5408 association are pledged or sold to secure the repayment of such
 5409 bonds or indebtedness, together with the payment of interest on
 5410 such bonds or such indebtedness, or the payment of any other
 5411 obligation of the association related to such bonds or
 5412 indebtedness.

5413 e. Any such pledge or sale of assessments, revenues,
 5414 contract rights or other rights or assets of the association
 5415 shall constitute a lien and security interest, or sale, as the
 5416 case may be, that is immediately effective and attaches to such
 5417 assessments, revenues, contract, or other rights or assets,
 5418 whether or not imposed or collected at the time the pledge or
 5419 sale is made. Any such pledge or sale is effective, valid,
 5420 binding, and enforceable against the association or other entity
 5421 making such pledge or sale, and valid and binding against and
 5422 superior to any competing claims or obligations owed to any other
 5423 person or entity, including policyholders in this state,

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5424 asserting rights in any such assessments, revenues, contract, or
 5425 other rights or assets to the extent set forth in and in
 5426 accordance with the terms of the pledge or sale contained in the
 5427 applicable financing documents, whether or not any such person or
 5428 entity has notice of such pledge or sale and without the need for
 5429 any physical delivery, recordation, filing, or other action.

5430 f. There shall be no liability on the part of, and no cause
 5431 of action of any nature shall arise against, any member insurer
 5432 or its agents or employees, agents or employees of the
 5433 association, members of the board of directors of the
 5434 association, or the department or its representatives, for any
 5435 action taken by them in the performance of their duties or
 5436 responsibilities under this subsection. Such immunity does not
 5437 apply to actions for breach of any contract or agreement
 5438 pertaining to insurance, or any willful tort.

5439 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

5440 (c) The plan of operation of the corporation:

5441 1. Must provide for adoption of residential property and
 5442 casualty insurance policy forms and commercial residential and
 5443 nonresidential property insurance forms, which forms must be
 5444 approved by the office prior to use. The corporation shall adopt
 5445 the following policy forms:

5446 a. Standard personal lines policy forms that are
 5447 comprehensive multiperil policies providing full coverage of a
 5448 residential property equivalent to the coverage provided in the
 5449 private insurance market under an HO-3, HO-4, or HO-6 policy.

5450 b. Basic personal lines policy forms that are policies
 5451 similar to an HO-8 policy or a dwelling fire policy that provide
 5452 coverage meeting the requirements of the secondary mortgage

5453 market, but which coverage is more limited than the coverage
 5454 under a standard policy.

5455 c. Commercial lines residential and nonresidential policy
 5456 forms that are generally similar to the basic perils of full
 5457 coverage obtainable for commercial residential structures and
 5458 commercial nonresidential structures in the admitted voluntary
 5459 market.

5460 d. Personal lines and commercial lines residential property
 5461 insurance forms that cover the peril of wind only. The forms are
 5462 applicable only to residential properties located in areas
 5463 eligible for coverage under the high-risk account referred to in
 5464 sub-subparagraph (b)2.a.

5465 e. Commercial lines nonresidential property insurance forms
 5466 that cover the peril of wind only. The forms are applicable only
 5467 to nonresidential properties located in areas eligible for
 5468 coverage under the high-risk account referred to in sub-
 5469 subparagraph (b)2.a.

5470 f. The corporation may adopt variations of the policy forms
 5471 listed in sub-subparagraphs a.-e. that contain more restrictive
 5472 coverage.

5473 2.a. Must provide that the corporation adopt a program in
 5474 which the corporation and authorized insurers enter into quota
 5475 share primary insurance agreements for hurricane coverage, as
 5476 defined in s. 627.4025(2)(a), for eligible risks, and adopt
 5477 property insurance forms for eligible risks which cover the peril
 5478 of wind only. As used in this subsection, the term:

5479 (I) "Quota share primary insurance" means an arrangement in
 5480 which the primary hurricane coverage of an eligible risk is
 5481 provided in specified percentages by the corporation and an

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5482 authorized insurer. The corporation and authorized insurer are
5483 each solely responsible for a specified percentage of hurricane
5484 coverage of an eligible risk as set forth in a quota share
5485 primary insurance agreement between the corporation and an
5486 authorized insurer and the insurance contract. The responsibility
5487 of the corporation or authorized insurer to pay its specified
5488 percentage of hurricane losses of an eligible risk, as set forth
5489 in the quota share primary insurance agreement, may not be
5490 altered by the inability of the other party to the agreement to
5491 pay its specified percentage of hurricane losses. Eligible risks
5492 that are provided hurricane coverage through a quota share
5493 primary insurance arrangement must be provided policy forms that
5494 set forth the obligations of the corporation and authorized
5495 insurer under the arrangement, clearly specify the percentages of
5496 quota share primary insurance provided by the corporation and
5497 authorized insurer, and conspicuously and clearly state that
5498 neither the authorized insurer nor the corporation may be held
5499 responsible beyond its specified percentage of coverage of
5500 hurricane losses.

5501 (II) "Eligible risks" means personal lines residential and
5502 commercial lines residential risks that meet the underwriting
5503 criteria of the corporation and are located in areas that were
5504 eligible for coverage by the Florida Windstorm Underwriting
5505 Association on January 1, 2002.

5506 b. The corporation may enter into quota share primary
5507 insurance agreements with authorized insurers at corporation
5508 coverage levels of 90 percent and 50 percent.

5509 c. If the corporation determines that additional coverage
5510 levels are necessary to maximize participation in quota share

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5511 primary insurance agreements by authorized insurers, the
5512 corporation may establish additional coverage levels. However,
5513 the corporation's quota share primary insurance coverage level
5514 may not exceed 90 percent.

5515 d. Any quota share primary insurance agreement entered into
5516 between an authorized insurer and the corporation must provide
5517 for a uniform specified percentage of coverage of hurricane
5518 losses, by county or territory as set forth by the corporation
5519 board, for all eligible risks of the authorized insurer covered
5520 under the quota share primary insurance agreement.

5521 e. Any quota share primary insurance agreement entered into
5522 between an authorized insurer and the corporation is subject to
5523 review and approval by the office. However, such agreement shall
5524 be authorized only as to insurance contracts entered into between
5525 an authorized insurer and an insured who is already insured by
5526 the corporation for wind coverage.

5527 f. For all eligible risks covered under quota share primary
5528 insurance agreements, the exposure and coverage levels for both
5529 the corporation and authorized insurers shall be reported by the
5530 corporation to the Florida Hurricane Catastrophe Fund. For all
5531 policies of eligible risks covered under quota share primary
5532 insurance agreements, the corporation and the authorized insurer
5533 shall maintain complete and accurate records for the purpose of
5534 exposure and loss reimbursement audits as required by Florida
5535 Hurricane Catastrophe Fund rules. The corporation and the
5536 authorized insurer shall each maintain duplicate copies of policy
5537 declaration pages and supporting claims documents.

5538 g. The corporation board shall establish in its plan of
5539 operation standards for quota share agreements which ensure that

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5540 | there is no discriminatory application among insurers as to the
 5541 | terms of quota share agreements, pricing of quota share
 5542 | agreements, incentive provisions if any, and consideration paid
 5543 | for servicing policies or adjusting claims.

5544 | h. The quota share primary insurance agreement between the
 5545 | corporation and an authorized insurer must set forth the specific
 5546 | terms under which coverage is provided, including, but not
 5547 | limited to, the sale and servicing of policies issued under the
 5548 | agreement by the insurance agent of the authorized insurer
 5549 | producing the business, the reporting of information concerning
 5550 | eligible risks, the payment of premium to the corporation, and
 5551 | arrangements for the adjustment and payment of hurricane claims
 5552 | incurred on eligible risks by the claims adjuster and personnel
 5553 | of the authorized insurer. Entering into a quota sharing
 5554 | insurance agreement between the corporation and an authorized
 5555 | insurer shall be voluntary and at the discretion of the
 5556 | authorized insurer.

5557 | 3. May provide that the corporation may employ or otherwise
 5558 | contract with individuals or other entities to provide
 5559 | administrative or professional services that may be appropriate
 5560 | to effectuate the plan. The corporation shall have the power to
 5561 | borrow funds, by issuing bonds or by incurring other
 5562 | indebtedness, and shall have other powers reasonably necessary to
 5563 | effectuate the requirements of this subsection, including,
 5564 | without limitation, the power to issue bonds and incur other
 5565 | indebtedness in order to refinance outstanding bonds or other
 5566 | indebtedness. The corporation may, but is not required to, seek
 5567 | judicial validation of its bonds or other indebtedness under
 5568 | chapter 75. The corporation may issue bonds or incur other

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5569 indebtedness, or have bonds issued on its behalf by a unit of
 5570 local government pursuant to subparagraph (p)2. ~~(g)2.~~, in the
 5571 absence of a hurricane or other weather-related event, upon a
 5572 determination by the corporation, subject to approval by the
 5573 office, that such action would enable it to efficiently meet the
 5574 financial obligations of the corporation and that such financings
 5575 are reasonably necessary to effectuate the requirements of this
 5576 subsection. The corporation is authorized to take all actions
 5577 needed to facilitate tax-free status for any such bonds or
 5578 indebtedness, including formation of trusts or other affiliated
 5579 entities. The corporation shall have the authority to pledge
 5580 assessments, projected recoveries from the Florida Hurricane
 5581 Catastrophe Fund, other reinsurance recoverables, market
 5582 equalization and other surcharges, and other funds available to
 5583 the corporation as security for bonds or other indebtedness. In
 5584 recognition of s. 10, Art. I of the State Constitution,
 5585 prohibiting the impairment of obligations of contracts, it is the
 5586 intent of the Legislature that no action be taken whose purpose
 5587 is to impair any bond indenture or financing agreement or any
 5588 revenue source committed by contract to such bond or other
 5589 indebtedness.

5590 4.a. Must require that the corporation operate subject to
 5591 the supervision and approval of a board of governors consisting
 5592 of eight individuals who are residents of this state, from
 5593 different geographical areas of this state. The Governor, the
 5594 Chief Financial Officer, the President of the Senate, and the
 5595 Speaker of the House of Representatives shall each appoint two
 5596 members of the board. At least one of the two members appointed
 5597 by each appointing officer must have demonstrated expertise in

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5598 insurance. The Chief Financial Officer shall designate one of the
 5599 appointees as chair. All board members serve at the pleasure of
 5600 the appointing officer. All members of the board of governors are
 5601 subject to removal at will by the officers who appointed them.
 5602 All board members, including the chair, must be appointed to
 5603 serve for 3-year terms beginning annually on a date designated by
 5604 the plan. Any board vacancy shall be filled for the unexpired
 5605 term by the appointing officer. The Chief Financial Officer shall
 5606 appoint a technical advisory group to provide information and
 5607 advice to the board of governors in connection with the board's
 5608 duties under this subsection. The executive director and senior
 5609 managers of the corporation shall be engaged by the board and
 5610 serve at the pleasure of the board. Any executive director
 5611 appointed on or after July 1, 2006, is subject to confirmation by
 5612 the Senate. The executive director is responsible for employing
 5613 other staff as the corporation may require, subject to review and
 5614 concurrence by the board.

5615 b. The board shall create a Market Accountability Advisory
 5616 Committee to assist the corporation in developing awareness of
 5617 its rates and its customer and agent service levels in
 5618 relationship to the voluntary market insurers writing similar
 5619 coverage. The members of the advisory committee shall consist of
 5620 the following 11 persons, one of whom must be elected chair by
 5621 the members of the committee: four representatives, one appointed
 5622 by the Florida Association of Insurance Agents, one by the
 5623 Florida Association of Insurance and Financial Advisors, one by
 5624 the Professional Insurance Agents of Florida, and one by the
 5625 Latin American Association of Insurance Agencies; three
 5626 representatives appointed by the insurers with the three highest

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5627 voluntary market share of residential property insurance business
5628 in the state; one representative from the Office of Insurance
5629 Regulation; one consumer appointed by the board who is insured by
5630 the corporation at the time of appointment to the committee; one
5631 representative appointed by the Florida Association of Realtors;
5632 and one representative appointed by the Florida Bankers
5633 Association. All members must serve for 3-year terms and may
5634 serve for consecutive terms. The committee shall report to the
5635 corporation at each board meeting on insurance market issues
5636 which may include rates and rate competition with the voluntary
5637 market; service, including policy issuance, claims processing,
5638 and general responsiveness to policyholders, applicants, and
5639 agents; and matters relating to depopulation.

5640 5. Must provide a procedure for determining the eligibility
5641 of a risk for coverage, as follows:

5642 a. Subject to the provisions of s. 627.3517, with respect
5643 to personal lines residential risks, if the risk is offered
5644 coverage from an authorized insurer at the insurer's approved
5645 rate under either a standard policy including wind coverage or,
5646 if consistent with the insurer's underwriting rules as filed with
5647 the office, a basic policy including wind coverage, for a new
5648 application to the corporation for coverage, the risk is not
5649 eligible for any policy issued by the corporation unless the
5650 premium for coverage from the authorized insurer is more than 25
5651 percent greater than the premium for comparable coverage from the
5652 corporation. If the risk is not able to obtain any such offer,
5653 the risk is eligible for either a standard policy including wind
5654 coverage or a basic policy including wind coverage issued by the
5655 corporation; however, if the risk could not be insured under a

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5656 standard policy including wind coverage regardless of market
 5657 conditions, the risk shall be eligible for a basic policy
 5658 including wind coverage unless rejected under subparagraph 9. ~~8-~~
 5659 However, with regard to a policyholder of the corporation, the
 5660 policyholder remains eligible for coverage from the corporation
 5661 regardless of any offer of coverage from an authorized insurer or
 5662 surplus lines insurer. The corporation shall determine the type
 5663 of policy to be provided on the basis of objective standards
 5664 specified in the underwriting manual and based on generally
 5665 accepted underwriting practices.

5666 (I) If the risk accepts an offer of coverage through the
 5667 market assistance plan or an offer of coverage through a
 5668 mechanism established by the corporation before a policy is
 5669 issued to the risk by the corporation or during the first 30 days
 5670 of coverage by the corporation, and the producing agent who
 5671 submitted the application to the plan or to the corporation is
 5672 not currently appointed by the insurer, the insurer shall:

5673 (A) Pay to the producing agent of record of the policy, for
 5674 the first year, an amount that is the greater of the insurer's
 5675 usual and customary commission for the type of policy written or
 5676 a fee equal to the usual and customary commission of the
 5677 corporation; or

5678 (B) Offer to allow the producing agent of record of the
 5679 policy to continue servicing the policy for a period of not less
 5680 than 1 year and offer to pay the agent the greater of the
 5681 insurer's or the corporation's usual and customary commission for
 5682 the type of policy written.

5683

5684 If the producing agent is unwilling or unable to accept

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5685 | appointment, the new insurer shall pay the agent in accordance
 5686 | with sub-sub-sub-subparagraph (A).

5687 | (II) When the corporation enters into a contractual
 5688 | agreement for a take-out plan, the producing agent of record of
 5689 | the corporation policy is entitled to retain any unearned
 5690 | commission on the policy, and the insurer shall:

5691 | (A) Pay to the producing agent of record of the corporation
 5692 | policy, for the first year, an amount that is the greater of the
 5693 | insurer's usual and customary commission for the type of policy
 5694 | written or a fee equal to the usual and customary commission of
 5695 | the corporation; or

5696 | (B) Offer to allow the producing agent of record of the
 5697 | corporation policy to continue servicing the policy for a period
 5698 | of not less than 1 year and offer to pay the agent the greater of
 5699 | the insurer's or the corporation's usual and customary commission
 5700 | for the type of policy written.

5701 |
 5702 | If the producing agent is unwilling or unable to accept
 5703 | appointment, the new insurer shall pay the agent in accordance
 5704 | with sub-sub-sub-subparagraph (A).

5705 | b. With respect to commercial lines residential risks, for
 5706 | a new application to the corporation for coverage, if the risk is
 5707 | offered coverage under a policy including wind coverage from an
 5708 | authorized insurer at its approved rate, the risk is not eligible
 5709 | for any policy issued by the corporation unless the premium for
 5710 | coverage from the authorized insurer is more than 25 percent
 5711 | greater than the premium for comparable coverage from the
 5712 | corporation. If the risk is not able to obtain any such offer,
 5713 | the risk is eligible for a policy including wind coverage issued

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5714 by the corporation. However, with regard to a policyholder of the
 5715 corporation, the policyholder remains eligible for coverage from
 5716 the corporation regardless of any offer of coverage from an
 5717 authorized insurer or surplus lines insurer.

5718 (I) If the risk accepts an offer of coverage through the
 5719 market assistance plan or an offer of coverage through a
 5720 mechanism established by the corporation before a policy is
 5721 issued to the risk by the corporation or during the first 30 days
 5722 of coverage by the corporation, and the producing agent who
 5723 submitted the application to the plan or the corporation is not
 5724 currently appointed by the insurer, the insurer shall:

5725 (A) Pay to the producing agent of record of the policy, for
 5726 the first year, an amount that is the greater of the insurer's
 5727 usual and customary commission for the type of policy written or
 5728 a fee equal to the usual and customary commission of the
 5729 corporation; or

5730 (B) Offer to allow the producing agent of record of the
 5731 policy to continue servicing the policy for a period of not less
 5732 than 1 year and offer to pay the agent the greater of the
 5733 insurer's or the corporation's usual and customary commission for
 5734 the type of policy written.

5735
 5736 If the producing agent is unwilling or unable to accept
 5737 appointment, the new insurer shall pay the agent in accordance
 5738 with sub-sub-sub-subparagraph (A).

5739 (II) When the corporation enters into a contractual
 5740 agreement for a take-out plan, the producing agent of record of
 5741 the corporation policy is entitled to retain any unearned
 5742 commission on the policy, and the insurer shall:

5743 (A) Pay to the producing agent of record of the corporation
 5744 policy, for the first year, an amount that is the greater of the
 5745 insurer's usual and customary commission for the type of policy
 5746 written or a fee equal to the usual and customary commission of
 5747 the corporation; or

5748 (B) Offer to allow the producing agent of record of the
 5749 corporation policy to continue servicing the policy for a period
 5750 of not less than 1 year and offer to pay the agent the greater of
 5751 the insurer's or the corporation's usual and customary commission
 5752 for the type of policy written.

5753
 5754 If the producing agent is unwilling or unable to accept
 5755 appointment, the new insurer shall pay the agent in accordance
 5756 with sub-sub-sub-subparagraph (A).

5757 6. Must provide by July 1, 2007, that an application for
 5758 coverage for a new policy is subject to a waiting period of 10
 5759 days before coverage is effective, during which time the
 5760 corporation shall make such application available for review by
 5761 general lines agents and authorized property and casualty
 5762 insurers. The board shall approve an exception that allows for
 5763 coverage to be effective before the end of the 10-day waiting
 5764 period, for coverage issued in conjunction with a real estate
 5765 closing. The board may approve such other exceptions as the board
 5766 determines are necessary to prevent lapses in coverage.

5767 7. Must include rules for classifications of risks and
 5768 rates therefor.

5769 8. Must provide that if premium and investment income for
 5770 an account attributable to a particular calendar year are in
 5771 excess of projected losses and expenses for the account

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5772 attributable to that year, such excess shall be held in surplus
5773 in the account. Such surplus shall be available to defray
5774 deficits in that account as to future years and shall be used for
5775 that purpose prior to assessing assessable insurers and
5776 assessable insureds as to any calendar year.

5777 9. Must provide objective criteria and procedures to be
5778 uniformly applied for all applicants in determining whether an
5779 individual risk is so hazardous as to be uninsurable. In making
5780 this determination and in establishing the criteria and
5781 procedures, the following shall be considered:

5782 a. Whether the likelihood of a loss for the individual risk
5783 is substantially higher than for other risks of the same class;
5784 and

5785 b. Whether the uncertainty associated with the individual
5786 risk is such that an appropriate premium cannot be determined.

5787
5788 The acceptance or rejection of a risk by the corporation shall be
5789 construed as the private placement of insurance, and the
5790 provisions of chapter 120 shall not apply.

5791 10. Must provide that the corporation shall make its best
5792 efforts to procure catastrophe reinsurance at reasonable rates,
5793 to cover its projected 100-year probable maximum loss as
5794 determined by the board of governors.

5795 11. Must provide that in the event of regular deficit
5796 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
5797 (b)3.b., in the personal lines account, the commercial lines
5798 residential account, or the high-risk account, the corporation
5799 shall levy upon corporation policyholders in its next rate
5800 filing, or by a separate rate filing solely for this purpose, a

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5801 Citizens policyholder surcharge arising from a regular assessment
 5802 in such account in a percentage equal to the total amount of such
 5803 regular assessments divided by the aggregate statewide direct
 5804 written premium for subject lines of business for the prior
 5805 calendar year. For purposes of calculating the Citizens
 5806 policyholder surcharge to be levied under this subparagraph, the
 5807 total amount of the regular assessment to which this surcharge is
 5808 related shall be determined as set forth in subparagraph (b)3.,
 5809 without deducting the estimated Citizens policyholder surcharge.
 5810 Citizens policyholder surcharges under this subparagraph are not
 5811 considered premium and are not subject to commissions, fees, or
 5812 premium taxes; however, failure to pay a market equalization
 5813 surcharge shall be treated as failure to pay premium.

5814 12. The policies issued by the corporation must provide
 5815 that, if the corporation or the market assistance plan obtains an
 5816 offer from an authorized insurer to cover the risk at its
 5817 approved rates, the risk is no longer eligible for renewal
 5818 through the corporation, except as otherwise provided in this
 5819 subsection.

5820 13. Corporation policies and applications must include a
 5821 notice that the corporation policy could, under this section, be
 5822 replaced with a policy issued by an authorized insurer that does
 5823 not provide coverage identical to the coverage provided by the
 5824 corporation. The notice shall also specify that acceptance of
 5825 corporation coverage creates a conclusive presumption that the
 5826 applicant or policyholder is aware of this potential.

5827 14. May establish, subject to approval by the office,
 5828 different eligibility requirements and operational procedures for
 5829 any line or type of coverage for any specified county or area if

5830 the board determines that such changes to the eligibility
 5831 requirements and operational procedures are justified due to the
 5832 voluntary market being sufficiently stable and competitive in
 5833 such area or for such line or type of coverage and that consumers
 5834 who, in good faith, are unable to obtain insurance through the
 5835 voluntary market through ordinary methods would continue to have
 5836 access to coverage from the corporation. When coverage is sought
 5837 in connection with a real property transfer, such requirements
 5838 and procedures shall not provide for an effective date of
 5839 coverage later than the date of the closing of the transfer as
 5840 established by the transferor, the transferee, and, if
 5841 applicable, the lender.

5842 15. Must provide that, with respect to the high-risk
 5843 account, any assessable insurer with a surplus as to
 5844 policyholders of \$25 million or less writing 25 percent or more
 5845 of its total countrywide property insurance premiums in this
 5846 state may petition the office, within the first 90 days of each
 5847 calendar year, to qualify as a limited apportionment company. A
 5848 regular assessment levied by the corporation on a limited
 5849 apportionment company for a deficit incurred by the corporation
 5850 for the high-risk account in 2006 or thereafter may be paid to
 5851 the corporation on a monthly basis as the assessments are
 5852 collected by the limited apportionment company from its insureds
 5853 pursuant to s. 627.3512, but the regular assessment must be paid
 5854 in full within 12 months after being levied by the corporation. A
 5855 limited apportionment company shall collect from its
 5856 policyholders any emergency assessment imposed under sub-
 5857 subparagraph (b)3.d. The plan shall provide that, if the office
 5858 determines that any regular assessment will result in an

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5859 | impairment of the surplus of a limited apportionment company, the
 5860 | office may direct that all or part of such assessment be deferred
 5861 | as provided in subparagraph (p)4. ~~(g)4.~~ However, there shall be
 5862 | no limitation or deferment of an emergency assessment to be
 5863 | collected from policyholders under sub-subparagraph (b)3.d.

5864 | 16. Must provide that the corporation appoint as its
 5865 | licensed agents only those agents who also hold an appointment as
 5866 | defined in s. 626.015(3) with an insurer who at the time of the
 5867 | agent's initial appointment by the corporation is authorized to
 5868 | write and is actually writing personal lines residential property
 5869 | coverage, commercial residential property coverage, or commercial
 5870 | nonresidential property coverage within the state.

5871 | 17. Must provide, by July 1, 2007, a premium payment plan
 5872 | option to its policyholders which allows for quarterly and
 5873 | semiannual payment of premiums.

5874 | 18. Must provide, effective June 1, 2007, that the
 5875 | corporation contract with each insurer providing the non-wind
 5876 | coverage for risks insured by the corporation in the high-risk
 5877 | account, requiring that the insurer provide claims adjusting
 5878 | services for the wind coverage provided by the corporation for
 5879 | such risks. An insurer is required to enter into this contract as
 5880 | a condition of providing non-wind coverage for a risk that is
 5881 | insured by the corporation in the high-risk account unless the
 5882 | board finds, after a hearing, that the insurer is not capable of
 5883 | providing adjusting services at an acceptable level of quality to
 5884 | corporation policyholders. The terms and conditions of such
 5885 | contracts must be substantially the same as the contracts that
 5886 | the corporation executed with insurers under the "adjust-your-
 5887 | own" program in 2006, except as may be mutually agreed to by the

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5888 parties and except for such changes that the board determines are
 5889 necessary to ensure that claims are adjusted appropriately. The
 5890 corporation shall provide a process for neutral arbitration of
 5891 any dispute between the corporation and the insurer regarding the
 5892 terms of the contract. The corporation shall review and monitor
 5893 the performance of insurers under these contracts.

5894 19. Must limit coverage on mobile homes or manufactured
 5895 homes built prior to 1994 to actual cash value of the dwelling
 5896 rather than replacement costs of the dwelling.

5897 20. May provide such limits of coverage as the board
 5898 determines, consistent with the requirements of this subsection.

5899 21. May require commercial property to meet specified
 5900 hurricane mitigation construction features as a condition of
 5901 eligibility for coverage.

5902 (d)1. All prospective employees for senior management
 5903 positions, as defined by the plan of operation, are subject to
 5904 background checks as a prerequisite for employment. The office
 5905 shall conduct background checks on such prospective employees
 5906 pursuant to ss. 624.34, 624.404(3), and 628.261.

5907 2. On or before July 1 of each year, employees of the
 5908 corporation are required to sign and submit a statement attesting
 5909 that they do not have a conflict of interest, as defined in part
 5910 III of chapter 112. As a condition of employment, all prospective
 5911 employees are required to sign and submit to the corporation a
 5912 conflict-of-interest statement.

5913 3. Senior managers and members of the board of governors
 5914 are subject to the provisions of part III of chapter 112,
 5915 including, but not limited to, the code of ethics and public
 5916 disclosure and reporting of financial interests, pursuant to s.

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5917 112.3145. Senior managers and board members are also required to
 5918 file such disclosures with the Office of Insurance Regulation.
 5919 The executive director of the corporation or his or her designee
 5920 shall notify each newly appointed and existing appointed member
 5921 of the board of governors and senior managers of their duty to
 5922 comply with the reporting requirements of part III of chapter
 5923 112. At least quarterly, the executive director or his or her
 5924 designee shall submit to the Commission on Ethics a list of names
 5925 of the senior managers and members of the board of governors who
 5926 ~~that~~ are subject to the public disclosure requirements under s.
 5927 112.3145.

5928 4. Notwithstanding s. 112.3148 or s. 112.3149, or any other
 5929 provision of law, an employee or board member may not knowingly
 5930 accept, directly or indirectly, any gift or expenditure from a
 5931 person or entity, or an employee or representative of such person
 5932 or entity, that has a contractual relationship with the
 5933 corporation or who is under consideration for a contract. An
 5934 employee or board member who ~~that~~ fails to comply with this
 5935 subparagraph is subject to penalties provided under ss. 112.317
 5936 and 112.3173.

5937 5. Any senior manager of the corporation who is employed on
 5938 or after January 1, 2007, regardless of the date of hire, who
 5939 subsequently retires or terminates employment is prohibited from
 5940 representing another person or entity before the corporation for
 5941 2 years after retirement or termination of employment from the
 5942 corporation.

5943 6. Any employee of the corporation who is employed on or
 5944 after January 1, 2007, regardless of the date of hire, who
 5945 subsequently retires or terminates employment is prohibited from

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5946 | having any employment or contractual relationship for 2 years
 5947 | with an insurer that has received a take-out bonus from the
 5948 | corporation.

5949 | (n) If coverage in an account is deactivated pursuant to
 5950 | paragraph (o)~~(f)~~, coverage through the corporation shall be
 5951 | reactivated by order of the office only under one of the
 5952 | following circumstances:

5953 | 1. If the market assistance plan receives a minimum of 100
 5954 | applications for coverage within a 3-month period, or 200
 5955 | applications for coverage within a 1-year period or less for
 5956 | residential coverage, unless the market assistance plan provides
 5957 | a quotation from admitted carriers at their filed rates for at
 5958 | least 90 percent of such applicants. Any market assistance plan
 5959 | application that is rejected because an individual risk is so
 5960 | hazardous as to be uninsurable using the criteria specified in
 5961 | subparagraph (c)9. ~~(e)8.~~ shall not be included in the minimum
 5962 | percentage calculation provided herein. In the event that there
 5963 | is a legal or administrative challenge to a determination by the
 5964 | office that the conditions of this subparagraph have been met for
 5965 | eligibility for coverage in the corporation, any eligible risk
 5966 | may obtain coverage during the pendency of such challenge.

5967 | 2. In response to a state of emergency declared by the
 5968 | Governor under s. 252.36, the office may activate coverage by
 5969 | order for the period of the emergency upon a finding by the
 5970 | office that the emergency significantly affects the availability
 5971 | of residential property insurance.

5972 | (v) Notwithstanding any other provision of law:

5973 | 1. The pledge or sale of, the lien upon, and the security
 5974 | interest in any rights, revenues, or other assets of the

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5975 corporation created or purported to be created pursuant to any
 5976 financing documents to secure any bonds or other indebtedness of
 5977 the corporation shall be and remain valid and enforceable,
 5978 notwithstanding the commencement of and during the continuation
 5979 of, and after, any rehabilitation, insolvency, liquidation,
 5980 bankruptcy, receivership, conservatorship, reorganization, or
 5981 similar proceeding against the corporation under the laws of this
 5982 state.

5983 2. No such proceeding shall relieve the corporation of its
 5984 obligation, or otherwise affect its ability to perform its
 5985 obligation, to continue to collect, or levy and collect,
 5986 assessments, market equalization or other surcharges under
 5987 subparagraph (c)11. ~~(e)10.~~, or any other rights, revenues, or
 5988 other assets of the corporation pledged pursuant to any financing
 5989 documents.

5990 3. Each such pledge or sale of, lien upon, and security
 5991 interest in, including the priority of such pledge, lien, or
 5992 security interest, any such assessments, market equalization or
 5993 other surcharges, or other rights, revenues, or other assets
 5994 which are collected, or levied and collected, after the
 5995 commencement of and during the pendency of, or after, any such
 5996 proceeding shall continue unaffected by such proceeding. As used
 5997 in this subsection, the term "financing documents" means any
 5998 agreement or agreements, instrument or instruments, or other
 5999 document or documents now existing or hereafter created
 6000 evidencing any bonds or other indebtedness of the corporation or
 6001 pursuant to which any such bonds or other indebtedness has been
 6002 or may be issued and pursuant to which any rights, revenues, or
 6003 other assets of the corporation are pledged or sold to secure the

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6004 repayment of such bonds or indebtedness, together with the
 6005 payment of interest on such bonds or such indebtedness, or the
 6006 payment of any other obligation or financial product, as defined
 6007 in the plan of operation of the corporation related to such bonds
 6008 or indebtedness.

6009 4. Any such pledge or sale of assessments, revenues,
 6010 contract rights, or other rights or assets of the corporation
 6011 shall constitute a lien and security interest, or sale, as the
 6012 case may be, that is immediately effective and attaches to such
 6013 assessments, revenues, or contract rights or other rights or
 6014 assets, whether or not imposed or collected at the time the
 6015 pledge or sale is made. Any such pledge or sale is effective,
 6016 valid, binding, and enforceable against the corporation or other
 6017 entity making such pledge or sale, and valid and binding against
 6018 and superior to any competing claims or obligations owed to any
 6019 other person or entity, including policyholders in this state,
 6020 asserting rights in any such assessments, revenues, or contract
 6021 rights or other rights or assets to the extent set forth in and
 6022 in accordance with the terms of the pledge or sale contained in
 6023 the applicable financing documents, whether or not any such
 6024 person or entity has notice of such pledge or sale and without
 6025 the need for any physical delivery, recordation, filing, or other
 6026 action.

6027 5. As long as the corporation has any bonds outstanding,
 6028 the corporation may not file a voluntary petition under chapter 9
 6029 of the federal Bankruptcy Code or such corresponding chapter or
 6030 sections as may be in effect, from time to time, and a public
 6031 officer or any organization, entity, or other person may not
 6032 authorize the corporation to be or become a debtor under chapter

6033 9 of the federal Bankruptcy Code or such corresponding chapter or
 6034 sections as may be in effect, from time to time, during any such
 6035 period.

6036 6. If ordered by a court of competent jurisdiction, the
 6037 corporation may assume policies or otherwise provide coverage for
 6038 policyholders of an insurer placed in liquidation under chapter
 6039 631, under such forms, rates, terms, and conditions as the
 6040 corporation deems appropriate, subject to approval by the office.

6041
 6042 Reviser's note.--Amended to improve clarity and
 6043 facilitate correct interpretation. Section 15, ch.
 6044 2006-12, Laws of Florida, redesignated subunits within
 6045 s. 627.351(6). Subparagraph (6)(g)2. was redesignated
 6046 as subparagraph (6)(p)2. Subparagraph (6)(g)4. was
 6047 redesignated as subparagraph (6)(p)4. Subparagraph
 6048 (6)(c)8. was redesignated as subparagraph (6)(c)9.
 6049 Subparagraph (6)(c)10. was redesignated as subparagraph
 6050 (6)(c)11. Paragraph (6)(f) was redesignated as
 6051 paragraph (6)(o). Paragraph (6)(d) is also amended to
 6052 confirm the editorial substitution of the word "who"
 6053 for the word "that" to conform to context.

6054
 6055 Section 142. Subsection (1) of section 627.6617, Florida
 6056 Statutes, is amended to read:

6057 627.6617 Coverage for home health care services.--

6058 (1) Any group health insurance policy providing coverage on
 6059 an expense-incurred basis shall provide coverage for home health
 6060 care by a home health care agency licensed pursuant to part III
 6061 ~~IV~~ of chapter 400. Such coverage may be limited to home health

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6062 care under a plan of treatment prescribed by a licensed
 6063 physician. Services may be performed by a registered graduate
 6064 nurse, a licensed practical nurse, a physical therapist, a speech
 6065 therapist, an occupational therapist, or a home health aide.
 6066 Provisions for utilization review may be imposed, provided that
 6067 similar provisions apply to all other types of health care
 6068 services.

6069
 6070 Reviser's note.--Amended to conform to the
 6071 redesignation of former part III of chapter 400 as part
 6072 I of chapter 429 by s. 2, ch. 2006-197, Laws of
 6073 Florida, and the redesignation of part IV of chapter
 6074 400 as part III of chapter 400 to conform.

6075
 6076 Section 143. Subsections (2) and (10) of section 633.0245,
 6077 Florida Statutes, are amended to read:

6078 633.0245 State Fire Marshal Nursing Home Fire Protection
 6079 Loan Guarantee Program.--

6080 (2) The State Fire Marshal may enter into limited loan
 6081 guarantee agreements with one or more financial institutions
 6082 qualified as public depositories in this state. Such agreements
 6083 shall provide a limited guarantee by the State of Florida
 6084 covering no more than 50 percent of the principal sum loaned by
 6085 such financial institution to an eligible nursing home, as
 6086 defined in subsection (10), for the sole purpose of the initial
 6087 installation at such nursing home of a fire protection system, as
 6088 defined in s. 633.021(9) ~~633.021(8)~~, approved by the State Fire
 6089 Marshal as being in compliance with the provisions of s. 633.022
 6090 and rules adopted thereunder.

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6091 (10) For purposes of this section, "eligible nursing home"
 6092 means a nursing home facility that provides nursing services as
 6093 defined in chapter 464, is licensed under part II of chapter 400,
 6094 and is certified by the Agency for Health Care Administration to
 6095 lack an installed fire protection system as defined in s.
 6096 633.021(9) ~~633.021(8)~~.

6097
 6098 Reviser's note.--Amended to conform to the addition of
 6099 a new s. 633.021(8) and the redesignation of following
 6100 subunits by s. 8, ch. 2006-65, Laws of Florida.

6101
 6102 Section 144. Paragraph (d) of subsection (2) and subsection
 6103 (3) of section 679.4031, Florida Statutes, are amended to read:
 6104 679.4031 Agreement not to assert defenses against
 6105 assignee.--

6106 (2) Except as otherwise provided in this section, an
 6107 agreement between an account debtor and an assignor not to assert
 6108 against an assignee any claim or defense that the account debtor
 6109 may have against the assignor is enforceable by an assignee that
 6110 takes an assignment:

6111 (d) Without notice of a defense or claim in recoupment of
 6112 the type that may be asserted against a person entitled to
 6113 enforce a negotiable instrument under s. 673.3051(1) ~~673.3031(1)~~.

6114 (3) Subsection (2) does not apply to defenses of a type
 6115 that may be asserted against a holder in due course of a
 6116 negotiable instrument under s. 673.3051(2) ~~673.3031(2)~~.

6117
 6118 Reviser's note.--Amended to conform to context. Section
 6119 673.3031 relates to value and consideration; s.

6120 673.3051 relates to defenses and claims in recoupment.

6121

6122 Section 145. Paragraph (b) of subsection (3) of section
6123 679.707, Florida Statutes, is amended to read:

6124 679.707 Amendment or pre-effective date financing
6125 statement.--

6126 (3) Except as otherwise provided in subsection (4), if the
6127 law of this state governs perfection of a security interest, the
6128 information in a pre-effective date financing statement may be
6129 amended after this act takes effect only if:

6130 (b) An amendment is filed in the office specified in s.
6131 679.5011 concurrently with, or after the filing in that office
6132 of, an initial financing statement that satisfies s. 679.706(3)
6133 ~~671.706(3)~~; or

6134

6135 Reviser's note.--Amended to correct an erroneous
6136 reference. Section 671.706 does not exist; s.
6137 679.706(3) relates to initial financing statements.

6138

6139 Section 146. Paragraph (b) of subsection (6) of section
6140 727.109, Florida Statutes, is amended to read:

6141 727.109 Power of the court.--The court shall have power to:

6142 (6) Hear and determine any of the following actions brought
6143 by the assignee, which she or he is hereby empowered to maintain:

6144 (b) Determine the validity, priority, and extent of a lien
6145 or other interests in assets of the estate, or to subordinate or
6146 avoid an unperfected security interest pursuant to the assignee's
6147 rights as a lien creditor under s. 679.3171 ~~679.301~~;

6148

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6149 Reviser's note.--Amended to conform to the repeal of s.
 6150 679.301 and the enactment of similar provisions in s.
 6151 679.3171 by s. 3, ch. 2001-198, Laws of Florida.

6152
 6153 Section 147. Effective July 1, 2007, paragraph (g) of
 6154 subsection (2) of section 736.1001, Florida Statutes, is amended
 6155 to read:

6156 736.1001 Remedies for breach of trust.--

6157 (2) To remedy a breach of trust that has occurred or may
 6158 occur, the court may:

6159 (g) Remove the trustee as provided in s. 736.0706 ~~736.706~~;

6160
 6161 Reviser's note.--Amended to correct an erroneous
 6162 reference. Section 736.706 does not exist; s. 736.0706
 6163 relates to removal of the trustee.

6164
 6165 Section 148. Effective July 1, 2007, section 736.1209,
 6166 Florida Statutes, is amended to read:

6167 736.1209 Election to come under this part.--With the
 6168 consent of that organization or organizations, a trustee of a
 6169 trust for the benefit of a public charitable organization or
 6170 organizations may come under s. 736.1208(5) ~~736.0838(5)~~ by filing
 6171 with the state attorney an election, accompanied by the proof of
 6172 required consent. Thereafter the trust shall be subject to s.
 6173 736.1208(5).

6174
 6175 Reviser's note.--Amended to correct an erroneous
 6176 reference. Section 736.0838 does not exist; s.
 6177 736.1208(5) relates to release of a power to specify a

6178 specific donee by specifying a public charitable
 6179 organization or organizations.

6180
 6181 Section 149. Subsection (3) of section 743.09, Florida
 6182 Statutes, is amended to read:

6183 743.09 Removal of disabilities of minors; artistic or
 6184 creative services; professional sports contracts; procedure for
 6185 court approval; appointment of a guardian ad litem.--

6186 (3) At any time after the filing of the petition, the
 6187 court, if it deems it advisable, may appoint a guardian ad litem,
 6188 pursuant to s. 744.3025 ~~744.301~~, to represent the interests of
 6189 the minor. The court shall appoint a guardian ad litem as to any
 6190 contract where the parent or guardian will receive remuneration
 6191 or financial gain from the performance of the contract or has any
 6192 other conflict of interest with the minor as defined by s.
 6193 744.446. The court, in determining whether a guardian ad litem
 6194 should be appointed, may consider the following criteria:

6195 (a) The length of time the exclusive services of the minor
 6196 are required.

6197 (b) Whether the gross earnings of the minor under the
 6198 contract are either contingent or unknown.

6199 (c) Whether the gross earnings of the minor under the
 6200 contract are in excess of \$15,000.

6201
 6202 Reviser's note.--Amended to correct an erroneous
 6203 reference. Section 744.301(4), relating to appointment
 6204 of guardians ad litem, was repealed by s. 3, ch. 2006-
 6205 178, Laws of Florida, and s. 4 of that law created s.
 6206 744.3025, providing for appointment of guardians ad

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litem.

Section 150. Paragraph (a) of subsection (4) and paragraph (b) of subsection (10) of section 775.21, Florida Statutes, are amended to read:

775.21 The Florida Sexual Predators Act.--

(4) SEXUAL PREDATOR CRITERIA.--

(a) For a current offense committed on or after October 1, 1993, upon conviction, an offender shall be designated as a "sexual predator" under subsection (5), and subject to registration under subsection (6) and community and public notification under subsection (7) if:

1. The felony is:
 - a. A capital, life, or first-degree felony violation, or any attempt thereof, of s. 787.01 or s. 787.02, where the victim is a minor and the defendant is not the victim's parent, or of chapter 794, s. 800.04, or s. 847.0145, or a violation of a similar law of another jurisdiction; or
 - b. Any felony violation, or any attempt thereof, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent; chapter 794, excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 796.035; s. 800.04; s. 825.1025(2)(b); s. 827.071; s. 847.0145; or s. 985.701(1) ~~985.4045(1)~~; or a violation of a similar law of another jurisdiction, and the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent;

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6236 s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s. 796.03; s.
 6237 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s.
 6238 847.0135; s. 847.0145; or s. 985.701(1) ~~985.4045(1)~~; or a
 6239 violation of a similar law of another jurisdiction;

6240 2. The offender has not received a pardon for any felony or
 6241 similar law of another jurisdiction that is necessary for the
 6242 operation of this paragraph; and

6243 3. A conviction of a felony or similar law of another
 6244 jurisdiction necessary to the operation of this paragraph has not
 6245 been set aside in any postconviction proceeding.

6246 (10) PENALTIES.--

6247 (b) A sexual predator who has been convicted of or found to
 6248 have committed, or has pled nolo contendere or guilty to,
 6249 regardless of adjudication, any violation, or attempted
 6250 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
 6251 the victim is a minor and the defendant is not the victim's
 6252 parent; s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s.
 6253 796.03; s. 796.035; s. 800.04; s. 827.071; s. 847.0133; s.
 6254 847.0145; or s. 985.701(1) ~~985.4045(1)~~; or a violation of a
 6255 similar law of another jurisdiction when the victim of the
 6256 offense was a minor, and who works, whether for compensation or
 6257 as a volunteer, at any business, school, day care center, park,
 6258 playground, or other place where children regularly congregate,
 6259 commits a felony of the third degree, punishable as provided in
 6260 s. 775.082, s. 775.083, or s. 775.084.

6261

6262 Reviser's note.--Amended to conform to the
 6263 redesignation of s. 985.4045 as s. 985.701 by s. 98,
 6264 ch. 2006-120, Laws of Florida; the references to s.

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6265 985.4045(1) were added to s. 775.21 by s. 1, ch. 2006-
 6266 200, Laws of Florida.

6267
 6268 Section 151. Subsection (1) of section 794.056, Florida
 6269 Statutes, is amended to read:

6270 794.056 Rape Crisis Program Trust Fund.--

6271 (1) The Rape Crisis Program Trust Fund is created within
 6272 the Department of Health for the purpose of providing funds for
 6273 rape crisis centers in this state. Trust fund moneys shall be
 6274 used exclusively for the purpose of providing services for
 6275 victims of sexual assault. Funds credited to the trust fund
 6276 consist of those funds collected as an additional court
 6277 assessment in each case in which a defendant pleads guilty or
 6278 nolo contendere to, or is found guilty of, regardless of
 6279 adjudication, an offense defined in s. 784.011, s. 784.021, s.
 6280 784.03, s. 784.041, s. 784.045, s. 784.048, s. 784.07, s. 784.08,
 6281 s. 784.081, s. 784.082, s. 784.083, s. 784.085 ~~785.085~~, or s.
 6282 794.011. Funds credited to the trust fund also shall include
 6283 revenues provided by law, moneys appropriated by the Legislature,
 6284 and grants from public or private entities.

6285
 6286 Reviser's note.--Amended to correct an erroneous
 6287 reference. Section 785.085 does not exist; s. 784.085
 6288 provides for the offense of battery of a child by
 6289 throwing, tossing, projecting, or expelling certain
 6290 fluids or materials.

6291
 6292 Section 152. Section 817.36, Florida Statutes, is amended
 6293 to read:

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6294 817.36 Resale of tickets.--Whoever shall offer for resale
 6295 or resell any ticket may only charge \$1 above the admission price
 6296 charged therefor by ~~of~~ the original ticket seller of said ticket
 6297 for the following transactions:

6298 (1) Passage or accommodations on any common carrier in this
 6299 state; however, the provisions of this subsection shall not apply
 6300 to travel agencies that have an established place of business in
 6301 this state, which place of business is required to pay state,
 6302 county, and city occupational license taxes.

6303 (2) Multiday or multievent tickets to a park or
 6304 entertainment complex or to a concert, entertainment event,
 6305 permanent exhibition, or recreational activity within such a park
 6306 or complex, including an entertainment/resort complex as defined
 6307 in s. 561.01(18).

6308 (3) Any tickets, other than the tickets in subsections (1)
 6309 and (2), that are resold or offered through an Internet website,
 6310 unless such website is authorized by the original ticket seller
 6311 or makes and posts the following guarantees and disclosures
 6312 through Internet web pages on which are visibly posted, or links
 6313 to web pages on which are posted, text to which a prospective
 6314 purchaser is directed before completion of the resale
 6315 transaction:

6316 (a) The website operator guarantees a full refund of the
 6317 amount paid for the ticket including any servicing, handling, or
 6318 processing fees, if such fees are not disclosed, when:

- 6319 1. The ticketed event is canceled;
- 6320 2. The purchaser is denied admission to the ticketed event,
 6321 unless such denial is due to the action or omission of the
 6322 purchaser;

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6323 | 3. The ticket is not delivered to the purchaser in the
6324 | manner requested and pursuant to any delivery guarantees made by
6325 | the reseller and such failure results in the purchaser's
6326 | inability to attend the ticketed event.

6327 | (b) The website operator discloses that it is not the
6328 | issuer, original seller, or reseller of the ticket or items and
6329 | does not control the pricing of the ticket or items, which may be
6330 | resold for more than their original value.

6331 | (4) Nothing in this section authorizes any individual or
6332 | entity to sell or purchase tickets at any price on property where
6333 | an event is being held without the prior express written consent
6334 | of the owner of the property.

6335 | (5) Any sales tax due for resales under this section shall
6336 | be remitted to the Department of Revenue in accordance with s.
6337 | 212.04.

6338 |
6339 | Reviser's note.--Amended to confirm the editorial
6340 | substitution of the word "by" for the word "of" to
6341 | improve clarity.

6342 |
6343 | Section 153. Subsection (6) of section 827.06, Florida
6344 | Statutes, is amended to read:

6345 | 827.06 Nonsupport of dependents.--

6346 | (6) It is the intent of the Legislature for the state
6347 | attorneys, the Florida Prosecuting Attorneys Association, and the
6348 | Department of Revenue to work collaboratively to identify
6349 | strategies that allow the criminal penalties provided for in this
6350 | section to be pursued in all appropriate cases, including, but
6351 | not limited to, strategies that would assist the state attorneys

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6352 in obtaining additional resources from available federal Title
 6353 IV-D funds to initiate prosecution pursuant to this section. ~~The~~
 6354 ~~Florida Prosecuting Attorneys Association and the Department of~~
 6355 ~~Revenue shall submit a joint report to the Governor, the~~
 6356 ~~President of the Senate, and the Speaker of the House of~~
 6357 ~~Representatives by December 31, 2005, that includes identified~~
 6358 ~~strategies and recommendations for implementing such strategies.~~

6360 Reviser's note.--Amended to delete a provision that has
 6361 served its purpose.

6363 Section 154. Paragraph (d) of subsection (2) of section
 6364 847.001, Florida Statutes, is amended to read:

6365 847.001 Definitions.--As used in this chapter, the term:

6366 (2) "Adult entertainment establishment" means the following
 6367 terms as defined:

6368 (d) "Unlicensed massage establishment" means any business
 6369 or enterprise that offers, sells, or provides, or that holds
 6370 itself out as offering, selling, or providing, massages that
 6371 include bathing, physical massage, rubbing, kneading, anointing,
 6372 stroking, manipulating, or other tactile stimulation of the human
 6373 body by either male or female employees or attendants, by hand or
 6374 by any electrical or mechanical device, on or off the premises.
 6375 The term "unlicensed massage establishment" does not include an
 6376 establishment licensed under s. 480.043 ~~480.43~~ which routinely
 6377 provides medical services by state-licensed health care
 6378 practitioners and massage therapists licensed under s. 480.041.

6380 Reviser's note.--Amended to correct an erroneous

6381 reference. Section 480.43 does not exist; s. 480.043
 6382 relates to licensure of massage establishments.
 6383
 6384 Section 155. Subsection (1) of section 849.09, Florida
 6385 Statutes, is amended to read:
 6386 849.09 Lottery prohibited; exceptions.--
 6387 (1) It is unlawful for any person in this state to:
 6388 (a) Set up, promote, or conduct any lottery for money or
 6389 for anything of value;
 6390 (b) Dispose of any money or other property of any kind
 6391 whatsoever by means of any lottery;
 6392 (c) Conduct any lottery drawing for the distribution of a
 6393 prize or prizes by lot or chance, or advertise any such lottery
 6394 scheme or device in any newspaper or by circulars, posters,
 6395 pamphlets, radio, telegraph, telephone, or otherwise;
 6396 (d) Aid or assist in the setting up, promoting, or
 6397 conducting of any lottery or lottery drawing, whether by writing,
 6398 printing, or in any other manner whatsoever, or be interested in
 6399 or connected in any way with any lottery or lottery drawing;
 6400 (e) Attempt to operate, conduct, or advertise any lottery
 6401 scheme or device;
 6402 (f) Have in her or his possession any lottery wheel,
 6403 implement, or device whatsoever for conducting any lottery or
 6404 scheme for the disposal by lot or chance of anything of value;
 6405 (g) Sell, offer for sale, or transmit, in person or by mail
 6406 or in any other manner whatsoever, any lottery ticket, coupon, or
 6407 share, or any share in or fractional part of any lottery ticket,
 6408 coupon, or share, whether such ticket, coupon, or share
 6409 represents an interest in a live lottery not yet played or

6410 whether it represents, or has represented, an interest in a
 6411 lottery that has already been played;

6412 (h) Have in her or his possession any lottery ticket, or
 6413 any evidence of any share or right in any lottery ticket, or in
 6414 any lottery scheme or device, whether such ticket or evidence of
 6415 share or right represents an interest in a live lottery not yet
 6416 played or whether it represents, or has represented, an interest
 6417 in a lottery that has already been played;

6418 (i) Aid or assist in the sale, disposal, or procurement of
 6419 any lottery ticket, coupon, or share, or any right to any drawing
 6420 in a lottery; ~~or~~

6421 (j) Have in her or his possession any lottery
 6422 advertisement, circular, poster, or pamphlet, or any list or
 6423 schedule of any lottery prizes, gifts, or drawings; or-

6424 (k) Have in her or his possession any so-called "run down
 6425 sheets," tally sheets, or other papers, records, instruments, or
 6426 paraphernalia designed for use, either directly or indirectly,
 6427 in, or in connection with, the violation of the laws of this
 6428 state prohibiting lotteries and gambling.

6429
 6430 Provided, that nothing in this section shall prohibit
 6431 participation in any nationally advertised contest, drawing, game
 6432 or puzzle of skill or chance for a prize or prizes unless it can
 6433 be construed as a lottery under this section; and, provided
 6434 further, that this exemption for national contests shall not
 6435 apply to any such contest based upon the outcome or results of
 6436 any horserace, harness race, dograce, or jai alai game.

6437
 6438 Reviser's note.--Amended to conform to standard style

6439 relating to listing of elements in a series.

6440

6441 Section 156. Subsection (2) of section 849.15, Florida
6442 Statutes, is amended to read:

6443 849.15 Manufacture, sale, possession, etc., of coin-
6444 operated devices prohibited.--

6445 (2) Pursuant to section 2 of that chapter of the Congress
6446 of the United States entitled "An act to prohibit transportation
6447 of gaming devices in interstate and foreign commerce," approved
6448 January 2, 1951, being ch. 1194, 64 Stat. 1134, and also
6449 designated as 15 U.S.C. ss. 1171-1177, the State of Florida,
6450 acting by and through the duly elected and qualified members of
6451 its Legislature, does hereby in this section, and in accordance
6452 with and in compliance with the provisions of section 2 of such
6453 chapter of Congress, declare and proclaim that any county of the
6454 State of Florida within which slot machine gaming is authorized
6455 pursuant to chapter 551 is exempt from the provisions of section
6456 2 of that chapter of the Congress of the United States entitled
6457 "An act to prohibit transportation of gaming devices in
6458 interstate and foreign commerce," designated as 15 U.S.C. ss.
6459 1171-1177, approved January 2, 1951. All shipments of gaming
6460 devices, including slot machines, into any county of this state
6461 within which slot machine gaming is authorized pursuant to
6462 chapter 551 and the registering, recording, and labeling of which
6463 have been duly performed by the manufacturer or distributor
6464 thereof in accordance with sections 3 and 4 of that chapter of
6465 the Congress of the United States entitled "An act to prohibit
6466 transportation of gaming devices in interstate and foreign
6467 commerce," approved January 2, 1951, being ch. 1194, 64 Stat.

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6468 | 1134, and also designated as 15 U.S.C. ss. 1171-1177, shall be
 6469 | deemed legal shipments thereof into any such county provided the
 6470 | destination of such shipments is an eligible facility as defined
 6471 | in s. 551.102.

6472 |
 6473 | Reviser's note.--Amended to confirm the editorial
 6474 | insertion of the word "in" following the word "defined"
 6475 | to improve clarity.

6476 |
 6477 | Section 157. Paragraph (c) of subsection (3) of section
 6478 | 921.0022, Florida Statutes, is amended to read:

6479 | 921.0022 Criminal Punishment Code; offense severity ranking
 6480 | chart.--

6481 | (3) OFFENSE SEVERITY RANKING CHART

Florida	Felony	
Statute	Degree	Description
		(c) LEVEL 3
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
316.066(6) (b) - (d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in

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6488	319.30 (4)	3rd	patrol vehicle with siren and lights activated. Possession by junkyard of motor vehicle with identification number plate removed.
6489	319.33 (1) (a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
6490	319.33 (1) (c)	3rd	Procure or pass title on stolen vehicle.
6491	319.33 (4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
6492	327.35 (2) (b)	3rd	Felony BUI.
6493	328.05 (2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
6494	328.07 (4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
6495	370.12 (1) (e) 5.	3rd	Taking, disturbing, mutilating, destroying, causing to be

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			destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
6496	370.12 (1) (e) 6.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
6497	376.302 (5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
6498	400.903 (3)	3rd	Operating a clinic without a license or filing false license application or other required information.
6499	440.105 (3) (b)	3rd	Receipt of fee or consideration without approval by judge of compensation claims.
6500	440.1051 (3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
6501			

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	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
6502	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
6503	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
6504	626.902 (1) (a) & (b)	3rd	Representing an unauthorized insurer.
6505	697.08	3rd	Equity skimming.
6506	790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.
6507	796.05 (1)	3rd	Live on earnings of a prostitute.
6508	806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
6509	806.10 (2)	3rd	Interferes with or assaults firefighter in performance of duty.

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6510	810.09 (2) (c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
6511	812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
6512	812.0145 (2) (c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
6513	815.04 (4) (b)	2nd	Computer offense devised to defraud or obtain property.
6514	817.034 (4) (a) 3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
6515	817.233	3rd	Burning to defraud insurer.
6516	817.234 (8) (b) - (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
6517	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
6518	817.236	3rd	Filing a false motor vehicle insurance application.

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6519	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
6520	817.413 (2)	3rd	Sale of used goods as new.
6521	817.505 (4)	3rd	Patient brokering.
6522	828.12 (2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
6523	831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
6524	831.29	2nd	Possession of instruments for counterfeiting drivers' licenses or identification cards.
6525	838.021 (3) (b)	3rd	Threatens unlawful harm to public servant.
6526	843.19	3rd	Injure, disable, or kill police dog or horse.
6527	860.15 (3)	3rd	Overcharging for repairs and

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			parts.
6528	870.01 (2)	3rd	Riot; inciting or encouraging.
6529	893.13 (1) (a) 2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03 (1) (c), (2) (c)1., (2) (c)2., (2) (c)3., (2) (c)5., (2) (c)6., (2) (c)7., (2) (c)8., (2) (c)9., (3), or (4) drugs).
6530	893.13 (1) (d) 2.	2nd	Sell, manufacture, or deliver s. 893.03 (1) (c), (2) (c)1., (2) (c)2., (2) (c)3., (2) (c)5., (2) (c)6., (2) (c)7., (2) (c)8., (2) (c)9., (3), or (4) drugs within 1,000 feet of university.
6531	893.13 (1) (f) 2.	2nd	Sell, manufacture, or deliver s. 893.03 (1) (c), (2) (c)1., (2) (c)2., (2) (c)3., (2) (c)5., (2) (c)6., (2) (c)7., (2) (c)8., (2) (c)9., (3), or (4) drugs within 1,000 feet of public housing facility.
6532	893.13 (6) (a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
6533	893.13 (7) (a) 8.	3rd	Withhold information from

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6534	893.13 (7) (a) 9.	3rd	practitioner regarding previous receipt of or prescription for a controlled substance.
6535	893.13 (7) (a) 10.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
6536	893.13 (7) (a) 11.	3rd	Affix false or forged label to package of controlled substance.
6537	893.13 (8) (a) 1.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
6538	893.13 (8) (a) 2.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
			Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.

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6539	893.13 (8) (a) 3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
6540	893.13 (8) (a) 4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
6541	918.13 (1) (a)	3rd	Alter, destroy, or conceal investigation evidence.
6542	944.47 (1) (a) 1.-2.	3rd	Introduce contraband to correctional facility.
6543	944.47 (1) (c)	2nd	Possess contraband while upon the grounds of a correctional institution.
6544	985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
6545			
6546			Reviser's note.--Amended to delete a reference to a
6547			nonfelony violation. Offenses under s. 440.105(3) are
6548			first degree misdemeanors, not felonies.

6549
 6550 Section 158. Subsection (2) of section 933.07, Florida
 6551 Statutes, is amended to read:
 6552 933.07 Issuance of search warrants.--
 6553 (2) Notwithstanding any other provisions of this chapter,
 6554 the Department of Agriculture and Consumer Services, based on
 6555 grounds specified in s. 933.02(4)(d) ~~933.02(4)(d) or (e)~~, may
 6556 obtain a search warrant authorized by this chapter for an area in
 6557 size up to and including the full extent of the county in which
 6558 the search warrant is issued. The judge issuing such search
 6559 warrant shall conduct a court proceeding prior to the issuance of
 6560 such search warrant upon reasonable notice and shall receive,
 6561 hear, and determine any objections by property owners to the
 6562 issuance of such search warrant. Such search warrant may be
 6563 served by employees or authorized contractors of the Department
 6564 of Agriculture and Consumer Services. Such search warrant may be
 6565 made returnable at any time up to 6 months from the date of
 6566 issuance.

6567
 6568 Reviser's note.--Amended to conform to the repeal of s.
 6569 933.02(4)(e) by s. 7, ch. 2006-45, Laws of Florida.

6570
 6571 Section 159. Paragraph (a) of subsection (1) of section
 6572 943.0435, Florida Statutes, is amended to read:
 6573 943.0435 Sexual offenders required to register with the
 6574 department; penalty.--
 6575 (1) As used in this section, the term:
 6576 (a) "Sexual offender" means a person who meets the criteria
 6577 in subparagraph 1., subparagraph 2., or subparagraph 3., as

6578 follows:

6579 1.a. Has been convicted of committing, or attempting,
 6580 soliciting, or conspiring to commit, any of the criminal offenses
 6581 proscribed in the following statutes in this state or similar
 6582 offenses in another jurisdiction: s. 787.01, s. 787.02, or s.
 6583 787.025(2)(c), where the victim is a minor and the defendant is
 6584 not the victim's parent; chapter 794, excluding ss. 794.011(10)
 6585 and 794.0235; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s.
 6586 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s.
 6587 847.0145; or s. 985.701(1) ~~985.4045(1)~~; or any similar offense
 6588 committed in this state which has been redesignated from a former
 6589 statute number to one of those listed in this sub-subparagraph;
 6590 and

6591 b. Has been released on or after October 1, 1997, from the
 6592 sanction imposed for any conviction of an offense described in
 6593 sub-subparagraph a. For purposes of sub-subparagraph a., a
 6594 sanction imposed in this state or in any other jurisdiction
 6595 includes, but is not limited to, a fine, probation, community
 6596 control, parole, conditional release, control release, or
 6597 incarceration in a state prison, federal prison, private
 6598 correctional facility, or local detention facility;

6599 2. Establishes or maintains a residence in this state and
 6600 who has not been designated as a sexual predator by a court of
 6601 this state but who has been designated as a sexual predator, as a
 6602 sexually violent predator, or by another sexual offender
 6603 designation in another state or jurisdiction and was, as a result
 6604 of such designation, subjected to registration or community or
 6605 public notification, or both, or would be if the person were a
 6606 resident of that state or jurisdiction, without regard to whether

6607 the person otherwise meets the criteria for registration as a
 6608 sexual offender; or
 6609 3. Establishes or maintains a residence in this state who
 6610 is in the custody or control of, or under the supervision of, any
 6611 other state or jurisdiction as a result of a conviction for
 6612 committing, or attempting, soliciting, or conspiring to commit,
 6613 any of the criminal offenses proscribed in the following statutes
 6614 or similar offense in another jurisdiction: s. 787.01, s. 787.02,
 6615 or s. 787.025(2)(c), where the victim is a minor and the
 6616 defendant is not the victim's parent; chapter 794, excluding ss.
 6617 794.011(10) and 794.0235; s. 796.03; s. 796.035; s. 800.04; s.
 6618 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s.
 6619 847.0138; s. 847.0145; or s. 985.701(1) ~~985.4045(1)~~; or any
 6620 similar offense committed in this state which has been
 6621 redesignated from a former statute number to one of those listed
 6622 in this subparagraph.

6623
 6624 Reviser's note.--Amended to confirm the editorial
 6625 substitution of a reference to s. 985.701(1) for a
 6626 reference to s. 985.4045(1) to conform to the
 6627 redesignation of s. 985.4045 as s. 985.701 by s. 98,
 6628 ch. 2006-120, Laws of Florida.

6629
 6630 Section 160. Paragraph (a) of subsection (1) of section
 6631 943.325, Florida Statutes, is amended to read:
 6632 943.325 Blood or other biological specimen testing for DNA
 6633 analysis.--
 6634 (1)(a) Any person who is convicted or was previously
 6635 convicted in this state for any offense or attempted offense

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6636 enumerated in paragraph (b), and any person who is transferred to
 6637 this state under Article VII of the Interstate Compact on
 6638 Juveniles, part XIII ~~V~~ of chapter 985, who has committed or
 6639 attempted to commit an offense similarly defined by the
 6640 transferring state, who is either:

- 6641 1. Still incarcerated, or
- 6642 2. No longer incarcerated, or has never been incarcerated,
 6643 yet is within the confines of the legal state boundaries and is
 6644 on probation, community control, parole, conditional release,
 6645 control release, or any other type of court-ordered supervision,
 6646

6647 shall be required to submit two specimens of blood or other
 6648 biological specimens approved by the Department of Law
 6649 Enforcement to a Department of Law Enforcement designated testing
 6650 facility as directed by the department.

6651
 6652 Reviser's note.--Amended to conform to the
 6653 redesignation of part V of chapter 985 as part XIII of
 6654 that chapter by s. 1, ch. 2006-120, Laws of Florida.

6655
 6656 Section 161. Paragraph (b) of subsection (1) of section
 6657 944.606, Florida Statutes, is amended to read:

6658 944.606 Sexual offenders; notification upon release.--

6659 (1) As used in this section:

6660 (b) "Sexual offender" means a person who has been convicted
 6661 of committing, or attempting, soliciting, or conspiring to
 6662 commit, any of the criminal offenses proscribed in the following
 6663 statutes in this state or similar offenses in another
 6664 jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where

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6665 the victim is a minor and the defendant is not the victim's
 6666 parent; chapter 794, excluding ss. 794.011(10) and 794.0235; s.
 6667 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s.
 6668 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; or
 6669 s. 985.701(1) ~~985.4045(1)~~; or any similar offense committed in
 6670 this state which has been redesignated from a former statute
 6671 number to one of those listed in this subsection, when the
 6672 department has received verified information regarding such
 6673 conviction; an offender's computerized criminal history record is
 6674 not, in and of itself, verified information.

6675
 6676 Reviser's note.--Amended to confirm the editorial
 6677 substitution of a reference to s. 985.701(1) for a
 6678 reference to s. 985.4045(1) to conform to the
 6679 redesignation of s. 985.4045 as s. 985.701 by s. 98,
 6680 ch. 2006-120, Laws of Florida.

6681
 6682 Section 162. Paragraph (a) of subsection (1) of section
 6683 944.607, Florida Statutes, is amended to read:

6684 944.607 Notification to Department of Law Enforcement of
 6685 information on sexual offenders.--

6686 (1) As used in this section, the term:

6687 (a) "Sexual offender" means a person who is in the custody
 6688 or control of, or under the supervision of, the department or is
 6689 in the custody of a private correctional facility:

6690 1. On or after October 1, 1997, as a result of a conviction
 6691 for committing, or attempting, soliciting, or conspiring to
 6692 commit, any of the criminal offenses proscribed in the following
 6693 statutes in this state or similar offenses in another

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6694 jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where
 6695 the victim is a minor and the defendant is not the victim's
 6696 parent; chapter 794, excluding ss. 794.011(10) and 794.0235; s.
 6697 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s.
 6698 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; or
 6699 s. 985.701(1) ~~985.4045(1)~~; or any similar offense committed in
 6700 this state which has been redesignated from a former statute
 6701 number to one of those listed in this paragraph; or

6702 2. Who establishes or maintains a residence in this state
 6703 and who has not been designated as a sexual predator by a court
 6704 of this state but who has been designated as a sexual predator,
 6705 as a sexually violent predator, or by another sexual offender
 6706 designation in another state or jurisdiction and was, as a result
 6707 of such designation, subjected to registration or community or
 6708 public notification, or both, or would be if the person were a
 6709 resident of that state or jurisdiction, without regard as to
 6710 whether the person otherwise meets the criteria for registration
 6711 as a sexual offender.

6712
 6713 Reviser's note.--Amended to confirm the editorial
 6714 substitution of a reference to s. 985.701(1) for a
 6715 reference to s. 985.4045(1) to conform to the
 6716 redesignation of s. 985.4045 as s. 985.701 by s. 98,
 6717 ch. 2006-120, Laws of Florida.

6718
 6719 Section 163. Section 947.022, Florida Statutes, is
 6720 repealed.

6721
 6722 Reviser's note.--The referenced section, which provided

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6723 transition provisions for staggered terms for the
6724 Parole Commission, has served its purpose.

6725
6726 Section 164. Subsection (12) of section 984.19, Florida
6727 Statutes, is amended to read:

6728 984.19 Medical screening and treatment of child;
6729 examination of parent, guardian, or person requesting custody.--

6730 (12) Nothing in this section alters the authority of the
6731 department to consent to medical treatment for a child who has
6732 been committed to the department pursuant to s. 984.22(3)
6733 ~~984.22(3) and (4)~~ and of whom the department has become the legal
6734 custodian.

6735
6736 Reviser's note.--Amended to conform to the deletion
6737 from s. 984.22(4) of material relating to placement of
6738 children in foster care by the Department of Children
6739 and Family Services by s. 71, ch. 2006-227, Laws of
6740 Florida.

6741
6742 Section 165. Paragraph (k) of subsection (11) of section
6743 985.483, Florida Statutes, is amended to read:

6744 985.483 Intensive residential treatment program for
6745 offenders less than 13 years of age.--

6746 (11) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.--

6747 (k) Assessment and treatment records are confidential as
6748 described in this paragraph and exempt from s. 119.07(1) and s.
6749 24(a), Art. I of the State Constitution.

6750 1. The department shall have full access to the assessment
6751 and treatment records to ensure coordination of services to the

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6752 child.

6753 2. The principles of confidentiality of records as provided
 6754 in s. 985.04 ~~985.045~~ shall apply to the assessment and treatment
 6755 records of children who are eligible for an intensive residential
 6756 treatment program for offenders less than 13 years of age.

6757
 6758 Reviser's note.--Amended to confirm the editorial
 6759 substitution of a reference to s. 985.04 for a
 6760 reference to s. 985.045 to correct an apparent error.
 6761 Section 985.045 relates to court records; s. 985.04
 6762 relates to confidentiality of records.

6763
 6764 Section 166. Paragraph (c) of subsection (4) of section
 6765 985.565, Florida Statutes, is amended to read:

6766 985.565 Sentencing powers; procedures; alternatives for
 6767 juveniles prosecuted as adults.--

6768 (4) SENTENCING ALTERNATIVES.--

6769 (c) Adult sanctions upon failure of juvenile sanctions.--If
 6770 a child proves not to be suitable to a commitment program, ~~in~~
 6771 juvenile probation program, or treatment program under paragraph
 6772 (b), the department shall provide the sentencing court with a
 6773 written report outlining the basis for its objections to the
 6774 juvenile sanction and shall simultaneously provide a copy of the
 6775 report to the state attorney and the defense counsel. The
 6776 department shall schedule a hearing within 30 days. Upon hearing,
 6777 the court may revoke the previous adjudication, impose an
 6778 adjudication of guilt, and impose any sentence which it may
 6779 lawfully impose, giving credit for all time spent by the child in
 6780 the department. The court may also classify the child as a

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6781 youthful offender under s. 958.04, if appropriate. For purposes
 6782 of this paragraph, a child may be found not suitable to a
 6783 commitment program, community control program, or treatment
 6784 program under paragraph (b) if the child commits a new violation
 6785 of law while under juvenile sanctions, if the child commits any
 6786 other violation of the conditions of juvenile sanctions, or if
 6787 the child's actions are otherwise determined by the court to
 6788 demonstrate a failure of juvenile sanctions.

6789
 6790 It is the intent of the Legislature that the criteria and
 6791 guidelines in this subsection are mandatory and that a
 6792 determination of disposition under this subsection is subject to
 6793 the right of the child to appellate review under s. 985.534.

6794
 6795 Reviser's note.--Amended to confirm the editorial
 6796 deletion of the words "in a" preceding the word
 6797 "juvenile" to provide clarity.

6798 a
 6799 Section 167. Paragraph (b) of subsection (2) of section
 6800 1001.25, Florida Statutes, is amended to read:

6801 1001.25 Educational television.--

6802 (2) POWERS OF DEPARTMENT.--

6803 (b) The department shall provide through educational
 6804 television and other electronic media a means of extending
 6805 educational services to all the state system of public education,
 6806 except the state universities, which provision by the department
 6807 is limited by paragraph (c) and by s. 1001.26(1) ~~1006.26(1)~~. The
 6808 department shall recommend to the State Board of Education rules
 6809 necessary to provide such services.

6810
 6811 Reviser's note.--Amended to correct an erroneous
 6812 reference. Section 1006.26 does not exist; s.
 6813 1001.26(1) creates a public broadcasting system for the
 6814 state.

6815
 6816 Section 168. Subsection (4) of section 1001.73, Florida
 6817 Statutes, is amended to read:
 6818 1001.73 University board empowered to act as trustee.--
 6819 (4) Nothing herein shall be construed to authorize a
 6820 university board of trustees to contract a debt on behalf of, or
 6821 in any way to obligate, the state; and the satisfaction of any
 6822 debt or obligation incurred by the university board as trustee
 6823 under the provisions of this section shall be exclusively from
 6824 the trust property, mortgaged or encumbered; and nothing herein
 6825 shall in any manner affect or relate to the provisions of former
 6826 ss. 1010.61-1010.619 or s. 1013.78.

6827
 6828 Reviser's note.--Amended to conform to the repeal of
 6829 ss. 1010.61-1010.619 by s. 15, ch. 2006-27, Laws of
 6830 Florida.

6831
 6832 Section 169. Subsection (1) of section 1002.01, Florida
 6833 Statutes, is amended to read:
 6834 1002.01 Definitions.--
 6835 (1) A "home education program" means the sequentially
 6836 progressive instruction of a student directed by his or her
 6837 parent in order to satisfy the attendance requirements of ss.
 6838 1002.41, 1003.01(13) ~~1003.01(4)~~, and 1003.21(1).

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Reviser's note.--Amended to correct an erroneous reference. Section 1003.01(4) defines "career education"; s. 1003.01(13) defines "regular school attendance."

Section 170. Paragraph (b) of subsection (4) of section 1002.20, Florida Statutes, is amended to read:

1002.20 K-12 student and parent rights.--Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(4) DISCIPLINE.--

(b) Expulsion.--Public school students and their parents have the right to written notice of a recommendation of expulsion, including the charges against the student and a statement of the right of the student to due process, in accordance with the provisions of s. 1006.08(1) ~~1001.51(8)~~.

Reviser's note.--Amended to correct an erroneous reference. Section 1001.51(8) relates to instructional materials; s. 1006.08(1) contains material relating to a recommendation of expulsion and the student's right to due process.

Section 171. Paragraph (b) of subsection (4) of section 1002.335, Florida Statutes, is amended to read:

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6868 | 1002.335 Florida Schools of Excellence Commission.--
 6869 | (4) POWERS AND DUTIES.--
 6870 | (b) The commission shall have the following duties:
 6871 | 1. Review charter school applications and assist in the
 6872 | establishment of Florida Schools of Excellence (FSE) charter
 6873 | schools throughout the state. An FSE charter school shall exist
 6874 | as a public school within the state as a component of the
 6875 | delivery of public education within Florida's K-20 education
 6876 | system.
 6877 | 2. Develop, promote, and disseminate best practices for
 6878 | charter schools and charter school sponsors in order to ensure
 6879 | that high-quality charter schools are developed and incentivized.
 6880 | At a minimum, the best practices shall encourage the development
 6881 | and replication of academically and financially proven charter
 6882 | school programs.
 6883 | 3. Develop, promote, and require high standards of
 6884 | accountability for any school that applies for and is granted a
 6885 | charter under this section.
 6886 | 4. Monitor and annually review the performance of
 6887 | cosponsors approved pursuant to this section and hold the
 6888 | cosponsors accountable for their performance pursuant to the
 6889 | provisions of paragraph (6)(c). The commission shall annually
 6890 | review and evaluate the performance of each cosponsor based upon
 6891 | the financial and administrative support provided to the
 6892 | cosponsor's charter schools and the quality of charter schools
 6893 | approved by the cosponsor, including the academic performance of
 6894 | the students who ~~that~~ attend those schools.
 6895 | 5. Monitor and annually review and evaluate the academic
 6896 | and financial performance of the charter schools it sponsors and

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6897 | hold the schools accountable for their performance pursuant to
 6898 | the provisions of chapter 1008.

6899 | 6. Report the student enrollment in each of its sponsored
 6900 | charter schools to the district school board of the county in
 6901 | which the school is located.

6902 | 7. Work with its cosponsors to monitor the financial
 6903 | management of each FSE charter school.

6904 | 8. Direct charter schools and persons seeking to establish
 6905 | charter schools to sources of private funding and support.

6906 | 9. Actively seek, with the assistance of the department,
 6907 | supplemental revenue from federal grant funds, institutional
 6908 | grant funds, and philanthropic organizations. The commission may,
 6909 | through the department's Grants and Donations Trust Fund, receive
 6910 | and expend gifts, grants, and donations of any kind from any
 6911 | public or private entity to carry out the purposes of this
 6912 | section.

6913 | 10. Review and recommend to the Legislature any necessary
 6914 | revisions to statutory requirements regarding the qualification
 6915 | and approval of municipalities, state universities, community
 6916 | colleges, and regional educational consortia as cosponsors for
 6917 | FSE charter schools.

6918 | 11. Review and recommend to the Legislature any necessary
 6919 | revisions to statutory requirements regarding the standards for
 6920 | accountability and criteria for revocation of approval of
 6921 | cosponsors of FSE charter schools.

6922 | 12. Act as liaison for cosponsors and FSE charter schools
 6923 | in cooperating with district school boards that may choose to
 6924 | allow charter schools to utilize excess space within district
 6925 | public school facilities.

6926 | 13. Collaborate with municipalities, state universities,
 6927 | community colleges, and regional educational consortia as
 6928 | cosponsors for FSE charter schools for the purpose of providing
 6929 | the highest level of public education to low-income, low-
 6930 | performing, gifted, or underserved student populations. Such
 6931 | collaborations shall:

6932 | a. Allow state universities and community colleges that
 6933 | cosponsor FSE charter schools to enable students attending a
 6934 | charter school to take college courses and receive high school
 6935 | and college credit for such courses.

6936 | b. Be used to determine the feasibility of opening charter
 6937 | schools for students with disabilities, including, but not
 6938 | limited to, charter schools for children with autism that work
 6939 | with and utilize the specialized expertise of the Centers for
 6940 | Autism and Related Disabilities established and operated pursuant
 6941 | to s. 1004.55.

6942 | 14. Support municipalities when the mayor or chief
 6943 | executive, through resolution passed by the governing body of the
 6944 | municipality, expresses an intent to cosponsor and establish
 6945 | charter schools within the municipal boundaries.

6946 | 15. Meet the needs of charter schools and school districts
 6947 | by uniformly administering high-quality charter schools, thereby
 6948 | removing administrative burdens from the school districts.

6949 | 16. Assist FSE charter schools in negotiating and
 6950 | contracting with district school boards that choose to provide
 6951 | certain administrative or transportation services to the charter
 6952 | schools on a contractual basis.

6953 | 17. Provide training for members of FSE charter school
 6954 | governing bodies within 90 days after approval of the charter

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6955 school. The training shall include, but not be limited to, best
 6956 practices on charter school governance, the constitutional and
 6957 statutory requirements relating to public records and meetings,
 6958 and the requirements of applicable statutes and State Board of
 6959 Education rules.

6960 18. Perform all of the duties of sponsors set forth in s.
 6961 1002.33(5)(b) and (20).

6962
 6963 Reviser's note.--Amended to confirm the editorial
 6964 substitution of the word "who" for the word "that" to
 6965 conform to context.

6966
 6967 Section 172. Paragraph (g) of subsection (2) of section
 6968 1003.51, Florida Statutes, is amended to read:

6969 1003.51 Other public educational services.--

6970 (2) The State Board of Education shall adopt and maintain
 6971 an administrative rule articulating expectations for effective
 6972 education programs for youth in Department of Juvenile Justice
 6973 programs, including, but not limited to, education programs in
 6974 juvenile justice commitment and detention facilities. The rule
 6975 shall articulate policies and standards for education programs
 6976 for youth in Department of Juvenile Justice programs and shall
 6977 include the following:

6978 (g) Funding requirements, which shall include the
 6979 requirement that at least 90 percent of the FEFP funds generated
 6980 by students in Department of Juvenile Justice programs or in an
 6981 education program for juveniles under s. 985.19 ~~985.223~~ be spent
 6982 on instructional costs for those students. One hundred percent of
 6983 the formula-based categorical funds generated by students in

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6984 Department of Juvenile Justice programs must be spent on
 6985 appropriate categoricals such as instructional materials and
 6986 public school technology for those students.

6987
 6988 Reviser's note.--Amended to conform to the
 6989 redesignation of s. 985.223 as s. 985.19 by s. 30, ch.
 6990 2006-120, Laws of Florida.

6991
 6992 Section 173. Subsection (6) of section 1004.28, Florida
 6993 Statutes, is amended to read:

6994 1004.28 Direct-support organizations; use of property;
 6995 board of directors; activities; audit; facilities.--

6996 (6) FACILITIES.--In addition to issuance of indebtedness
 6997 pursuant to former s. 1010.60(2), each direct-support
 6998 organization is authorized to enter into agreements to finance,
 6999 design and construct, lease, lease-purchase, purchase, or operate
 7000 facilities necessary and desirable to serve the needs and
 7001 purposes of the university, as determined by the systemwide
 7002 strategic plan adopted by the State Board of Education. Such
 7003 agreements are subject to the provisions of s. 1013.171.

7004
 7005 Reviser's note.--Amended to conform to the repeal of s.
 7006 1010.60 by s. 15, ch. 2006-27, Laws of Florida.

7007
 7008 Section 174. Subsection (3) of section 1008.22, Florida
 7009 Statutes, is reenacted to read:

7010 1008.22 Student assessment program for public schools.--

7011 (3) STATEWIDE ASSESSMENT PROGRAM.--The commissioner shall
 7012 design and implement a statewide program of educational

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7013 assessment that provides information for the improvement of the
7014 operation and management of the public schools, including schools
7015 operating for the purpose of providing educational services to
7016 youth in Department of Juvenile Justice programs. The
7017 commissioner may enter into contracts for the continued
7018 administration of the assessment, testing, and evaluation
7019 programs authorized and funded by the Legislature. Contracts may
7020 be initiated in 1 fiscal year and continue into the next and may
7021 be paid from the appropriations of either or both fiscal years.
7022 The commissioner is authorized to negotiate for the sale or lease
7023 of tests, scoring protocols, test scoring services, and related
7024 materials developed pursuant to law. Pursuant to the statewide
7025 assessment program, the commissioner shall:

7026 (a) Submit to the State Board of Education a list that
7027 specifies student skills and competencies to which the goals for
7028 education specified in the state plan apply, including, but not
7029 limited to, reading, writing, science, and mathematics. The
7030 skills and competencies must include problem-solving and higher-
7031 order skills as appropriate and shall be known as the Sunshine
7032 State Standards as defined in s. 1000.21. The commissioner shall
7033 select such skills and competencies after receiving
7034 recommendations from educators, citizens, and members of the
7035 business community. The commissioner shall submit to the State
7036 Board of Education revisions to the list of student skills and
7037 competencies in order to maintain continuous progress toward
7038 improvements in student proficiency.

7039 (b) Develop and implement a uniform system of indicators to
7040 describe the performance of public school students and the
7041 characteristics of the public school districts and the public

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7042 schools. These indicators must include, without limitation,
7043 information gathered by the comprehensive management information
7044 system created pursuant to s. 1008.385 and student achievement
7045 information obtained pursuant to this section.

7046 (c) Develop and implement a student achievement testing
7047 program known as the Florida Comprehensive Assessment Test (FCAT)
7048 as part of the statewide assessment program to measure reading,
7049 writing, science, and mathematics. Other content areas may be
7050 included as directed by the commissioner. The assessment of
7051 reading and mathematics shall be administered annually in grades
7052 3 through 10. The assessment of writing and science shall be
7053 administered at least once at the elementary, middle, and high
7054 school levels. The commissioner must document the procedures used
7055 to ensure that the versions of the FCAT which are taken by
7056 students retaking the grade 10 FCAT are equally as challenging
7057 and difficult as the tests taken by students in grade 10 which
7058 contain performance tasks. The testing program must be designed
7059 so that:

7060 1. The tests measure student skills and competencies
7061 adopted by the State Board of Education as specified in paragraph
7062 (a). The tests must measure and report student proficiency levels
7063 of all students assessed in reading, writing, mathematics, and
7064 science. The commissioner shall provide for the tests to be
7065 developed or obtained, as appropriate, through contracts and
7066 project agreements with private vendors, public vendors, public
7067 agencies, postsecondary educational institutions, or school
7068 districts. The commissioner shall obtain input with respect to
7069 the design and implementation of the testing program from state
7070 educators, assistive technology experts, and the public.

7071 2. The testing program will include a combination of norm-
 7072 referenced and criterion-referenced tests and include, to the
 7073 extent determined by the commissioner, questions that require the
 7074 student to produce information or perform tasks in such a way
 7075 that the skills and competencies he or she uses can be measured.

7076 3. Each testing program, whether at the elementary, middle,
 7077 or high school level, includes a test of writing in which
 7078 students are required to produce writings that are then scored by
 7079 appropriate and timely methods.

7080 4. A score is designated for each subject area tested,
 7081 below which score a student's performance is deemed inadequate.
 7082 The school districts shall provide appropriate remedial
 7083 instruction to students who score below these levels.

7084 5. Except as provided in s. 1003.428(8)(b) or s.
 7085 1003.43(11)(b), students must earn a passing score on the grade
 7086 10 assessment test described in this paragraph or attain
 7087 concordant scores as described in subsection (9) in reading,
 7088 writing, and mathematics to qualify for a standard high school
 7089 diploma. The State Board of Education shall designate a passing
 7090 score for each part of the grade 10 assessment test. In
 7091 establishing passing scores, the state board shall consider any
 7092 possible negative impact of the test on minority students. The
 7093 State Board of Education shall adopt rules which specify the
 7094 passing scores for the grade 10 FCAT. Any such rules, which have
 7095 the effect of raising the required passing scores, shall only
 7096 apply to students taking the grade 10 FCAT for the first time
 7097 after such rules are adopted by the State Board of Education.

7098 6. Participation in the testing program is mandatory for
 7099 all students attending public school, including students served

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7100 in Department of Juvenile Justice programs, except as otherwise
7101 prescribed by the commissioner. If a student does not participate
7102 in the statewide assessment, the district must notify the
7103 student's parent and provide the parent with information
7104 regarding the implications of such nonparticipation. A parent
7105 must provide signed consent for a student to receive classroom
7106 instructional accommodations that would not be available or
7107 permitted on the statewide assessments and must acknowledge in
7108 writing that he or she understands the implications of such
7109 instructional accommodations. The State Board of Education shall
7110 adopt rules, based upon recommendations of the commissioner, for
7111 the provision of test accommodations for students in exceptional
7112 education programs and for students who have limited English
7113 proficiency. Accommodations that negate the validity of a
7114 statewide assessment are not allowable in the administration of
7115 the FCAT. However, instructional accommodations are allowable in
7116 the classroom if included in a student's individual education
7117 plan. Students using instructional accommodations in the
7118 classroom that are not allowable as accommodations on the FCAT
7119 may have the FCAT requirement waived pursuant to the requirements
7120 of s. 1003.428(8)(b) or s. 1003.43(11)(b).

7121 7. A student seeking an adult high school diploma must meet
7122 the same testing requirements that a regular high school student
7123 must meet.

7124 8. District school boards must provide instruction to
7125 prepare students to demonstrate proficiency in the skills and
7126 competencies necessary for successful grade-to-grade progression
7127 and high school graduation. If a student is provided with
7128 instructional accommodations in the classroom that are not

7129 | allowable as accommodations in the statewide assessment program,
 7130 | as described in the test manuals, the district must inform the
 7131 | parent in writing and must provide the parent with information
 7132 | regarding the impact on the student's ability to meet expected
 7133 | proficiency levels in reading, writing, and math. The
 7134 | commissioner shall conduct studies as necessary to verify that
 7135 | the required skills and competencies are part of the district
 7136 | instructional programs.

7137 | 9. District school boards must provide opportunities for
 7138 | students to demonstrate an acceptable level of performance on an
 7139 | alternative standardized assessment approved by the State Board
 7140 | of Education following enrollment in summer academies.

7141 | 10. The Department of Education must develop, or select,
 7142 | and implement a common battery of assessment tools that will be
 7143 | used in all juvenile justice programs in the state. These tools
 7144 | must accurately measure the skills and competencies established
 7145 | in the Sunshine State Standards.

7146 | 11. For students seeking a special diploma pursuant to s.
 7147 | 1003.438, the Department of Education must develop or select and
 7148 | implement an alternate assessment tool that accurately measures
 7149 | the skills and competencies established in the Sunshine State
 7150 | Standards for students with disabilities under s. 1003.438.

7151 |
 7152 | The commissioner may, based on collaboration and input from
 7153 | school districts, design and implement student testing programs,
 7154 | for any grade level and subject area, necessary to effectively
 7155 | monitor educational achievement in the state, including the
 7156 | measurement of educational achievement of the Sunshine State
 7157 | Standards for students with disabilities. Development and

7158 refinement of assessments shall include universal design
 7159 principles and accessibility standards that will prevent any
 7160 unintended obstacles for students with disabilities while
 7161 ensuring the validity and reliability of the test. These
 7162 principles should be applicable to all technology platforms and
 7163 assistive devices available for the assessments. The field
 7164 testing process and psychometric analyses for the statewide
 7165 assessment program must include an appropriate percentage of
 7166 students with disabilities and an evaluation or determination of
 7167 the effect of test items on such students.

7168 (d) Conduct ongoing research to develop improved methods of
 7169 assessing student performance, including, without limitation, the
 7170 use of technology to administer tests, score, or report the
 7171 results of, the use of electronic transfer of data, the
 7172 development of work-product assessments, and the development of
 7173 process assessments.

7174 (e) Conduct ongoing research and analysis of student
 7175 achievement data, including, without limitation, monitoring
 7176 trends in student achievement by grade level and overall student
 7177 achievement, identifying school programs that are successful, and
 7178 analyzing correlates of school achievement.

7179 (f) Provide technical assistance to school districts in the
 7180 implementation of state and district testing programs and the use
 7181 of the data produced pursuant to such programs.

7182 (g) Study the cost and student achievement impact of
 7183 secondary end-of-course assessments, including web-based and
 7184 performance formats, and report to the Legislature prior to
 7185 implementation.

7186

7187 Reviser's note.--Section 40, ch. 2006-74, Laws of
 7188 Florida, amended paragraphs (3)(c), (e), and (f) and
 7189 also added a new paragraph (3)(f) but failed to publish
 7190 existing paragraph (3)(f). Absent affirmative evidence
 7191 of legislative intent to repeal existing paragraph
 7192 (3)(f), it is reenacted here to confirm that the
 7193 omission was not intended.

7194
 7195 Section 175. Subsection (4) of section 1008.33, Florida
 7196 Statutes, is amended to read:

7197 1008.33 Authority to enforce public school improvement.--It
 7198 is the intent of the Legislature that all public schools be held
 7199 accountable for students performing at acceptable levels. A
 7200 system of school improvement and accountability that assesses
 7201 student performance by school, identifies schools in which
 7202 students are not making adequate progress toward state standards,
 7203 institutes appropriate measures for enforcing improvement, and
 7204 provides rewards and sanctions based on performance shall be the
 7205 responsibility of the State Board of Education.

7206 (4) The State Board of Education may require the Department
 7207 of Education or Chief Financial Officer to withhold any transfer
 7208 of state funds to the school district if, within the timeframe
 7209 specified in state board action, the school district has failed
 7210 to comply with the action ordered to improve the district's low-
 7211 performing schools. Withholding the transfer of funds shall occur
 7212 only after all other recommended actions for school improvement
 7213 have failed to improve performance. The State Board of Education
 7214 may impose the same penalty on any district school board that
 7215 fails to develop and implement a plan for assistance and

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7216 intervention for low-performing schools as specified in s.
 7217 1001.42(16)(c) ~~1001.42(16)(d)~~.

7218
 7219 Reviser's note.--Amended to correct an erroneous
 7220 reference. The initial version of House Bill 7087, 2006
 7221 Regular Session, added a new s. 1001.42(16)(b) and
 7222 redesignated the remaining paragraphs, as well as
 7223 updating references to those paragraphs. The final
 7224 version of the bill as passed, which became ch. 2006-
 7225 74, Laws of Florida, did not include the new paragraph
 7226 (16)(b), but the revised reference in the bill at s.
 7227 1008.33(4) was not adjusted to conform to that
 7228 deletion.

7229
 7230 Section 176. Subsection (5) of section 1008.345, Florida
 7231 Statutes, is amended to read:

7232 1008.345 Implementation of state system of school
 7233 improvement and education accountability.--

7234 (5) The commissioner shall report to the Legislature and
 7235 recommend changes in state policy necessary to foster school
 7236 improvement and education accountability. Included in the report
 7237 shall be a list of the schools, including schools operating for
 7238 the purpose of providing educational services to youth in
 7239 Department of Juvenile Justice programs, for which district
 7240 school boards have developed assistance and intervention plans
 7241 and an analysis of the various strategies used by the school
 7242 boards. School reports shall be distributed pursuant to this
 7243 subsection and s. 1006.42(16)(e) ~~1001.42(16)(f)~~ and according to
 7244 rules adopted by the State Board of Education.

7245
 7246 Reviser's note.--Amended to correct an erroneous
 7247 reference. The initial version of House Bill 7087, 2006
 7248 Regular Session, added a new s. 1001.42(16)(b) and
 7249 redesignated the remaining paragraphs, as well as
 7250 updating references to those paragraphs. The final
 7251 version of the bill as passed, which became ch. 2006-
 7252 74, Laws of Florida, did not include the new paragraph
 7253 (16)(b), but the revised reference in the bill at s.
 7254 1008.345(5) was not adjusted to conform to that
 7255 deletion.

7256
 7257 Section 177. Paragraph (f) of subsection (1) of section
 7258 1011.62, Florida Statutes, is amended to read:

7259 1011.62 Funds for operation of schools.--If the annual
 7260 allocation from the Florida Education Finance Program to each
 7261 district for operation of schools is not determined in the annual
 7262 appropriations act or the substantive bill implementing the
 7263 annual appropriations act, it shall be determined as follows:

7264 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
 7265 OPERATION.--The following procedure shall be followed in
 7266 determining the annual allocation to each district for operation:

7267 (f) Supplemental academic instruction; categorical fund.--

7268 1. There is created a categorical fund to provide
 7269 supplemental academic instruction to students in kindergarten
 7270 through grade 12. This paragraph may be cited as the
 7271 "Supplemental Academic Instruction Categorical Fund."

7272 2. Categorical funds for supplemental academic instruction
 7273 shall be allocated annually to each school district in the amount

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7274 provided in the General Appropriations Act. These funds shall be
 7275 in addition to the funds appropriated on the basis of FTE student
 7276 membership in the Florida Education Finance Program and shall be
 7277 included in the total potential funds of each district. These
 7278 funds shall be used to provide supplemental academic instruction
 7279 to students enrolled in the K-12 program. Supplemental
 7280 instruction strategies may include, but are not limited to:
 7281 modified curriculum, reading instruction, after-school
 7282 instruction, tutoring, mentoring, class size reduction, extended
 7283 school year, intensive skills development in summer school, and
 7284 other methods for improving student achievement. Supplemental
 7285 instruction may be provided to a student in any manner and at any
 7286 time during or beyond the regular 180-day term identified by the
 7287 school as being the most effective and efficient way to best help
 7288 that student progress from grade to grade and to graduate.

7289 3. Effective with the 1999-2000 fiscal year, funding on the
 7290 basis of FTE membership beyond the 180-day regular term shall be
 7291 provided in the FEFP only for students enrolled in juvenile
 7292 justice education programs or in education programs for juveniles
 7293 placed in secure facilities or programs under s. 985.19 ~~985.223~~.
 7294 Funding for instruction beyond the regular 180-day school year
 7295 for all other K-12 students shall be provided through the
 7296 supplemental academic instruction categorical fund and other
 7297 state, federal, and local fund sources with ample flexibility for
 7298 schools to provide supplemental instruction to assist students in
 7299 progressing from grade to grade and graduating.

7300 4. The Florida State University School, as a lab school, is
 7301 authorized to expend from its FEFP or Lottery Enhancement Trust
 7302 Fund allocation the cost to the student of remediation in

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7303 reading, writing, or mathematics for any graduate who requires
 7304 remediation at a postsecondary educational institution.

7305 5. Beginning in the 1999-2000 school year, dropout
 7306 prevention programs as defined in ss. 1003.52, 1003.53(1)(a),
 7307 (b), and (c), and 1003.54 shall be included in group 1 programs
 7308 under subparagraph (d)3.

7309
 7310 Reviser's note.--Amended to confirm the editorial
 7311 substitution of a reference to s. 985.19 for a
 7312 reference to s. 985.223 to conform to the redesignation
 7313 of the section by s. 30, ch. 2006-120, Laws of Florida.

7314
 7315 Section 178. Subsection (1) of section 1011.71, Florida
 7316 Statutes, is amended to read:

7317 1011.71 District school tax.--

7318 (1) If the district school tax is not provided in the
 7319 General Appropriations Act or the substantive bill implementing
 7320 the General Appropriations Act, each district school board
 7321 desiring to participate in the state allocation of funds for
 7322 current operation as prescribed by s. 1011.62(11) ~~1011.62(10)~~
 7323 shall levy on the taxable value for school purposes of the
 7324 district, exclusive of millage voted under the provisions of s.
 7325 9(b) or s. 12, Art. VII of the State Constitution, a millage rate
 7326 not to exceed the amount certified by the commissioner as the
 7327 minimum millage rate necessary to provide the district required
 7328 local effort for the current year, pursuant to s. 1011.62(4)(a)1.
 7329 In addition to the required local effort millage levy, each
 7330 district school board may levy a nonvoted current operating
 7331 discretionary millage. The Legislature shall prescribe annually

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7332 | in the appropriations act the maximum amount of millage a
 7333 | district may levy.

7334 |
 7335 | Reviser's note.--Amended to correct an erroneous
 7336 | reference. Section 1011.62(10) relates to quality
 7337 | assurance guarantee; s. 1011.62(11) relates to total
 7338 | allocation of state funds to each district for current
 7339 | operation.

7340 |
 7341 | Section 179. Subsection (6) of section 1012.21, Florida
 7342 | Statutes, is amended to read:

7343 | 1012.21 Department of Education duties; K-12 personnel.--
 7344 | (6) REPORTING.--The Department of Education shall annually
 7345 | post online links to each school district's collective bargaining
 7346 | contracts and the salary and benefits of the personnel or
 7347 | officers of any educator association which were paid by the
 7348 | school district pursuant to s. 1012.22. ~~The department shall~~
 7349 | ~~prescribe the computer format for district school boards to use~~
 7350 | ~~in providing the information.~~

7351 |
 7352 | Reviser's note.--Amended to delete language that has
 7353 | served its purpose and was included in House Bill 7087,
 7354 | 2006 Regular Session, in error. The language related to
 7355 | past procedure when the Department of Education was to
 7356 | post the information, not the links to the information
 7357 | as currently referenced.

7358 |
 7359 | Section 180. Paragraph (i) of subsection (1) and subsection
 7360 | (3) of section 1012.22, Florida Statutes, are amended to read:

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7361 1012.22 Public school personnel; powers and duties of the
 7362 district school board.--The district school board shall:

7363 (1) Designate positions to be filled, prescribe
 7364 qualifications for those positions, and provide for the
 7365 appointment, compensation, promotion, suspension, and dismissal
 7366 of employees as follows, subject to the requirements of this
 7367 chapter:

7368 (i) Comprehensive program of staff development.--The
 7369 district school board shall establish a comprehensive program of
 7370 staff development that incorporates school improvement plans
 7371 pursuant to s. 1001.42 and is aligned with principal leadership
 7372 training pursuant to s. 1012.986 ~~1012.985~~ as a part of the plan.

7373 ~~(3) Annually provide to the Department of Education the~~
 7374 ~~negotiated collective bargaining contract for the school district~~
 7375 ~~and the salary and benefits for the personnel or officers of any~~
 7376 ~~educator association which are paid by the school district. The~~
 7377 ~~district school board shall report using the computer format~~
 7378 ~~prescribed by the department pursuant to s. 1012.21.~~

7379
 7380 Reviser's note.--Paragraph (1)(i) is amended to correct
 7381 an erroneous reference. Section 1012.985 relates to a
 7382 statewide system for inservice professional
 7383 development; s. 1012.986 provides for a leadership
 7384 professional development program for principals.

7385 Subsection (3) is deleted to correct an error in House
 7386 Bill 7087, 2006 Regular Session. Subsection (3) relates
 7387 to past procedure when the Department of Education was
 7388 to post the information, not the links to the
 7389 information as currently referenced.

7390
 7391 Section 181. Section 1013.11, Florida Statutes, is amended
 7392 to read:

7393 1013.11 Postsecondary institutions assessment of physical
 7394 plant safety.--The president of each postsecondary institution
 7395 shall conduct or cause to be conducted an annual assessment of
 7396 physical plant safety. An annual report shall incorporate the
 7397 findings obtained through such assessment and recommendations for
 7398 the improvement of safety on each campus. The annual report shall
 7399 be submitted to the respective governing or licensing board of
 7400 jurisdiction no later than January 1 of each year. Each board
 7401 shall compile the individual institutional reports and convey the
 7402 aggregate institutional reports to the Commissioner of Education.
 7403 The Commissioner of Education shall convey these reports and the
 7404 reports required in s. 1006.67 ~~1008.48~~ to the President of the
 7405 Senate and the Speaker of the House of Representatives no later
 7406 than March 1 of each year.

7407
 7408 Reviser's note.--Amended to correct an erroneous
 7409 reference. Section 1008.48 never has existed. Prior to
 7410 the School Code rewrite in 2002, material now in s.
 7411 1013.11 was at s. 240.2684. Section 240.2684 referenced
 7412 reports required in s. 240.2683 regarding campus crime
 7413 statistics; that material is now located in s. 1006.67.

7414
 7415 Section 182. Subsection (1) of section 1013.721, Florida
 7416 Statutes, is amended to read:

7417 1013.721 A Business-Community (ABC) School Program.--
 7418 (1) In order to increase business partnerships in

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7419 | education, to reduce school and classroom overcrowding throughout
7420 | the state, ~~and~~ to offset the high costs of educational facilities
7421 | construction, and to use due diligence and sound business
7422 | practices in using available educational space, the Legislature
7423 | intends to encourage the formation of partnerships between
7424 | business and education by creating A Business-Community (ABC)
7425 | School Program.

7426

7427 | Reviser's note.--Amended to confirm the editorial
7428 | deletion of the word "and" preceding the word "to" to
7429 | conform to a standard style relating to listing of
7430 | elements in a series.

7431

7432 | Section 183. This act shall take effect on the 60th day
7433 | after adjournment sine die of the session of the Legislature in
7434 | which enacted.